CLANN PROJECT

BRIEFING NOTE PROVIDING CONTEXT TO THE IRISH STATE'S RESPONSE TO FORCED FAMILY SEPARATION ABUSES

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1. INTRODUCTION

This briefing note contextualises the Irish Government's policies in relation to forced family separation abuses. A key element of the Clann Project's work involves drawing attention to and, importantly, elucidating the myriad human rights violations experienced by unmarried mothers and their children in twentieth-century Ireland—including their continuing effects.[1] This endeavour is necessitated by the fact that since 1999, the State has, in multifarious ways, repeatedly excluded individuals who are impacted by Ireland's system of forced family separation[2] and institutionalisation from State investigations and redress schemes.[3] Furthermore, the State has not required the various inquiries to undertake a Constitutional or human rights law analysis of the evidence received. A major consequence of the State's approach—and a further rationale for Clann's work in this regard—is that both official and non-official discourses mischaracterise these abuses (to the extent they recognise them at all) as ones that (i) occurred in a limited set of institutions only, and (ii) are a phenomenon of the past. The State's refusal to acknowledge the full extent of past and ongoing human rights violations associated with this system exacerbates these abuses and has led to further violations in the present.

The current Government's policies regarding forced family separation abuses are guided by the deeply flawed findings of the Mother and Baby Homes Commission of Investigation (MBHCOI). These conclusions are partly the result of the MBHCOI's procedures and how it chose to operate. The MBHCOI's findings were also shaped by its limited Terms of Reference, which were set by the Government in 2015 (and informed by the State's erroneous interpretation of its historical and contemporary treatment of people affected by forced family separation). This Briefing Note sets out brief analyses of: (i) the MBHCOI's remit, procedures and findings (**Section 2**); (ii) forced family separation and the State's policy regarding 'illegitimacy' (**Section 3**); and (iii) the State's responses to these human rights violations and how these actions have been influenced by the MBHCOI Terms of Reference and findings (**Section 4**).

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1 See e.g., O'Rourke, M., McGettrick, C., Baker, R. and Hill, R. (2018) *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. (Hereafter **the *Clann Report***.) Available at: http://clannproject.org/wp-content/uploads/Clann-Submissions_Redacted-Public-Version-October-2018.pdf.

2 Forced family separation means the forcible separation of children from their families of origin through adoption, the 'boarding out' system or through institutionalisation.

3 See discussion in **Section 2**.

2. MOTHER AND BABY HOMES COMMISSION OF INVESTIGATION (2015-2021)

2.1 Scope of the MBHCOI

When the Government published Terms of Reference for the MBHCOI January in 2015,[4] Adoption Rights Alliance (ARA) and Justice for Magdalenes Research (JFMR) welcomed the establishment of the inquiry.[5] However, both organisations were deeply concerned that the Commission's remit was limited to just fourteen Mother and Baby Homes and a sample of four County Homes (which was added later). Amongst other issues, this meant that the Commission would only investigate a tenth of the 180 institutions, agencies and individuals that were involved with separating unmarried mothers and their children through institutionalisation and the boarding out and adoption systems.[6] **The 18 institutions investigated were not a representative sample of the range of entities operating in this area, of the myriad kinds of human rights violations perpetrated, or of the experiences of affected individuals.**

Considering the MBHCOI's limited remit, ARA and JFMR established the Clann Project in 2015, in collaboration with the London office of Hogan Lovells International LLP. The initial purpose of the Clann Project was to help anyone who wanted to give evidence to the Commission (regardless of whether they were included in the Terms of Reference) by arranging free legal assistance for individuals to make full written statements.[7] The Clann Project spoke to 164 witnesses and submitted 82 statements to the MBHCOI. Drawing from anonymised shared statements, documentary sources, and the input of several academics and lawyers, the Clann Project made an extensive submission to the MBHCOI (and to the Irish Government and international human rights bodies). The *Clann Report* sets out a range of findings relating to the abuses perpetrated against

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4 Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order 2015, SI No 57 of 2015. The MBHCOI website is no longer available, however, the Terms of Reference are archived at: https://web.archive.org/web/20170402011931/http://www.mbhcoi.ie/mbh.nsf/page/Terms%20of%20reference-en.

5 See ARA statement, available at: https://clannproject.org/wp-content/uploads/ARA-PR-090115.pdf and JFMR statement, available at: https://clannproject.org/wp-content/uploads/JFMR-PR-090115.pdf.

6 See: McGettrick, C. et al. (2022) *List of Institutions, Agencies and Personnel Involved in Separating Unmarried Mothers from their Children*. (Hereafter **Clann List of 180+ Institutions, Agencies and Individuals**.) Available at: https://clannproject.org/wp-content/uploads/Institutions-agencies-personnel_Redacted_27-01-2022.pdf.

7 See: https://clannproject.org/about/ and https://clannproject.org/faqs/faqs-on-the-commission-of-investigation/.

unmarried mothers and their children in the past, and about the ongoing human rights violations against affected people in the present.[8] Further, it contained a Constitutional and human rights law analysis of the evidence presented in the *Clann Report*,[9] as well as an examination of the MBHCOI's processes.[10] The *Clann Report* also made several recommendations which we argued the MBHCOI should make to the Government.[11]

2.2 MBHCOI Procedures

In addition to helping witnesses to draft statements, the Clann Project also communicated regularly the MBHCOI in relation to its processes and procedures. As set out in a letter of 30th July 2021 from Hogan Lovells to the Oireachtas Committee on Children, Disability, Equality and Integration, Clann made several submissions to the MBHCOI in relation to: (i) its procedures regarding how witnesses could give evidence and participate in the cross examination of witnesses giving evidence that impacted them; (ii) requests for public hearings; and (iii) how witnesses could be facilitated to give evidence to the MBHCOI Investigation Committee rather than being immediately referred to the Commission's Confidential Committee.[12] Nevertheless, the MBHCOI denied all requests by those affected for a public hearing; refused to allow many witnesses who wished to attend the Investigative Committee to do so, instead funnelling the majority of affected people into the Confidential Committee arm of the investigation; and refused to consider the testimony given by 550 people to the Confidential Committee as having sufficient evidentiary value to influence the MBHCOI's final findings and recommendations to Government. Therefore, as Hogan Lovells argued in its letter to the Children's Committee, the MBHCOI's actions 'contributed to the feeling amongst many [affected people] that the Commission's Report has been prepared about them but with insufficient involvement of them'.[13]

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8 See the *Clann Report*, Sections 1-3.
9 Ibid., Section 4.
10 Ibid., Section 5.
11 Ibid., Section 6.
12 Faye Jarvis, letter to joint Oireachtas Committee on Children, Disability, Equality and Integration, 30th July 2021. Available at: http://clannproject.org/wp-content/uploads/Hogan-Lovells-Letter-to-Childrens-Committee_30-07-21-1.pdf.
13 Ibid.

2.3 MBHCOI Findings and Judicial Review Cases

On 12th January 2021, the MBHCOI published its *Final Report*.[14] The MBHCOI's findings, which are clearly and overwhelmingly contradicted by survivor testimony both in the MBHCOI's *Report* and the *Report of the Confidential Committee*,[15] and elsewhere, include that: there is no evidence that mothers did not consent to the adoption of their child;[16] there is very little evidence that children were forcibly taken from their mothers;[17] girls and women in Mother and Baby Homes were not incarcerated;[18] unlawful forced labour generally did not occur;[19] and unlicenced, non-consensual vaccine trials were not injurious.[20] The MBHCOI concluded that the nature of violence suffered by boarded out children 'cannot be established', despite its Confidential Committee recording tens of graphic descriptions of extreme violence such as serial rape, routine whipping, servitude, abject neglect and denial of education.[21] Moreover, the Commission ignored evidence of abuse in adoptive placements and instead concluded that there is 'no doubt that the option of legal adoption was a vastly better outcome' for adopted people than institutionalisation and previous informal arrangements'.[22] The MBHCOI further claimed that affected people's criticism of TUSLA's[23] discriminatory policies regarding access to records was 'quite vitriolic', 'unfair and misplaced'.[24] Additionally, the MBHCOI characterised the recollections of some witnesses as 'clearly incorrect' and maintained that there was 'contamination of some evidence' which 'probably occurred because of meetings with other residents and inaccurate media coverage'.[25]

Eight witnesses who interacted with the MBHCOI took judicial review proceedings to challenge its findings, and in December 2021, the Irish High Court declared that the

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14 Available at: https://www.gov.ie/en/department-of-children-equality-disability-integration-and-youth/publications/final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/.

15 Available at: https://www.gov.ie/en/department-of-children-equality-disability-integration-and-youth/publications/report-of-the-confidential-committee-october-2020/.

16 MBHCOI *Final Report*, Executive Summary, para 254

17 Ibid., Recommendations, para 34.

18 Ibid., Recommendations, para 27-28.

19 Ibid., Recommendations, para 30.

20 Ibid., Executive Summary, para 248.

21 Ibid., Recommendations, para 35.

22 Ibid.

23 TUSLA is Ireland's Child and Family Agency, which was established in 2014. After the closure of private adoption agencies, TUSLA took custody of most records.

24 MBHCOI *Final Report*, Recommendations, para 3.

25 *Report of the Confidential Committee to the Commission of Investigation into Mother and Baby Homes*, p.12.

MBHCOI had denied fair procedures to these litigants.[26] These High Court Declarations establish that the MBHCOI reached its conclusions pursuant to an unlawful investigative procedure whereby the MBHCOI denied witnesses their explicit statutory entitlement to review and comment on draft findings concerning them. The MBHCOI offered alleged wrongdoers access to evidence, draft findings and the opportunity to comment; it treated survivors and affected people in a wholly inferior manner.[27]

2.4 The Government's Response to the MBHCOI Findings

In June 2021, in the wake of concerns raised by affected people and academics regarding the MBHCOI's treatment of testimonies, then Minister Roderic O'Gorman announced his intention to nominate an international human rights expert to review the testimony given to the Commission. However, in August 2022, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) confirmed that the proposed review had been abandoned. Later, Minister O'Gorman asserted that the re-examination had been dropped because of 'significant legal complexities'.[28]

As noted above, in December 2021, the Government agreed to a High Court declaration that Commission of Investigation had wrongly denied witnesses the right to comment on many draft findings.[29] As part of the settlement, the Government agreed to (i) deposit the High Court declarations in the Oireachtas Library alongside the MBHCOI *Final Report*, and (ii) list the impugned sections alongside the *Report* on the Government's website. Despite this, the 'Outcome of Judicial Review Applications' appears not on the

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26 See the Clann Press Release re. Judicial Review cases: http://clannproject.org/wp-content/uploads/Clann-Press-Release_17-12-21.pdf.

27 Copies of the High Court declarations are available in: O'Rourke, M. (2023) *Briefing Note for the United Nations Committee on the Rights of the Child: `Historical' Forced Separation of Unmarried Mothers and Children Through Adoption, `Boarding Out' Mother and Baby Homes, County Homes, Magdalene Laundries and Related Practices and Institutions.* Available at: https://researchrepository.universityofgalway.ie/server/api/core/bitstreams/017913bf-4a25-42cc-b519-d926fbfc0151/content.

28 See: Phelan, S. (2021) 'Meetings with religious orders over redress are postponed', *Irish Independent*, 1st July. Available at: https://www.independent.ie/irish-news/meetings-with-religious-orders-over-redress-are-postponed/40600342.html; Ó Fátharta, C. and Loughlin, E. (2022) 'Government abandons independent review of mother and baby home testimony', *Irish Examiner*, 29th August. Available at: https://www.irishexaminer.com/news/arid-40949582.html; Loughlin, E. (2022) 'Review of testimony by mother and baby home survivors scrapped due to "significant legal complexities"', *Irish Examiner*, 4th October. Available at: https://www.irishexaminer.com/news/politics/arid-40975529.html.

29 See Clann Press Release re. Judicial Review cases: http://clannproject.org/wp-content/uploads/Clann-Press-Release_17-12-21.pdf.

Final Report page,[30] but on the page concerning the MBHCOI itself.[31] This presents a problem, because an internet search for 'Mother and Baby Homes Commission Report' shows results for the *Report* page and not the MBHCOI page. **Crucially, despite consenting to the above-mentioned High Court orders, the Government seems intent on standing over the MBHCOI's findings which in turn are grounding the State's position on redress and reparation.**

3. FORCED FAMILY SEPARATION AND THE STATE'S POLICY ON 'ILLEGITIMACY'

On 2nd June 2021, one of the three MBHCOI Commissioners, Professor Mary Daly, participated in an online seminar hosted by Oxford University.[32] During her remarks, Professor Daly made the following observations regarding witness testimony heard by the MBHCOI:

> Oral history...oral...we basically...we're into the oral evidence given under oath to us, that's on...that's witness statements. We used what we could. The strange thing is that a lot of the evidence, the amount of time we spent listening to people and a lot of it was very moving and very interesting, but an awful lot of it was about how I found my mother, how I didn't find my mother, how I...how I found my child, how I didn't find my child. An awful lot of it was not particularly within our Terms of Reference.[33]

Professor Daly's observation that 'a lot of the evidence' was beyond the MBHCOI's remit is perplexing in the context of the fact that the Commission expressly declined to request an expansion of its Terms of Reference, which would have enabled it to investigate the abuses being reported by witnesses.[34] Moreover, Professor Daly's remarks offer

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30 See: https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/.

31 See: https://www.gov.ie/en/department-of-children-equality-disability-integration-and-youth/publications/commission-of-investigation-into-mother-and-baby-homes-and-certain-related-matters/.

32 See 'Dr Deirdre Foley and Professor Ian McBride in conversation with Professor Mary Daly', 2nd June 2021. Transcript available at: https://clannproject.org/wp-content/uploads/Oxford-University-Seminar_Prof-Mary-Daly_02-06-2021.pdf. (Hereafter the **Oxford Transcript**.) It is important to note that the three MBHCOI Commissioners refused to appear before the Oireachtas Committee on Children, Disability, Equality and Integration. See: https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_children_equality_disability_integration_and_youth/submissions/2021/2021-06-23_correspondence-yvonne-murphy-judge_en.pdf.

33 Oxford Transcript, p. 20.

34 See Article 6 of the MBHCOI Terms of Reference: http://clannproject.org/wp-content/uploads/MBHCOI_Terms-of-Reference.pdf. In July 2016, then Minister Zappone asked the MBHCOI to issue an Interim Report outlining whether there were additional matters not included in its scope which warranted further investigation. In its Second Interim Report, the MBHCOI declined to recommend any changes to its Terms of Reference. See: https://odait.ie/wp-content/uploads/2024/12/Second-Interim-Report-of-Mother-and-Baby-Homes-Commission-of-Investigation.pdf.

compelling evidence of the fact that affected people have consistently identified forced family separation as a principal human rights violation which has impacted their lives. Further corroboration can be found in the Government-sponsored OAK consultation, which engaged with over 500 participants, who made clear that family separation was the primary harm for which reparation is required.[35] Despite this, the State's responses to human rights violations in this area have focused on (some) abuses which occurred in (certain) institutions—namely, the Mother and Baby and County Home institutions. However, these institutions represented merely one element of an overall system of gender-based abuses. As the ARA submission to the United Nations Committee on the Elimination of Discrimination Against Women explains:

> The Mother and Baby Homes formed only a part of the State's policy regarding the treatment of children born outside marriage, unmarried mothers and women and girls 'at risk' of becoming unmarried mothers (the 'Policy'). There were numerous formal and informal arrangements that implemented the Policy, involving, inter alia, State Maternity Hospitals; Private Hospitals; Private Nursing Homes; homes where children were held but where natural mothers were not present; GP assisted home births; PFIs (pregnant from Ireland – women and girls who gave birth in the UK and were brought back to Ireland); County Homes; statutory and non-statutory adoption agencies; Children's Homes and Magdalene Laundries.[36]

Forced family separation was a key element of the gender-based abuses that pervaded twentieth-century Ireland. The prevailing social, cultural, legal and economic conditions meant that unmarried mothers were socially shunned, denied access to reproductive rights and otherwise rendered powerless in inestimable ways. These impediments crossed class boundaries, and financial stability did little to prevent unmarried mothers from having to relinquish their children. Thus, *any* woman or girl who was pregnant outside of marriage had little choice but to relinquish her child for adoption, as illustrated by the fact that in 1967, 97% of all non-marital births in Ireland ended in adoption.[37]

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35 See: O'Kennedy, M.L. (2021) *Report of the Findings of the Consultation with Survivors of Mother and Baby Homes and County Homes*. (Hereafter the ***OAK Report***.) Available at: https://assets.gov.ie/285098/65cf6ce2-a60b-432b-abc5-cbbc9b7a6162.pdf, p. 29.

36 Adoption Rights Alliance Ireland, *Follow-Up Submission to the UN Committee on the Elimination of Discrimination Against Women in respect of Ireland (for the 66th Session, January 2017)*, http://clannproject.org/wp-content/uploads/Adoption-Rights-Alliance-CEDAW-Submission_Jan-2017.pdf.

37 See: Adoption Authority of Ireland, *Annual Report 2013*. Available at: https://aai.gov.ie/images/Publications/AAI-Annual-Report-2013.pdf, p. 25.

Forced family separation encompassed a wide range of human rights violations, including but not limited to: institutionalisation; the removal of children by physical force; the removal of children without their mothers' knowledge or consent; compulsory signing of adoption papers (including by physical force); multifarious forms of coercion; and an insidious responsibilisation[38] of mothers who were required to confirm that they 'freely' consented to the relinquishment of their children despite being left with no other meaningful option.[39] Ireland's forced family separation system was underpinned by: (i) the permanent alteration of adopted people's identities, and (ii) concealment of adopted/boarded out people's and mothers' identities (to ensure that mothers and children could not find each other). Forced family separation has innumerable permanent ramifications, including the legal and social alienation of family members from each other, the modification and concealment of adopted people's identities, and the irrevocable impact on their life trajectories.[40]

The State's focus on a limited range of abuses in certain institutions represents a failure to recognise the key purpose and function of these institutions and the primary harm that they inflicted—as emphasised by MBHCOI witnesses and OAK consultation participants—**which was (and continues to be) forced family separation.** By refusing to acknowledge the human rights violations associated with forced family separation, the Government is contributing to the concealment and aggravation of these abuses, the silencing of those affected and delaying their access to justice. This is further exacerbated by the Government's repeated reference to its inadequate and discriminatory reparation measures, which are mobilised in defence of the exclusion of individuals from many of the same justice and redress mechanisms.[41]

4. STATE APOLOGY AND ACTION PLAN

On the day after the MBHCOI published its *Final Report*, the Taoiseach, Micheál Martin made an official State apology 'for the profound generational wrong visited upon Irish

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38 Responsibilisation refers to State policies and practices that shift the onus from the state to individuals, families, communities and organisations. See: Rose, N. (1999) *Governing the Soul: The Shaping of the Private Self.* London: Free Association Books, p. xxiii.

39 See the *Clann Report*, Section 1.

40 See: McGettrick, C. (2023) 'Adoption Social Work Practice in Ireland: Critical Reflections on Present-Day Injustices', in: Ioakimidis, V. and Wyllie, A. (eds.) *Social Work's Histories of Complicity and Resistance: A Tale of Two Professions.* Bristol: Policy Press, pp. 261-277.

41 E.g.: Boyd Barrett, R. (2025a) *Dáil Debates*, [online], 1st April. Available at: https://www.oireachtas.ie/en/debates/question/2025-04-01/641/#pq_641/#pq_641.

mothers and their children who ended up in a mother and baby home or a county home'.[42] In his apology, the Taoiseach stated:

> The lack of respect for your fundamental dignity and rights as mothers and children who spent time in these institutions is humbly acknowledged and deeply regretted. The Irish State, as the main funding authority for the majority of these institutions, had the ultimate ability to exert control over these institutions, in addition to its duty of care to protect citizens with a robust regulatory and inspection regime. This authority was not exerted and the State's duty of care was not upheld. The State failed you - the mothers and children in these homes.[43]

The Taoiseach's speech that surrounded his apology acknowledged the 'exploitation, neglect and abuse' experienced by boarded out people, racial discrimination, and characterised 'the status of "illegitimacy"' as 'an egregious breach of human rights'.[44] Yet, the speech did not recognise several other human rights violations, including non-consensual medical experimentation, abuse in adoptive placements and child trafficking. **Crucially, the apology itself focused exclusively on the cohort of institutions that were investigated by the MBHCOI**:

> … on behalf of the Government, the State and its citizens, I apologise for the profound generational wrong visited upon Irish mothers and their children who ended up in a mother and baby home or a county home.[45]

As noted above, the MBHCOI investigated 18 institutions, however, the Clann Project has listed over 180 institutions, agencies and individuals that were involved in forced family separation abuses.[46] By limiting the focus of the State apology, the Government has excluded thousands of people who were subjected to human rights violations both within and outside institutions, including but not limited to: myriad forms of physical abuse, including non-consensual medical experimentation; psychological abuse; racial discrimination; and forced family separation, which encompassed a range of practices.

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42 Martin, M. (2021) *Dáil Debates*, [online], 13th January. Available at: https://www.oireachtas.ie/en/debates/debate/dail/2021-01-13/speech/86/.

43 Ibid.

44 Ibid.

45 Ibid.

46 See Clann List of 180+ Institutions, Agencies and Individuals.

On the day of the apology, the Government committed to developing a 'Strategic Action Plan', consisting of '22 commitments'.[47] On 16th November 2021, the Government published its 'Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions'.[48] According to the Government's website:

> The aim of the Action Plan is to support the implementation of the 22 commitments made by Government in January 2021 to respond to the priority needs and concerns of those who spent time in those institutions.[49]

Thus, like the State apology, the language used in the Government's Action Plan is narrow, **focusing solely on the 'needs and concerns' arising from incarceration within certain institutions.**[50] The '22 commitments' consist of a range of measures targeted at this cohort of affected people, including information and tracing legislation; measures regarding safeguarding and access to records; memorialisation; counselling supports; health supports; financial supports; and burials legislation.[51] Affected people who were not in institutions investigated by the MBHCOI, or those who were not in institutions at all can avail of **some** measures in the Government's Action Plan. However, as this submission demonstrates, thousands of individuals are excluded in myriad ways from the Government's Action Plan. Moreover, affected people's ability to access State initiatives is often restrictive, cumbersome, and significant efforts are required to achieve minimal reparation.

One of the few universally available measures in the Government's Action Plan is the provision of counselling support through the National Counselling Service (NCS).[52] In fact, NCS counselling is positioned as 'Action 2', second only to the development of the plan itself. Counselling—provided by professionals with a high level of proficiency in the issues surrounding institutional and forced family separation abuses—should of course

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47 Martin, M. (2021) *Dáil Debates*, [online], 13th January. Available at: https://www.oireachtas.ie/en/debates/debate/dail/2021-01-13/speech/86/. See also, e.g.: Whitmore, J. (2021) *Dáil Debates*, [online], 20th January. Available at: https://www.oireachtas.ie/en/debates/question/2021-01-20/385/.

48 Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions. (Hereafter the **Government Action Plan**.) Available at: https://assets.gov.ie/static/documents/action-plan-for-survivors-and-former-residents-of-mother-and-baby-and-county-home-inst.pdf.

49 See: https://www.gov.ie/en/department-of-children-equality-disability-integration-and-youth/publications/state-apology-and-action-plan/.

50 Ibid.

51 Other elements of the Government Action Plan include research on terminology, educational initiatives, a children's fund, changes to inheritance tax law and funding for an annual commemoration.

52 See the Government Action Plan, p. 26.

be available for individuals who wish to avail of it. However, as discussed above, affected people have repeatedly made clear that forced family separation and the related issues of access to records and redress are prime concerns for them. **In other words, counselling services are no substitute for equal access to truth, justice and accountability measures.** Indeed, in the Clann Project's experience, the lack of access to records and exclusions from measures of redress and accountability are the **primary cause** of mental distress for affected people. For example, in relation to forced family separation and the denial of access to records, Clann Project Witness 68 explained that:

> I have found the process of trying to trace information about my mother very hard. 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.[53]

One affected person spoke to RTÉ's *Liveline* radio programme about his exclusion from the Mother and Baby Institutions Payment Scheme because he was confined in an institution for less than 180 days:

> I'd like someone from the politicians themselves, or someone from the department to come on and explain their reasoning, that someone who was in there 179 days and then was adopted or left, isn't the same as someone who was in there one day later. … The [records] that I have are not worth the paper they're written on, if they can't stand over the authenticity of them. … It's the hurt. It's not the fact of, it's irrelevant if it was a euro [in financial recompense]. I don't care. I want an answer. And I want someone to stand in front of me and tell me why they did this and why, are they waiting for us to die, or what?[54]

As noted above, these affected people's views are corroborated by the findings of the Government-sponsored OAK consultation, which reported that for their 500 participants, forced family separation was the primary abuse for which reparation should be provided, and the issue of access to records 'overshadowed all others in relation to ensuring access to the [redress] scheme'.[55] Additionally, Patricia Carey, the Special Advocate for

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53 *Clann Report*, p. 105.

54 See: https://www.rte.ie/radio/radio1/highlights/1435908-exclusions-from-mother-and-baby-home-redress-scheme-on-liveline/.

55 *OAK Report*, pp. 12, 29.

Survivors of Institutional Abuse[56] reported in September 2024 that the 'key messages' reported by the over 500 people she had engaged with during her first six months in post included: an '[u]rgent need for access to records'; concerns surrounding exclusions from the Government's redress scheme; and a feeling amongst affected people of being 'Over Consulted and Under Delivered'.[57]

These facts are further validated by the fact that fewer than 600 affected individuals have availed of NCS counselling services since 2021.[58] Indeed, between 2021 and 2024, the NCS spent just 75.7% of the €14m allocated to it for the provision of counselling services to people affected by human rights violations in this area.[59] In contrast, as of 31st March 2025, over 15,500 people had applied for records under the *Birth (Information and Tracing) Act* since the commencement of these services in October 2022.[60] Moreover, as of 9th March 2025, 6,259 applications had been received to the Mother and Baby Institutions Payment Scheme since the beginning of its operation in March 2024.[61]

Thus, in contrast with the State's exclusionary responses to human rights abuses in this area, affected people have made clear—through their evidence and communications with State investigations,[62] consultations,[63] and advocacy services,[64] their low engagement with counselling services,[65] their exceptionally high engagement with

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56 Ms Carey was appointed in March 2024. See: https://www.gov.ie/en/press-release/8bc4f-over-12900-cases-completed-under-birth-information-and-tracing-act/. While the Government's terminology regarding the role of Special Advocate is exclusionary, fortunately, the Special Advocate's office is open to all affected people.

57 See: Carey, P. (2024) *Press Release, 26th September 2024*. Available at: https://criticaladoptiontheory.com/wp-content/uploads/2025/02/Press-Release-from-the-Special-Advocate-for-Survivors-of-Institutional-Abuse-Patricia-Carey-26.9.2024.pdf. (Hereafter, Special Advocate Press Release, 26th September 2024.) This press release is provided via criticaladoptiontheory.com as the Special Advocate's office does not currently have a fully operational website.

58 See: https://criticaladoptiontheory.com/wp-content/uploads/2025/04/PQ-12267-25-Deputy-Mary-Lou-McDonald-re-number-of-people-affected-by-adoption-and-the-mother-and-baby-homes-accessed-the-services-of-the-NCS-from-2020-to-date.pdf.

59 See: https://criticaladoptiontheory.com/wp-content/uploads/2025/04/PQ-12266-25-Deputy-Mary-Lou-McDonald-re-funding-provided-in-respect-of-the-NCS-from-2020-to-date-services-for-people-affected-by-adoption-and-the-mother-and-baby-homes.pdf.

60 Boyd Barrett, R. (2025b) *Dáil Debates*, [online], 1st April. Available at: https://www.kildarestreet.com/wrans/?id=2025-04-01a.1548.

61 See: Ahern, C. (2025a) *Dáil Debates*, 19th March. Available at: https://www.oireachtas.ie/en/debates/question/2025-03-19/1342/.

62 Oxford Transcript, p. 20.

63 *OAK Report*, p. 12.

64 Special Advocate Press Release, 26th September 2024.

65 See: https://criticaladoptiontheory.com/wp-content/uploads/2025/04/PQ-12267-25-Deputy-Mary-Lou-McDonald-re-number-of-people-affected-by-adoption-and-the-mother-and-baby-homes-accessed-the-services-of-the-NCS-from-2020-to-date.pdf and https://criticaladoptiontheory.com/wp-content/uploads/2025/04/PQ-12266-25-Deputy-Mary-Lou-McDonald-re-funding-provided-in-respect-of-the-NCS-from-2020-to-date-services-for-people-affected-by-adoption-and-the-mother-and-baby-homes.pdf.

services providing access to records,[66] and their high engagement with the State's redress scheme[67]**—that their main requirement to address these abuses is unrestricted access to records and reparations.**

For evidence and discussion of how the above issues have influenced the State's policies in relation to forced family separation abuses, see the Clann Project's submission to the eight United Nations Special Procedures Mandate-Holders who wrote to the Irish government in 2021 at the following link: https://clannproject.org/wp-content/uploads/Clann-Project-Submission-to-UN-Special-Procedures_25-04-25.pdf.

66 Boyd Barrett, R. (2025b) *Dáil Debates*, [online], 1st April. Available at: https://www.kildarestreet.com/wrans/?id=2025-04-01a.1548.

67 Ahern, C. (2025a) *Dáil Debates*, 19th March. Available at: https://www.oireachtas.ie/en/debates/question/2025-03-19/1342/.