

Ten-Years Since the *Mother and Baby Homes Commission of Investigation* was Established: More, Much More, Left to be Desired?

In 2014, the revelation that [hundreds of babies were buried in a mass, unmarked grave in County Galway](#) sparked international outrage. Located on the site of the former Tuam Mother and Baby Home, the discovery of the “Tuam Babies” led to an [inquiry](#) into these twentieth-century institutions in Ireland. The *Mother and Baby Homes Commission of Investigation* (the Commission) published its [report](#) in 2021 and subsequent legislation was enacted in 2023 to create a [payment scheme](#) for survivors and affected people. However, this payment scheme is fundamentally flawed and does not adhere to international human rights standards, thus leaving much more to be desired in terms of an effective remedy for all those affected.

The Mother and Baby Homes Commission of Investigation

Opened in 1926, the Tuam Mother and Baby Home was run by the Bon Secours nuns on behalf of the local authority and the “Poor law Guardians” ([Redmond, 2018](#)). This was only one of many Mother and Baby Institutions across Ireland, that were ran primarily by religious orders and funded by the Irish government. Out of several types of coercive institutions in Ireland, Mother and Baby Institutions were specifically for unmarried women and their children. However, more than [180 various institutions, agencies and personnel](#) were involved in separating unmarried mothers from their children, both in institutional and non-institutional settings. Therefore, while the Tuam Babies scandal ignited a controversy surrounding the treatment of unmarried mothers and their children, Mother and Baby Institutions represented but one part of the widespread system of forced family separation and coercive treatment of women and their children that existed throughout twentieth century Ireland.

Despite this, the Commission’s [terms of reference](#) restricted its investigation to only fourteen mother and baby homes and a sample of county homes. While several [submissions](#) were made to it, the Commission did not use its statutory powers to request a widening of its focus. The Committee on the Elimination of Discrimination against Women (CEDAW) highlighted this failure in its [Concluding Observations](#) on Ireland’s sixth and seventh periodic reports in 2017. Within its recommendations, CEDAW suggested that the narrow focus of the investigations would not address the whole spectrum of abuses perpetrated against women and girls. The therefore limited scope excluded various other institutions, organisations, agencies, and individuals involved in the forced family separation of unmarried mothers and their children in twentieth-century Ireland. Article 13 of the [European Convention on Human Rights](#) (ECHR) guarantees that victims of human rights violations have a general right to an effective remedy. By excluding thousands of survivors and affected people, the investigation denied these individuals this international human right.

In response to the Commission being established, [Justice for Magdalene Research](#) and [Adoption Rights Alliance](#) launched [the Clann Project](#), a joint initiative to help establish the truth of what happened to unmarried mothers and their children in 20th century Ireland. The Clann Project assisted individuals to make a [witness statement](#) and obtain free [legal assistance](#) from the international law firm [Hogan Lovells](#), regardless of whether they were covered by the Commission's Terms of Reference. Even with legal representation, witnesses were still unlawfully denied their explicit statutory entitlements to access and comment on the Commission's evidence and draft findings. This was confirmed by [multiple Irish High Court Declarations](#) and therefore, the Commission's conclusions were reached through an unlawful investigative procedure, which now form the basis of the Mother and Baby Institutions Payment Scheme. An important aspect of the right to an effective remedy is that any investigation by the State should include [victim participation](#). By not allowing survivors and affected people the same entitlements that were given to the alleged wrongdoers, and by confining the investigation to a restricted number of institutions, the Commission and the State neglected their obligation to ensure that survivors and affected people were able to fully participate in the investigation process.

The Current Payment Scheme

The payment scheme omits everyone who spent [less than 6 months as a baby](#) in an institution before being separated from their mother. This excludes over [24,000 people](#) who were confined in Mother and Baby Institutions that are otherwise covered by the scheme. As stated by the [Irish Human Rights and Equality Commission](#), this eligibility requirement overlooks the harm arising from forced family separation. It fails to consider the United Nations Committee Against Torture's (UNCAT) [Concluding Observations](#) in 2017, that recommended Ireland make redress available to all who were confined in Mother and Baby Institutions. Additionally, mothers institutionalised for less than six months are denied the provision of [certain health services without charge](#), as otherwise provided under the legislation. Furthermore, the scheme fails to acknowledge those who suffered [abuse in adoption, fostering, or boarding out placements](#), as well as the [abuses](#) of illegal vaccine trials, racial or disability-based discrimination, or illegal expatriation outside the State for adoption. And, thousands of other affected individuals are excluded in innumerable other ways, including those who were forcibly separated from family through institutions, agencies and individuals who are not listed in the Schedule of institutions attached to the payment scheme.

The scheme further excludes those who [received payment previously from the Residential Institutions Redress Board](#), which did not recognise the abuse of family separation. Eligibility for the Work-Related Payment under the scheme refuses to recognise forced labour or servitude other than of a type deemed by the Government to have been ["commercial"](#). Under Article 3 of the ECHR, every state has a positive obligation to investigate alleged human rights violations arising from allegations of torture and inhumane or degrading treatment. Through these

multiple exclusions, Ireland is failing to meet its obligation to both investigate and to remedy these several types of abuses that occurred within the larger system of forced family separation.

While the scheme excludes several groups of survivors and affected people, those who are eligible are forced to sign a [waiver](#), surrendering “any right of action which the applicant may otherwise have had against a public body and to discontinue any other proceedings instituted by the applicant against such public body”. Therefore, to receive any payment under the scheme, applicants are forced to yield any further right to take an action against the state. In the case of [Elizabeth Coppin v Ireland](#), UNCAT held that it is contrary to Ireland’s international law obligations to force survivors and affected people to give up their right to the truth and accountability in exchange for a payment. In November 2021, eight United Nations Special Rapporteurs stated in a [letter](#) to the Irish government that the payment scheme must be “without prejudice to the right to seek further remedies for human rights violations experienced.” However, this waiver remains a requirement under the payment scheme, representing the further denial of an effective remedy.

Redress for the Few

While 34,000 are eligible under the scheme, only approximately [6,100](#) people have applied as of February 2025 and only 4,077 have been paid or are in the process of being made. Reflecting on the payment scheme’s low uptake suggests that the scheme is not fit for purpose. According to [Patricia Carey, the Special Advocate for Survivors of Institutional Abuse](#), survivors and affected people have expressed considerable anger in relation to the payment scheme. In her [six months press release](#), the Special Advocate stated that feedback on the exclusions in the payment scheme as well as operational issues have dominated her engagements. Even if these administrative issues are overcome, the scheme’s eligibility requirements remain deeply discriminatory and continue to exclude thousands of individuals. Survivors and affected people who spoke to the Special Advocate say that “state apologies are hollow without a range of redress measures to acknowledge the trauma we experienced” (Carey, p. 2). So long as the payment scheme excludes people, denies rights and functions poorly, the State continues to fail in its obligation to provide an effective remedy for all those affected.

A Dark Past and Present

By refusing to address the full breadth of abuses in Ireland’s past, this allows for accountability to be denied at present and for further human rights violations to continue in the future. While the extensive abuses arising from forced family separation is often described as confined to a dark history in Ireland, survivors of abuse currently live with the [trauma, loss and effects of forced family separation](#). Moreover, human rights violations continue to be perpetuated against people in more modern manifestations, ranging deprivation of liberty in direct provision centres to ongoing injustices in assisted human reproduction ([O’Rourke and others](#), p. 85- 105). In these

circumstances, “no lessons are learned, no reparations are made and no guarantees of non-repetition are offered” ([United Nations Special Rapporteur on Torture, 2021](#), p. 19).

As part of the [International Human Rights Law Clinic](#) at the University of Galway, a group of postgraduate law students have sought to raise awareness about the ongoing human rights violations arising from the exclusionary payment scheme. In response to key priorities for survivors and affected people, the group organised an email campaign prior to the 2024 general election in Ireland, as well as an update letter to the eight UN Special Rapporteurs, in order to highlight these ongoing failings on an international level. More information about this is available [here](#) or on the [LLM Clann](#) website.

On the ten-year anniversary of the Commission being established, the Mother and Baby Institutions Payment Scheme remains inadequate. The scheme has been criticised for failing to include everyone who spent time in Mother and Baby Institutions ([IHREC, 2024](#)) and for failing to deliver satisfactory redress and justice to all those affected ([ICCL, 2025](#), p. 16). Further human rights violations continue to be perpetuated against survivors and affected people, in relation to accessing information, burials, inquests and memorialisation. These issues as well as the several shortcomings outlined above must be rectified and all survivors and affected people must be given full and effective redress.