

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM OIDEACHAS AGUS SCILEANNA

### JOINT COMMITTEE ON EDUCATION AND SKILLS

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*Dé Máirt, 26 Samhain 2019*

*Tuesday, 26 November 2019*

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The Joint Committee met at 11 a.m.

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Comhaltaí a bhí i láthair/Members present:

Joan Burton,*	Robbie Gallagher,
Thomas Byrne,	Paul Gavan,
Catherine Martin,	Lynn Ruane.
Tony McLoughlin.	

\* In éagmais/In the absence of Deputy Jan O’Sullivan.

I láthair/In attendance: Senator Alice-Mary Higgins.

Teachta/Deputy Fiona O’Loughlin sa Chathaoir/in the Chair.

### **Business of Joint Committee**

**Chairman:** I remind members to please turn off their mobile phones when attending committee meetings. Apologies have been received from Senator Maria Byrne. Deputy Jan O’Sullivan has advised that this meeting clashes with another meeting and she will make every effort to attend but sends her apologies in the event that she cannot do so.

I propose that we go into private session to consider a number of housekeeping matters. Is that agreed? Agreed.

*The joint committee went into private session at 11.08 a.m. and resumed in public session at 11.37 a.m.*

*Deputy Catherine Martin took the Chair.*

### **Retention of Records Bill 2019: Discussion**

**Acting Chairman (Deputy Catherine Martin):** We are now in public session. I remind members and witnesses to turn off their mobile phones as they interfere with the sound system, make it difficult for parliamentary reporters to report the meeting and adversely affect television coverage and web streaming. The purpose of this part of the meeting is to have an engagement with stakeholders on the provisions of the Retention of Records Bill 2019. On behalf of the committee, I welcome Ms Carmel McDonnell Byrne; Ms Eileen Molloy; Ms Mary Harney; Dr. Mary Lodato; Ms Catriona Crowe; Dr. Fred Logue of FP Logue Solicitors; Dr. Maeve O’Rourke, lecturer in human rights law at NUI Galway; and Dr. Sarah-Anne Buckley, lecturer in history at NUI Galway. I will invite witnesses to make brief opening statements - a maximum of three minutes - that will be followed by an engagement with members.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. I also advise witnesses that any opening statements they make to the committee will be published on the committee website after this meeting.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I invite Ms Carmel McDonnell Byrne to make her opening statement.

**Ms Carmel McDonnell Byrne:** Christine Buckley, I and others have fought for truth and

reconciliation for survivors over decades. In 2000, Christine and I founded the Christine Buckley Centre to provide education and support to survivors. Though, sadly, Christine is no longer with us, I continue to provide support both at the centre and through my outreach work.

The State's apology to victims in 1999, though meaningful at the time, is being undermined by this Bill. The Commission to Inquire into Child Abuse was established to "address the continuing effects of child abuse". From my experience and contact with survivors, I believe the Bill is likely to cause practical, emotional and psychological problems for survivors. It also recommended that "the lessons of the past should be learned" and that the acknowledgement by the State and the religious orders of their failures was only the first step. Further investigations were and are necessary. This Bill will not allow such investigations to take place.

The commission also recommended that family tracing services should be continued, and this Bill has the potential to make family reunification more difficult. The institutions operated a policy of separating siblings, and family visits were discouraged. Every day in the Christine Buckley Centre we speak to survivors still searching for the truth of their past, their identity and family history. We also witness survivors finding family members and the joy that brings.

Survivors did not agree to the destruction or sealing of their records when they agreed to participate in the commission and-or when they applied to the redress board. They want their often harrowing experience of giving testimony to matter and to ensure that this never happens again. All survivors should have the right to decide for themselves if they would like to access any records relating to them. It is very important on our healing journey that we are empowered to make decisions and choices, something denied us as children. Survivors deserve the right to own a copy of their testimony if they want it. It is important for my children, grandchildren and future generations to understand what happened in Ireland and how thousands survived this very harsh and shameful regime.

In 2002, survivors attended a poignant service at the Grove of Reflection, in Ballygannon Wood, Rathdrum. Deputy Seamus Brennan, the Government Chief Whip at the time and chairman of the National Millennium Committee, said, "This occasion is an opportunity to salute the bravery of individual victims who were determined to tell their stories and seek justice, and in doing so, shone a light into the dark corners of our past and present." There is a grove in each province in Ireland that has a seat with the following inscription, "May the future ensure that those most vulnerable will never again endure such pain and deprivation."

I hope all records will be held in an interactive museum along with memorabilia such as the pliers used for making the rosary beads and samples of the types of clothing used throughout Ireland's industrial schools. As part of the healing journey survivors have written poetry, stories, plays or created artistic pieces and music. Some of these depict their own personal journeys and the pain they have endured, especially any letters to and from families at the time. These need to be available to the public and researchers. I have no problem with my testimony being available to the public.

I believe a museum can help survivors and their families, and this is particularly important given the intergenerational impacts of child abuse. We cannot forget what happened to the thousands of children who were incarcerated in 200 institutions run by church and State.

**Ms Eileen Molloy:** I thank the Chairman and the members for the opportunity to discuss the Retention of Records Bill 2019. As a past resident of an institution for all of my childhood - from 11 months to 16 years - I would like to have my records. I am speaking for me.

## RETENTION OF RECORDS BILL 2019: DISCUSSION

Attending the Residential Institutions Redress Board was a traumatic time for all the survivors with whom I have been in contact. That is the feedback we have been getting. We had to reveal our stories to doctors, solicitors, family members, psychiatrists and counsellors. As that was a requirement for attending the board, it had to be done. Under normal circumstances, we probably would not have revealed this information, apart from to someone we were comfortable telling it to. It was difficult to recall our childhood at the best of times. The members can imagine how exhausting, mentally and physically, it would have been and how it affected us at that time.

One of the most stressful things we had to endure was that it was very difficult to take in the full extent of what was going on. Any such records - medical reports, psychological reports and more - were often submitted by the solicitor to the redress board without the survivor seeing them. It is very important that any survivor who wants to avail of these personal records should have the freedom to do so. I do not think our personal information can be used in the future as history. It is our history right now and should be made available to us while we are still alive. It may give us a much clearer picture as to what actually happened and who we really are. Most people who were not raised in institutions can apply for their records with much more ease. Why is it so difficult for us to do the same? Life was difficult enough for us as children. Why should we have to fight for what really belongs to us? It is so wrong.

I appeal to all members to reconsider their line of discussion about sealing our records for 75 years. I ask the committee to take into consideration the fact that this is what most survivors want. We are not responsible either for our past or for the situation in which we find ourselves in respect of this Bill. I thank the committee for its time.

**Ms Mary Harney:** I have come here today to urge the committee to reconsider the Retention of Records Bill 2019. I appeal to the committee as one of the thousands of people who will be directly and seriously affected by the Bill.

I began my search for my personal records in 1965. I did so through visits and direct correspondence with the mother and baby institution in which I was born in 1949. Even though I was initially denied information on myself and my mother, I persisted. In 1967, I received a letter with details of my mother's name and address and other family details. With this information I was able to trace and contact my mother.

In the 1980s and 1990s, I continued my search for my personal records. I was granted open access to legal documents and records that show I was illegally fostered at the age of two and a half. By the time I was five, I was removed from the foster mother and committed by a court to an industrial school until I was 16 years old. The documents also state that the whereabouts of my mother was unknown, yet according to my mother, the nuns knew exactly where she was. She had been deported by them to the UK to work in a laundry operated by a religious order. Department of Education documents revealed that the foster mother had continued to influence the direction of my life. This went as far as requesting that my detention be extended. Her request was granted by the Department of Education inspector, contrary to the court order. I could not have constructed my early life and influencing events without access to personal records.

If we fast forward to 2005 and beyond, under freedom of information legislation, I sought information related to the circumstances of my fostering. The redacted document I received told me nothing. The difference between seeking information in the 1960s and seeking it in the 2000s was that my chances went from 80% to 0%. In effect, were I to begin this search today,

it would be impossible for me to receive any of the information I now hold.

When I testified before the Residential Institutions Redress Board I did so in good faith. I was not informed that my statement was to be sealed for 75 years. There are absolutely no valid moral or constitutional reasons the testimony of thousands of people and the records of the Ryan commission of investigation should be destroyed or sealed. If this Bill passes, it will make survivors of the industrial schools invisible once more. It will create another generation of the disappeared of Ireland. I ask the committee not to let this travesty of justice continue.

**Dr. Mary Lodato:** These are my personal views based on my experience as a survivor and my 20 years of practical and academic work with other survivors of institutional abuse. The Government should ensure that all others affected by institutional abuse are included in the process of deciding what happens to these records.

Survivors should have immediate unrestricted access to their own complete files. These files belong to them. The current process for accessing files should be redesigned in consultation with survivors. The famous section 28, which inhibits survivors' ability to share their experiences, should be repealed. It is a retraumatising reminder of the authority that church and State held over us. If they can access their files, survivors will be free to share them with their immediate families. Deceased survivors' close relatives should also be able to access their files. These records may allow family members to understand a relative's story when a conversation may be impossible. Access can have a therapeutic effect by allowing people to come to terms with intergenerational trauma.

Once access for survivors and families has been secured, the archives must be opened to researchers and the public. This should be done as soon as possible so that survivors and researchers can work together to enrich the National Archives with oral history. The history of institutional abuse in Ireland is dominated by the perspectives of the professional classes, including doctors, lawyers and religious orders. Our files correct this power dynamic. They tell what happened to us as children. They also show how we were dismissed and undermined when we applied for redress.

Survivors can decide for themselves if they want their files to be anonymised or redacted before they are disclosed to others. Personally, I am proud to be a survivor and would be proud to have my full story in the National Archives. The proposed 75-year sealing of our files creates cynicism. It makes it look as if the State is hiding something. This State has already robbed survivors of so much and profited from our suffering. It must give us our history and let us share it with the nation. I understand that our narratives can seem threatening to State bodies and expose them to further scrutiny. However, survivors still live with shame and secrecy imposed on them. They urgently need a process of healing and reconciliation, and this requires willingness to confront the past. Only openness and transparency can help society to take responsibility for its part in the abuse of women and children. If we do not confront our past, we are condemned to repeat it.

**Ms Catriona Crowe:** I thank the committee for inviting me to come here today to talk about this very important matter. I know legislators are incredibly busy people, but it would be nice to see a few more members of the committee here. This is very important legislation with significant implications. I am talking to the committee after members have had the privilege of listening to four survivors of the events described in the records that are proposed to be locked up. Members have heard their dignified, respectful, compelling and deeply moving testimony. It is right that they were the first people to testify to the committee this morning. I will now

read my opening statement.

I refer members to the longer statement already circulated to the committee for fuller information on the points I am going to make. The Retention of Records Bill proposes to withhold from public inspection for 75 years certain State records dealing with the Commission of Inquiry into Child Abuse, the Ryan commission. The National Archives Act 1986 has served the country perfectly well since its passage as regards the withholding of records from public inspection. The section of the Act that provides for this allows for officers of Departments, with the consent of the Department of the Taoiseach, to certify that the release of departmental records that are over 30 years old would in certain circumstances be contrary to the public interest, or would or might constitute a breach of statutory duty or a breach of good faith on the ground that they contain information supplied in confidence, or would or might cause distress or danger to living persons. Why that is not seen as adequate protection by the proposers of this Bill is unclear. The Oireachtas Joint Committee on Education and Skills in 2015 recommended the use of the National Archives Act, but the Minister turned it down on unspecified grounds. To put it succinctly, this is using a sledgehammer to crack a nut and it begs the question of why it seems to be required to create an entirely new set of archival legislation when we already have a perfectly good Act in existence that covers the case.

The committee has heard the survivors tell it what their wishes are. The only serious attempt to ascertain the wishes of survivors, commissioned by the Department of Education and Skills, is a recent research study that consulted 100 of those who had made submissions to the redress bodies to ascertain their views on the fate of the records, and which resulted in a majority expressing concern at the proposed sealing of the records. Those who made submissions to the various inquiries should be given copies of their submissions. This is a glaring gap in both respect for survivors and normal best practice when people are giving testimony to any inquiry. They should get copies of their own submissions. Why they have not, nobody has properly explained. The same should apply to other commissions of inquiry of this sort, particularly the mother and baby homes commission, which is currently in session.

Administrative records tell us how these organisations worked. They are currently held in the archives of the Ryan commission, the McAleese committee and the Murphy mother and baby homes commission, and they should be available when they are more than 30 - soon to be 20 - years old. There are no privacy issues with these records. It would set an extraordinary precedent if this Bill made it possible for the State, wrongly, to close important archives when it so chooses without recourse to the National Archives Act.

I have six basic recommendations to make to the committee. First, there would seem to be no good reason not to use the provisions of existing legislation to preserve, withhold and make accessible these very important records. Second, information on the desires of those who gave testimony to the Ryan commission and the McAleese committee, and who are currently giving testimony to the mother and baby homes commission, should be gathered to ascertain what they would wish to happen to the records. Third, copies of submissions made to these bodies should be given to those who made them. Fourth, administrative records of these bodies should be subject only to the provisions of the National Archives Act and not swept up in this ill-considered attempt to bypass its provisions. Fifth, a quote for digitisation and redaction of the records should be sought from a reputable IT company, given this is a huge part of the history of our country and these are ways of dealing with sensitive records that would allow scholars to see them, for example. Beyond a statement from the Minister that it would be prohibitively expensive to do this, we have no other information, so we should find out what it might cost.

Sixth, the elephant in the room is that the records of religious congregations who ran the institutions should be brought under the aegis of the State, either through the National Archives Act or through the establishment of a State-run religious records repository. Ireland has the opportunity, after these very traumatic events and commissions, to lead the world in terms of preservation and access to records. However, we cannot do that without the State grasping the nettle of requiring the religious orders to give up their records of these institutions. I thank committee members for their attention.

**Dr. Fred Logue:** I thank the Chair and the members of the committee for the opportunity to make this brief submission about the information law aspects of the Bill. I practise in information law and I act for individuals and public and private sector organisations. In particular, I would like to comment on the handling of personal data which comes within the scope of EU law, the general data protection regulation and the Data Protection Act 2018. Under the doctrine of primacy of EU law, any national law that conflicts with EU law must be set aside and that is an obligation on public authorities. Insofar as the Bill would conflict with the data protection regulation, the National Archives, as a public body, would be bound under the treaties to disapply it. Therefore, some aspects of the Bill, which I will discuss shortly, would in my view not even be binding on the National Archives. Even under Irish law, it is impermissible to pass legislation that completely seals records. Under the Constitution, the courts have full and natural original jurisdiction, so the High Court can order access to records. The Bill's provisions need to be understood to be without prejudice to data subject rights, including the right of access. I recommend that the Bill be amended to recognise that any aspects which put records beyond reach are without prejudice to data subject rights.

I do not believe there is a concept of sealing a record in Irish law. I did a brief search of the Statute Book but could not find any legislation which dealt with that. It seems that it will be over and above withholding it from public access. My fear is that sealing will be interpreted narrowly as meaning no access whatsoever, even internally within the National Archives. I also fear that it will be interpreted as no access if there is a dispute about access or if there is a subject access request. This is a weak provision in the Bill.

As my colleague noted, there is already provision in the National Archives Act to protect particular interests. In the Freedom of Information Act and the general data protection regulation, GDPR, there are provisions which protect both private and public interests which could be harmed if access was granted. Again, why are those provisions not suitable to protect the interests that this Bill seeks to protect?

The Bill could be strengthened by expressly recognising rights of access, as directed by the courts, as rights of data subjects. There should be ancillary access to give effect to those rights. The Data Protection Commissioner must be able to order access to personal data and the staff of the National Archives or their contractors must be able to access the archives in order to give effect to those rights.

*Deputy Fiona O'Loughlin resumed the Chair*

**Dr. Maeve O'Rourke:** I made my written submission to the committee with Máiréad Enright, reader at Birmingham Law School, and Dr. Sinéad Ring, assistant professor at Maynooth University School of Law.

Since 2009, I have been researching, writing and advocating on the topic of the State's constitutional law, as well as international and European human rights law, responsibilities towards

those who were abused as children or women - incarcerated, tortured, forced into servitude, systematically degraded, denied identity and education and separated from family members - and those who died in the network of Catholic Church-related, State-supported institutions and the forced adoption system of the 20th century.

It is absolutely clear to me that an overriding human rights violation is continuing to affect every single person who experienced abuse in that network, as well as their families. That is the State's failure to date to ensure truth-telling through the production of both its own State records and the records held by non-State bodies, which relate to the individuals who suffered abuse and the administration of the institutions and the network as a whole.

The failure to produce the records and to house them in an archive where individuals can retrieve their own life and family history, along with where administrative records and voluntarily deposited testimony can contribute to national education, undermines all efforts at reparation. At the time of the Ryan commission's work, European and international human rights law required that survivors should have had access to the substance of the evidence that the investigation was considering so they could have commented on it and suggested further lines of inquiry.

I have major concerns that the State's investigating practice continues to breach this requirement, a basic one under European international human rights law. For example, the ongoing mother and baby homes commission is proceeding entirely in private. Survivors who have requested public hearings of their own evidence have been denied them. Survivors have no access to any of the evidence being gathered. They are also being denied a copy of their own transcript of evidence, as well as their own personal records that the commission holds of the death and burial of family members. As for the McAleese committee's State records relating to the Magdalen laundries, the Department of the Taoiseach is currently holding that entire archive secret, claiming it is holding it for safekeeping and not for the purposes of the Freedom of Information Act. This is the general approach. Beyond the right to an effective investigation that survivors of industrial and reformatory schools had at the time of the redress board and the Ryan commission, the secrecy of these records violates other reparation rights. Without records, personal rehabilitation is gravely hampered. Without records, revisionism by those who would prefer the past to disappear is a risk, while memorialisation and national education – basic human rights obligations in this context - are not what they should be. Without records, accountability is denied.

We know that Garda investigations into the residential schools were insufficient. If survivors and their advocates cannot access records or information, they cannot press for investigations or prosecutions. Due to the passage of time, however, and because of the redress board legal waiver, criminal and civil legal accountability have become less available. At this point, access to records and national truth-telling is where accountability lies. It is where dignity lies. It is a vital measure of justice.

I recommend that, while work is ongoing to consult on and redesign the Retention of Records Bill, some small but crucial amendments should be made to existing legislation. I can make these amendments available to committee members later. I recommend that the Commission to Inquire into Child Abuse Act 2000 and the Residential Institutions Redress Act 2002 be amended to state explicitly that survivors and relatives of children who died while incarcerated have a right to all personal data held in those archives, including information about how they were treated by others, in the interests of vindicating their right to a remedy and respecting their right to privacy. I recommend section 28(6) of the Residential Institutions Redress Act 2002 be amended to make clear that it does not prohibit survivors from publishing information about

their own life experiences.

I draw the committee's attention in particular to section 3 of our joint submission which explains our understanding of the existing legislative provisions, including that the Ryan commission's archive currently appears to fall within the remit of the National Archives.

**Chairman:** I thank Dr. O'Rourke. The committee would be happy to look at those amendments. Generally, when we engage with stakeholders, we allow them the opportunity to submit extra information if it is needed. As we are under time pressure and have a deadline of 12 o'clock tomorrow, however, we would need such amendments by this evening.

I call on Dr. Sarah-Anne Buckley to make her opening statement.

**Dr. Sarah-Anne Buckley:** I thank the committee for the invitation to meet it today. I agree with Ms Catriona Crowe's sentiments that this matter is important to academics and will affect how 20th century social and political history is written.

I am a lecturer in history at the National University of Ireland Galway, the president of the Women's History Association of Ireland and the chair of the Irish History Students Association. I am also the co-PI - co-principal investigator - of the Tuam home oral history project. As an academic, I have been writing and researching the history of child welfare and institutionalisation in Ireland for over 15 years. I am a recognised international authority on the subject.

In this brief submission, I wish to speak to the Retention of Records Bill as a historian with an understanding of the role of historians in State commissions and investigations, as well as the opportunities we have to instil the principles of transitional justice, historical justice and historical accountability in regard to the history of residential care. I also speak as a teacher and supervisor who has struggled with gaining access to bodies of records for my entire career, particularly those from religious orders and, at times due to lack of resources, those in State hands. As a result, I can see the effect this has on the historical record and on the trust which survivors, academics and the public place in the State and State bodies. I therefore argue strongly not for the Bill but for a stronger National Archives that is fully resourced and has the independence and support needed for such a pivotal State institution.

We are not alone in dealing with these types of histories. We should view it as an opportunity as opposed to a contentious process. Members can read in my submission the list of countries I believe we should echo. Sealing records and denying survivors access to personal records is not an approach that has proved successful elsewhere. We must learn from international best practice and trust the expertise of academics in Ireland.

There are appropriate and ethical ways to preserve and give access to different types of records, for example, administrative records, survivor testimonies and private records from religious and other bodies and State or semi-State bodies. Survivors should be granted immediate access to their personal information if they so wish. They should be assisted and not resisted in this regard. The remaining records should be subjected to the rules in the National Archives legislation. As others have said, the National Archives Act 1986 is suitable and appropriate as a legislative basis to deal with the records of Ireland's institutional past. Resources are an issue for the National Archives and this needs to be addressed at governmental level. Processes of anonymisation, redaction and ethically informed archival practices are sufficient to address concerns regarding uncontested allegations contained in records.

I fully support the idea of a National Archives child care-related records advisory board to

work in conjunction with the existing National Archives advisory committee and would advocate for the involvement of national and international historical expertise as part of this.

**Chairman:** I thank Dr. Buckley. As I said at the beginning of the meeting, each member will have three minutes to ask questions to specific witnesses or in general. There will then be five minutes to respond. The member will then have two minutes to wrap up. We will begin with committee members and the Deputy and Senator present who are not committee members will have an opportunity to ask their questions afterwards.

**Senator Lynn Ruane:** My preferred outcome to this is that the Bill does not go ahead next week. Rather than making statements, I will go straight to questions to get the most out of the time we have. There are two common themes in the submissions, which are access for survivors to their own records from the commission report and the preservation of administrative voluntary testimony for historical education and understanding. This seems to be consistent in all submissions we received, even from people not represented among the witnesses.

The witnesses may want to take note of my questions as I have specific questions for specific individuals. My first question is for Dr. O'Rourke. Is it true, as the Minister has said, that the Commission to Inquire into Child Abuse Act 2000 and the Residential Institutions Redress Act 2002 provided for the destruction of all records? On Second Stage, the Minister promised to introduce an amendment to the Bill to review its operation after 25 years. There will certainly be amendments tabled by Opposition Deputies to reduce the 75-year ceiling period. I hear 30 years being discussed as a compromise. What are Dr. O'Rourke's views on this?

My next question is for Dr. Logue. Is it credible that legislation dealing with this level of sensitive personal data without once mentioning GDPR or the Data Protection Act could create a robust legal framework for retaining these records? Does the definition of personal data under GDPR provide that information about what other people have done to an individual is personal data? If the Bill is passed and a survivor who makes a data access request is told the retention of records Act has prohibited access to his or her own data, what options for recourse would that survivor have? What would be the likely outcome?

Will Ms Crowe speak to her practical experience of working under the section allowing the 30-year rule for records under the National Archives Act? Is she confident the records of the Ryan commission could be adequately dealt with under the section? Will Dr. Buckley give us a sense of what we would lose in terms of our historical understanding of this period and the experiences of survivors if these records were sealed for 75 years?

Ms McDonnell Byrne spoke about the memorialising of records and the failure of the State so far. We had the site that was meant to be developed in Parnell Square. What else could the State do to make sure we memorialise and remember the experiences of survivors?

**Chairman:** The Senator has asked four specific questions. There are five minutes overall but because there are four specific questions perhaps everybody will be given two minutes, which will total eight minutes as opposed to five minutes. The first question was directed to Dr. O'Rourke.

**Dr. Maeve O'Rourke:** The question of whether the legislation, which still exists, that underpinned the Ryan commission and redress board mandated destruction is very important because the Bill is pictured or framed as the best we can do given that the records were supposed to be destroyed. It states that what we will do instead is preserve them but because we are doing

something so different from what was always envisaged, we must seal them. It is important to ask whether the legislation actually mandated their destruction. Simply put, as far as I, my two co-contributors and Dr. James Callan in DCU can tell, neither of the Acts stated the records were to be destroyed. Section 7 of the Retention of Records Bill explicitly deletes the provision of the Commission to Inquire into Child Abuse Act 2000 that addresses the custody and disposal of its archive in accordance with the National Archives Act 1986.

As far as we understand, it was always envisaged that the Ryan commission's records were to fall within the National Archives Act 1986. The definition of departmental records in the National Archives Act includes commissions of inquiry. We did not see anything, including in the Commission to Inquire into Child Abuse Act 2000, that undid this, until the Retention of Records Bill. We see in section 7 of the Commission to Inquire into Child Abuse Act 2000 that the commission's records are to be kept in custody or disposed of in accordance with the National Archives Act. There are also discussions in sections 33 and 34 of the Commission to Inquire into Child Abuse Act 2000 on transfer of the data provided to the confidential committee. Nowhere is there mention of destruction.

The Residential Institutions Redress Act 2002 does not bring the records within the National Archives, as was the case under the Ryan commission Act, but nor does it mention destruction. It talks about the redress board and the review committee determining for themselves the disposal of the records. It is our understanding that disposal could mean destruction but does not necessarily do so. We find, for example, a definition in the National Archives Act 1986 of disposal in section 9, which states the director of the National Archives may dispose of archives in his or her custody. According to the section, this means they should be either destroyed or transferred.

**Dr. Fred Logue:** To answer the Senator's first question to me, it is of serious concern that there is no mention of how personal data are handled in the Bill. I alluded to this in my opening statement. As we have heard from the survivors, there is a very large amount of very sensitive personal data, some of which survivors already cannot access. There would have to be very specific provisions in the Bill on how personal data are handled in the archive.

To answer the second question, information on what happened or on the experience of people in the institutions is almost certainly personal data. The definition of personal data under GDPR is broad and means any information about an identified or identifiable individual and by nature of its content, use or effect is linked to those individuals. It is intended to facilitate fundamental rights. This means anything about a person's experience, particularly regarding being abused or bad experiences, in these institutions will almost certainly be personal data. There was a question about the options open to survivors if they wish to access information. There is a fundamental right of access to personal data under EU law, under the Charter of Fundamental Rights. What will probably happen if this Bill becomes law is there will be confusion in the National Archives of Ireland, NAI. Generally, if there is confusion, the public body will err on the conservative side and will start to restrict access to survivors. That is my experience of what happens in these scenarios. There will then be a conflict between the individuals and the National Archives of Ireland over access. There may even be doubt as to whether the archive itself can access its own archive because of the idea of sealing, which is not very well defined. In the first instance, there will be a dispute over whether they can look at the archive to see whether it contains personal data belonging to a person. The options available if that dispute cannot be resolved with the NAI is a complaint to the Data Protection Commission, DPC, or litigation. The DPC will face the same problem as the NAI. In all likelihood, the NAI will tell the DPC

that it is sorry but it cannot access that material and neither can the DPC, which may initiate more litigation at the initiative of either the DPC or the survivor. One certain thing is that it will delay access. With no disrespect to survivors, any delay for them will have a significant effect on them accessing their own information.

**Ms Catriona Crowe:** I was asked about my experience with records of this sort in the NAI and there was reference to the National Archives Act. I will give two examples. One was the adoption files which were discovered in the archives in 1996, about 2,000 of them, which referred to Irish children who had been adopted in the United States between 1948 and 1972, long after the Adoption Act 1952 came into operation. Those files were officially in the custody of the Department of Foreign Affairs and Trade, and still are. The Department took back those which had been transferred to the National Archives of Ireland but the proper paperwork, because of the huge deluge of material which came into us in 1990 when the Act came into operation, had not been completed. The individual case files of each child, who had to get a passport in order to travel to America which is why the files existed in the first place, contain a vast amount of information about the prospective adoptive parents and one piece of paper about the birth mother, giving her name, her address, her age and her signature to a declaration that she will never attempt to contact this child again. They are heartbreaking documents with very little information about birth mothers but which are hugely important to those who wish to access them. They should be accessible under freedom of information provisions to anyone who wishes to see them. I am not sure if that is happening or not. We retained the administrative records, about two boxes of papers, that tell of how the scheme operated throughout all of those years. I spent a week going through those files one by one, taking out sheets of paper which had individual names on them, photocopying them and Tippexing out the names, putting the photocopy back in the file and putting the original document back in a separate envelope where they can eventually be reunited with the original files. That meant that three or four people were able to write books immediately about how the system worked. This is why we are making such a fuss about administrative records relating to the industrial schools and the other institutions and why the religious archives are so important. We must be able to know, first as survivors, second as members of the public and third, as historians and academics, how these systems operated in this country over the period they did.

The second example is older. The military service pension files, which number approximately 275,000, deal with people applying for pensions for actions taken during the War of Independence and the Civil War. They deal with atrocious actions, including murder and all kinds of stuff. Those records have been open for ten years. When the testimony was being taken from people who were applying for pensions, they were all given copies of their testimony, which allowed some of the material to get into the public domain before the State's own records were released. Again, we have a template which deals with very difficult and sensitive material that followed quite a liberal route in terms of access to those who gave testimony.

**Dr. Sarah-Anne Buckley:** In 2094, and I cannot really comprehend how far away that is, we will lose the history of education in Ireland, the history of religious orders in Ireland, much from women's history, the history of childhood and the history of youth. We will lose a great deal on the history of social class, as many of those who were sent to the industrial schools were sent because of poverty. In many ways, we will lose the history of the transition from pre-independent Ireland to independent Ireland. The industrial schools were part of the prison system but were then transferred to education. That is really relevant. I was reminded today that the Minister for Education and Skills, Deputy McHugh, spoke of how we need to include our dark history as part of the junior certificate curriculum. How can we include this? How can I, as a

researcher, do that when there are huge gaps of administrative records missing to me? Even today, there are many misunderstandings of what the different institutions did and why they were set up. The media often confuses Magdalen laundries with industrial schools. We need more history, not less history. We are very able to do this work. We are people who have PhD qualifications or are trained as archivists. The Oireachtas needs to approach the experts in different fields and ask their advice on this. There needs to be more consultation and more history.

**Senator Lynn Ruane:** Dr. O'Rourke made the point that there is no legal basis for the destruction. There has been an argument that if this Bill is not passed next week, all the files will be destroyed. It is very important that we push back against that narrative, as it will be used to get people to vote in a particular way. Ms Crowe spoke of how the template exists and there is no reason to recreate how we do this. We need to ask why that is happening and what is going on that we need a new template for that.

I asked Ms McDonnell Byrne about memorialisation and how we can ensure that history is respected. I have visited museums around the world, and there are museums such as the Holocaust museum, that memorialise such important points in history where history is respected and understood.

**Ms Carmel McDonnell Byrne:** I am very passionate about this. Mr. Justice Ryan recommended that there would be a memorial but that failed when it went to planning permission. The question is extremely personal to me. We were a family of eight and within the first year of being in an institution, I lost two brothers in a drowning accident while they were in an institution not far from Dublin city. The accident happened in County Donegal. I carry that with me all the time. I had met them last on a Saturday morning and by 7.30 p.m. on that Saturday evening, they were dead. It is so important that we remember the survivors who passed, some of whom have died because of suicide. When I was given this very traumatic news, the nun in charge thought it was okay to give me a bullseye sweet for each boy who died and then I was told to go and say my prayers. It has taken me years to grieve. Imagine, at the age 11, being told that one's two brothers had died and being given a sweet. That is the way they valued our lives. We need to remember. We need a national day for survivors. It has to be there in our history. We have it for other parts of our past, whereby 1916, for example, is remembered but this is so important for me. That is what happened my two brothers, I lost a sister at 50 years. Again, this was through institutional care and things that happened to her and I lost another brother at 60. I am the longest living member of the eight siblings. The other three are doing okay but they do have medical issues.

My family is just one family. All those of us who are survivors are brothers and sisters. We did not know one another and yet from what I am hearing from the opening statements this morning, we are all speaking from the same position. We just want to be honoured and not dishonoured or disempowered. We were so disempowered. We were the forgotten children and now it looks like we could be the forgotten adults.

In the centre where I deal with survivors, they are now worrying. They are thinking "I did get my redress money. I do not want to spend it because I do not want to go into another institution." Can we imagine how frightening that is? That is our history. We, as survivors, are carrying this shame and we are not the perpetrators. Should we disclose how much we get, we would be penalised. If we disclose again, there is a sentence. Somebody must be held accountable. There is too much secrecy and too many lies.

If I was go back now, my evidence to the commission would be very different because I was

terrified when I gave it. Even at that, we do not really get the core of what happened because it was so bad. Of all the things that happened to me in my life, the redress was the worst. It related to picking up the pieces up from survivors who came back from it because they had to regurgitate what happened. Some committed suicide. The only reason is because we were not believed, which was not right. These records are filed away. They have gone into a black abyss, never to be seen again. As a survivor, I appeal to the committee to listen to what we have to say, give us a choice and at least ask us “Yes”, “No” or “Maybe”.

Over recent years, I have seen survivors evolve from those who did not want to be in photographs. We saw it last year with honouring the Magdalen ladies. One woman had attended my centre for years and I did not know she was a Magdalen lady. I knew she had been in an institution and, of course, a Magdalen laundry was another institution. She was carrying that shame. When I met her, she was so embarrassed that she said “Oh please don’t tell anybody you saw me.” This woman is in her 60s. Why are we carrying shame. I am 64. Why, along with every other survivor, am I carrying this pain for the rest of my days? This is why a memorial should be inclusive. I know today’s session is about the Bill but that is all I have to say.

**Chairman:** I thank Ms McDonnell Byrne. It was very powerful and passionate.

**Deputy Thomas Byrne:** I thank all the survivors for telling their stories. I have heard some of them previously. The very fact that they are here is almost re-traumatising, so I will certainly bear that in mind. Dr. Logue’s points about EU law are very basic ones. I presume they apply if somebody was to look for documents today, regardless of whether this law comes in.

**Dr. Fred Logue:** They do but there are problems with the Residential Institutions Act, the commission Act and the committees of inquiry Act that try to restrict access rights.

**Deputy Thomas Byrne:** What Dr. Logue is saying is that-----

**Chairman:** Yes.

**Deputy Thomas Byrne:** I thought I had three minutes.

**Chairman:** The Deputy has three minutes and then the respondents can come back.

**Deputy Thomas Byrne:** I do not think I will be that long anyway.

**Chairman:** Once we keep it within that timeframe.

**Deputy Thomas Byrne:** I will keep things very short. I will not delay things.

**Chairman:** Direct it through the Chair.

**Deputy Thomas Byrne:** In respect of the point made by Dr. Logue that the State is really obliged to supply it in respect of existing law if the GDPR conflicts with it, that applies today.

**Dr. Fred Logue:** Absolutely.

**Deputy Thomas Byrne:** Has anyone tried to get his or her records under GDPR?

**Dr. Fred Logue:** Yes, in similar scenarios. What is happening is that the data controllers are liberally redacting much of the information. I think one of the other witnesses showed an example of what they are getting. The problem is that some of the Irish legislation such as the Bill is being drafted in a way that makes automatically incompatible with EU law. Irish public

authorities are not really embracing their duties under EU law to disapply national law that conflicts with EU law. What happens then is that they will follow the national law and not disapply the EU law, which then leads to a dispute that goes to the Data Protection Commissioner. That goes into a procedure that can take years to resolve. Meanwhile, somebody who has a right to his or her information must go through this very long and technical process to get something to which he or she is entitled as a right.

**Deputy Thomas Byrne:** My next question is for Dr. O'Rourke and Dr. Buckley. There seems to be a difference between what they are recommending. I think Dr. Buckley goes further than Dr. O'Rourke. Do Dr. O'Rourke and Dr. Buckley agree with what I am saying? I am just trying to tease it out.

**Dr. Maeve O'Rourke:** In what respect?

**Deputy Thomas Byrne:** In terms of recommendations for changes to the law. What Dr. O'Rourke proposed does not seem to be as expansive as what was proposed by Dr. Buckley. Dr. O'Rourke is looking for some amendments to existing legislation.

**Dr. Maeve O'Rourke:** My written submission makes recommendations regarding what is primarily a consultation with survivors. I think there is a significant need for consultation with international experts who have overseen completely different approaches in Finland, Canada, Australia and the UK. Scotland is key as well. My recommendations today are immediate. I have brought some amendments that I believe could be enacted immediately within other items of legislation. They are to undo those problematic approaches to data protection mentioned by Dr. Logue under the two Acts. Under the Data Protection Act 2018, sections 188 and 193 were introduced to say that whereas previously there was no right to personal data access from the Ryan commission or redress board, because of GDPR those bodies can give personal data access if they believe it would not contravene their functions. I have said that these provisions need to be amended to make clear that someone does have a right to personal data. The two data access provisions are identical under the Acts of 2000 and 2002 but it seems they are being interpreted completely differently. From speaking to people, it seems that nobody is being given his or her transcript by the Ryan commission. People are being given some data by the redress board even though the law says the exact same thing about GDPR rights, which is that they are restricted but not entirely. I am saying we should amend it next week to say that everybody has the right to his or her personal data unredacted with the same applying to family members of children who died incarcerated.

**Chairman:** Does Dr. Buckley wish to respond to that?

**Dr. Sarah-Anne Buckley:** As a non-legal expert, I am arguing against the Bill because I do not see what is wrong with the National Archives Act. In respect of arguments that amendments need to be made to that, it has been quite sufficient since 1986. I do not understand how this came about. I have not seen a proper explanation for it so I am arguing that there should be more resources for the National Archives and that we can tackle this and go forward positively but I do so as a non-legal expert.

**Deputy Thomas Byrne:** I do not devalue Dr. Buckley's contribution.

**Dr. Sarah-Anne Buckley:** I have been with a lot of lawyers lately.

**Deputy Thomas Byrne:** Dr. Buckley has separate expertise that we value equally.

**Senator Robbie Gallagher:** I thank all of the witnesses for taking time out to attend this morning to share their stories, particularly the survivors. It is an honour and privilege to hear their testimony and I thank them for giving it to us. I am sure it is very painful having to go through all this again. I thank them most sincerely for their contributions. On a more general point, it is past time that the State took the blanket off this issue and shone a good bright light on what happened. Until such time as this happens and we lance this boil, we cannot move on and will continue to walk around in circles.

Either Ms Molloy, Ms Harney or Ms McDonnell Byrne can answer my next question. What would it mean to them to have total access to all records relating to them? How would that help them in terms of their healing? The next question is directed to Dr. Logue, and perhaps to Dr. O'Rourke as well. If this Bill passes as it currently exists without any amendments, what will the net effect be in lay person's language? I have a brief question for Ms Crowe and Dr. Buckley. I am trying to think of what the motivation is for this Bill. Will they comment on what they feel is the motivation behind the introduction of this Bill?

**Ms Eileen Molloy:** For me, personally, it would open up my past. I do not know if any of the committee have ever lived in a haze about something that happened, when they were supposed to be there but were not there, and it was not until afterwards that the reality of the matter hit them. We do not have that. We just went through the motions. We were told by the redress board what was required of us. Some solicitors went and got the information without consulting the survivors and gave it directly to the redress board because most of the survivors could not cope. I ran a support group for survivors in Tralee. We had to go personally to the redress board with some of the survivors because they just could not handle it, and we barely could ourselves.

I have a family of five - three girls and two boys. I have five grandchildren. The personal information is a particular concern. I was very moody when I got married. I do not know how my husband put up with me, but he did. We were talking about this recently. My family knows a lot about where I came from but they do not know everything. I feel it would give them a better understanding as to why I was moody. They would cut me some slack sometimes.

I believe many survivors who went through the same thing might be able to open up more to their families with a clearer understanding of where they came from. When we went through the Ryan commission and the redress board, some hid that trauma from their families. They just could not open up and tell about it. This might be the door that we need to go through, and as somebody said, we can just reveal everything and deal with it. We are pushing on in years. I do not want to die without knowing the answers. If the answers are going to be locked up for 75 years, my children will most likely not see them and I do not know if my grandchildren will. I really do not think the Oireachtas should deny us this. It is a human right. We are not statistics but human beings.

**Ms Mary Harney:** In truth and reconciliation, it is often said that we deserve the truth. At least, that is the core of what truth and reconciliation commissions are about. Without that truth, as Senator Gallagher said, we cannot move forward. I am 70. My mother is dead. My uncle, who was also institutionalised, is dead. I am the last of the line, as it were. I have two half-sisters but I am the last of that particular family. When I first held my birth certificate in my hand, I jumped up and said that I am someone. Until that point, I did not know because my name had been changed when I first went in there. It was then changed back again. I was told that my mother was dead and it was a lie. We were lied to and now, when we try to apply for our records, many barriers are in our way.

We are the ones who had to be psychoanalysed before we went to the redress board and who had to get testimony from doctors. I had to go to a doctor who had to say how my nose was so battered and how my jaw is the way it is. They kept asking if I was sure I was not in a car accident. I was not. I was beaten. We all go through that, trying to find out what happened.

I ended up in hospital with a kidney complaint when I was about five years of age. There is no record of that. There is no record of the woman who fostered me going to the county for money to support me. There is no record of me being in my first school. These records have gone and we do not know where. I have searched. I wonder about other records and I wonder, when I ask the people whom I went to see, how Ireland is not a nation destroyed by fire. I cannot tell the committee how many records offices had fires in the 1950s. We do not know where the records are.

My mother died not knowing a lot about her past. We had this healing bond of me knowing and getting the information. We were a strength to each other. We were not very close because a mother's bond with a two and a half year old baby cannot be put back once the baby has been taken away, but relationships and memories that are healthy can be created. I have one photograph of me when I was five. If we were to go to a party where we were asked to bring our baby photographs, we could not because we do not have them. Our memories were wiped for us and we are now asking if we can have them back.

I am currently applying to the Residential Institutions Redress Board, RIRB, for information. I accept that I have to go to a solicitor to prove who I am. The most important document that I have to produce for the RIRB is my utility bill. Every time we apply, we have to have a utility bill. What does that prove? What is it about? These are the kinds of nonsensical barriers that are put up. This redacted information was given to me because I asked why the ISPCO officer came to take me away from this woman who had fostered me and took me to court. I do not know what happened and I will never know because it is redacted and I will not get it back. We are referred to as "it" in some of these documents, with questions such as how long a person has had "it", when asking about the child. The questions also ask if the child is illegitimate. We have to look at all of these things, if we ever get any information. Please do not traumatise us any more. Please let us have our records.

**Ms Eileen Molloy:** Can I add one last statement? I have seen applications made to the redress board already and I have also seen responses. The redress board is reminding us of the gagging order in no uncertain terms. That is a threat, as far as I am concerned. I do not take lightly to threats, nor do any of us. We were threatened all our lives. Some of us have come away from it and we need to move on rather than backwards. It is mean and nasty. I applied and I got no such letter, not because I am vocal about it, but obviously somebody pulled the board up on this and it has decided to take this away. It is not nice.

**Chairman:** I absolutely understand. It is heartbreaking to listen to the testimonies of the witnesses. I get a sense that there will never be a completeness in their lives but at least having access to the records will add some completeness. Senator Gallagher asked Dr. Logue a question, if he wants to respond.

**Dr. Fred Logue:** If the Bill goes through as drafted, I think it is clearly in conflict with EU law. I do not think it is controversial to say that the Legislature should not pass laws that are clearly in conflict with our obligations as a member state of the EU. The effect will be that thousands of people who have been wronged and fought to get redress and recognition will be faced with further legal uncertainty, struggles and battles to get what is rightfully theirs. That

should not happen.

**Chairman:** I will give the Senator an opportunity to respond.

**Senator Robbie Gallagher:** Maybe Ms Crowe and Dr. O'Rourke could state the motivation behind this Bill.

**Ms Catriona Crowe:** I thank Senator Gallagher. It is mysterious. The ostensible motivation would be presumably to protect the names of people who were accused but not convicted that may show up in some of the statements made by our eloquent friends here. That is a matter that is easily dealt with by redaction. It is not a problem. It should not put anyone out.

A more sinister interpretation would be, and Dr. Buckley made the point earlier on, that the overwhelming majority of those who went into these institutions were poor. I do not want to get into a long discussion about class in Ireland but it is of interest that a certain cohort of citizens can be dealt with differently from everybody else. That is sinister. We have archival legislation that is perfectly adequate, as I think we have all demonstrated this morning to the committee, to deal with this matter sensitively and appropriately. Why do we need something new for a particular cohort of citizens?

It is also likely that this is paving the way for this Bill, if it becomes an Act, which I sincerely hope it does not, to become a way of dealing with other similar kinds of records. The one that is most evident at present is the Commission of Investigation into Mother and Baby Homes and Certain Related Matters, which represents the same kind of survivors and the same kind of need for people to see their records.

It would be lovely if we could just flip this. What is wrong with this country that we cannot understand the eloquent statements of the sort that we have just heard from Ms Molloy and Dr. Lodato about what happened to people and make them the centre of our law-making? Why are we constantly coming up against situations where ordinary citizens are treated badly and they must go through hell and high water to get redress for the problems they have?

Surely these people here should be at the centre of what we are doing about this extraordinary period in our history. There is an atrocious record of treatment of children and woman at a certain time. Can they not be put at the centre of this? If they were, we would be seriously listening to them, consulting them far more than the derisory level of consultation that has taken place by the Department to date, and taking on board what they say their needs are. There are ways of protecting people. There are ways of giving them everything that they require. It seems unbelievable that we are still at the stage where we cannot say, "Of course, you can have your records."

**Dr. Maeve O'Rourke:** I thank the Senator for the question. What is behind it is power and the issue of accountability, and the State not wanting to accept any. We talk about redress. We hear a great deal about redress. What redress means is not airy-fairy from a human rights perspective and in hard law, according to the European Court of Human Rights interpreting the European Convention on Human Rights, which Ireland ratified in 1953 and which, one would imagine, might be the interpretation of the Constitution by the Supreme Court if anybody was ever able to get to court but which, without records and with the Statute of Limitations, he or she cannot.

The right to redress is not only about money. For massive human rights violations involving torture, arbitrary detention - we also see this in many of the other institutions, and this will serve

as a model, which is my massive concern too - violations of the right to life, where people die in institutions and nothing is known of their fate or whereabouts or they are separated from family members, redress means accountability, ideally, in court. It means truth-telling. It means national, public truth-telling, not just truth-telling to the person individually. Again, that is something that is clear in European Court of Human Rights jurisprudence. Where there have been systematic and gross human rights violations, the right to truth is not just a very important right of the individual, it is also a societal right, because it is connected to another element of the right to redress, which is guarantees of non-repetition and education of state personnel. The reason people have spoken out and the reason everybody is here today is for dignity, to feel that they matter and to make sure that it does not happen again.

It was asked what the net effect of this would be. It would be a massive ongoing violation of human rights, a risk that this is now how all of the records of the mother and baby homes commission of investigation will be dealt with, and a risk that the Department of the Taoiseach thinks it is okay to continue to hold all of the records from State bodies relating to the Magdalen laundries, even though I cannot see the legal reason for that and they should be in the National Archives. Ultimately, it would be a massive risk that we do not learn what is in, unfortunately, our national DNA, not that we are that different from anybody else, but that we do not learn how institutionalisation works, how massive discrimination against certain groups and socio-economic difference is exploited, and the types of things that we are doing still today that we choose not to stop because we refuse to deal with the entire 20th century habits that we had.

**Deputy Catherine Martin:** I thank the survivors for their honesty, courage and strength with which they speak for everyone for whom they speak. We have all been very moved, in particular, by Ms Harney's contribution when she said that their memories have been wiped and when she asked for them back. It was incredible. I cannot begin to understand what they have been through in terms of the abuse in residential institutions.

At the beginning of the contributions, Dr. Lodato stated how she was proud to be a survivor. She spoke of the journey that she travelled to be proud to be a survivor and stated that she wants her full story in the National Archives. We must listen to survivors on that journey to healing. We have a role as a State to help them on that journey to healing. Ms McDonnell Byrne stated that it is important on their healing journey that they are empowered to make decisions and choices because that is something they were all denied as children. It is obvious that openness and transparency are essential parts of that healing.

My question for Dr. Buckley is an expansion on what Senator Gallagher was asking. In some way, is this Bill about the Department of Education and Skills protecting itself? Will Dr. O'Rourke and Dr. Buckley expand or give us some details on how other jurisdictions that Dr. O'Rourke mentioned have dealt with this sensitive issue? Will Dr. Buckley take us through how it would be possible to categorise different types of records appropriately or how could they be appropriately anonymised or redacted, if that was needed?

**Dr. Sarah-Anne Buckley:** I thank the Deputy. On the motivation, and the questions are connected, all we can say as a group is that these two commissions relate to the Department of Education and Skills. This Bill is not addressing the McAleese report. It is addressing two commissions that relate to the Department of Education and Skills.

I do not know what is in the archive. I would love to know what is in it. That would be really good. Many of the records relate to the Department of Education and Skills. That is a critical point for the committee. This, to me, as a historian, is very important. There are ad-

ministrative records that it is possible we will not get access to after 20 years, which we should. That is problematic.

When it comes to the international context, I will briefly mention Canada and Switzerland and then Dr. O'Rourke can come in with some other examples. I have had the pleasure of dealing with the chair of the two Swiss commissions. There are 40 academics - historians, sociologists and archivists - working on one of those. They have as much access as they want. They laughed at a conference when I explained how difficult it is to get certain access, particularly to private archives. This is problematic. They have done a full disclosure, it appears to me.

In Canada, as Dr. O'Rourke and her colleagues have written in their submission, confidentiality was initially part of the discussion. Canada went back to survivors and now it is 15 years. I do not know why we cannot understand a passage of time has occurred. Some opinions have changed. Survivors, thankfully, are more vocal, as are their advocates. Now we need to have our plan for 2019.

On the processes that would need to happen, and I might refer some of this to Ms Crowe, we have expertise in understanding a different type of record. At present, what should happen in the Departments of Health and Education and Skills and other Departments is that records should be transferred after 20 years and I should be able to access them. That is not always the case, and I am sure other researchers would agree. If that is due to resources, we must address that. To my mind it is not a question of needing more legislation.

One can use redaction, although it is costly. One can choose, with legal advice, which records can be released. I cannot understand why survivors do not get their personal records immediately. We should take the opportunity to form this archive. It would be a body of records that could define some of our historiography over the next 20 to 50 years. This is a big opportunity and we should not be fighting it.

**Dr. Maeve O'Rourke:** I will give a couple of brief examples. The written joint submission from me, Máiréad Enright and Dr. Sinéad Ring, as well as Dr. James Gallen's submission, detail some of the comparative practice. We are always available and may well send further information to the committee by this evening.

It is important to look at Scotland and the Independent Inquiry into Child Sexual Abuse, IICSA, in the UK. That is the UK's ongoing historical institutional child sexual abuse inquiry. It is much more liberal. As the inquiry is taking place many documents are produced to survivors. They work in groups with the legal team and are then able to suggest questions to the inquirer based on all the documents that are coming in. They participate in the inquiry in the first instance, which is their basic right under the European Convention on Human Rights and other international human rights treaties. When such serious things happen to somebody, the person's right to an investigation is a right to an effective investigation that safeguards the person's rights to the extent possible and involves the person. Unfortunately, we have not had that. However, one can deduce that because records have been produced in the course of the investigation they are therefore available after it too. It would be interesting for the committee not just to speak to people but also to look at detailed legal documents such as the protocol on redaction that the IICSA uses in the UK in the child sexual abuse inquiry and how and where to redact records that it is producing to the survivors' legal teams, which would be available to the public in the future. For example, if somebody has been convicted, the person's name can be released or the person is so notorious that there would be no point in redacting the person's name. Another question is whether the person is an employee. There are different approaches

to whether to redact.

The Stasi files archive is an interesting example because it operates in Europe under the GDPR. A group of us here today and other colleagues are meeting in December in NUI Galway to look at drafting the legislation we would like to establish an annex to the National Archives of care related records. Somebody is coming from the Stasi files archive in Berlin to tell us how things work there and how it manages to be compliant with the GDPR so people can access their personal data about what was done to them during that period of time. We will find out more about general public access to archives as well.

Finland's national child abuse inquiry will make its anonymised archives available for historical research. In Australia, thousands of anonymised narratives constructed from testimony to the private sessions are published on the Australian royal commission's website. I will not say more, but we might supplement what we have written with more by this evening.

**Senator Paul Gavan:** I thank all the witnesses for their powerful testimonies. It is quite humbling to hear them. Much has been asked and answered today but I refer to what the Department of Education and Skills said about this legislation. It said its aim is to strike a balance between those who gave evidence to the commission and redress bodies against the need to ensure that as a society we never forget the harm that was done to children and the need to ensure that the protection of children is always to the forefront of our minds. I reiterate what Ms Mary Harney said this morning: "If this Bill passes, it will make survivors of the industrial schools invisible once more." I believe Ms Harney. It is quite stunning. I was struck by the comment about power and accountability. She is absolutely right. It is important to make the point that this is still going on. It is not as if the State has held its hands up and said what happened then was awful. It is still not holding its hands up.

We need a Bill. Ms Crowe put it very well when she said we need the records of religious congregations who ran the institutions to be brought under the aegis of the State, either through the National Archives Act or through the establishment of a State-run religious records repository. Why are we not doing that? I am not being flippant in asking that question. We know from the testimony this morning that we should be doing more for the survivors, yet the Department of Education and Skills has produced a Bill which, effectively, will silence them once more. My question is for all the witnesses, but I will start with Ms Crowe. Why does she think the State has not sought to open access to the religious records, given all that has happened to date? Why have successive Governments not acted on that issue?

**Ms Catriona Crowe:** One reason is that the Roman Catholic Church has had disproportionate power in this country from Catholic emancipation in the 19th century up to very recently. The overhang of that power might still be affecting how our bureaucrats see things. However, there is more involved. There is the adamant determination of the religious orders not to make their records available if they can avoid it, with some honourable exceptions. They do not accept that, effectively, they comprised a shadow state, particularly in respect of welfare matters for women and children. The State willingly handed over its responsibility for the welfare of vulnerable children and women to religious orders, who willingly took it on and were paid for it. A strong argument can be made, perhaps a legal argument although I cannot be sure as I am not a legal scholar, that these are State records. They are State records because these are State responsibilities being carried out on behalf of the State by religious orders, and they should be turned over to the State, archived and made accessible in the right way.

I stated earlier that we could lead the world in this. We have come through a unique set

of commissions of inquiry, and we are in the middle of one at present, and they will produce extraordinary testimony of wrongdoing, bad behaviour and State absolution of itself in terms of looking after vulnerable women and children. We also have the records of the religious communities. We could put all of those together, along with court records, police records and all the material the wonderful people with me would wish to see. There are many records. There are also the records of the ISPC, on which Dr. Sarah-Anne Buckley is an expert. Could we put all of them together in one place and make it a world-leading repository in terms of preservation of, and access to, records dealing with women and children in a newly independent State in the 20th century that is finding its feet, with a disproportionate amount of power, as we all know now, given to a particular religious denomination? That is what my dream would be and I believe it would be the dream of the survivors here. It would be everything that they might need, as well as what we as citizens and scholars need, to establish exactly what happened in all these places and why over a long period. I doubt we will see it, but it is something to aim for. Regular top-level talks take place between the Government and the churches, including particularly the Catholic Church. I have recommended several times to the people who control those talks that they put the issue of what should happen to the religious records on the agenda. So far it has not appeared. Unfortunately, there is no great appetite on the part of the State to raise this issue either.

**Ms Eileen Molloy:** We are made to feel we are the guilty party here; we are not. The State and the people who were in charge who it deemed necessary to raise us - loosely said - in the institutions are the perpetrators, not us. Why do we have to beg for what is rightfully ours? No other member of society has to do it. Why do we? We are no different. We are human beings. I cannot get that through enough. We are human beings at the end of the day. As I said earlier, I will die before the 75 years have elapsed, as will my children and grandchildren. Why is the State doing this to us? I would love to get a clear answer on that. I am not legally minded or politically minded; I am just an ordinary simple person. I should be given it in my language so that I can understand. I do not think I will be happy with the answer, but that is what I really feel. It needs to be brought down to our level.

**Chairman:** I will allow Senator Gavan to come back in and then call Deputy Burton.

**Senator Paul Gavan:** I completely agree with everything the witnesses have said. It comes back to power and accountability. It is shocking to hear that the State has never even requested that the issue of access to those records be part of those high-level discussions. What does that tell us about the Departments?

I wish to clarify that Sinn Féin is opposed to the Bill. I will be opposing it.

**Deputy Joan Burton:** I thank all those who came in today to lay out the facts that are known to many people but not necessarily to everybody.

Essentially the witnesses are recommending not proceeding with the Bill. The advice given by successive Attorneys General has been that a promise was made and a commitment was entered into at the time the then Minister for Education and Science, Michael Woods, did a deal with the religious orders. I have raised the matter continually over the years. The answer that has always been forthcoming, including at Government meetings, has been that a promise was given about the destruction of the records.

This morning's contributions, particularly by the lawyers, Dr. O'Rourke and Dr. Logue, have been very helpful. Freedom of information legislation, which is very strong in Ire-

land, the Data Protection Commission and GDPR all emphasise the right of individuals to their records over and above, as I understand it, what rights the State may have. However, in this respect there is what is sometimes called in America a deep state, where a set of attitudes has rolled on as an inheritance from what happened in the institutions and what happened to children in different circumstances, who for one reason or another became institutionalised. I do not think that those arguments will be easily let go.

I have been surprised at times to meet people many years younger than I am who still believe and certainly put forward the argument that as a promise was made, the promise needs to be kept even if I and many other people might believe it was an invalid promise because the people about whom it was made were never consulted.

Other people, particularly lawyers, tell me that the legislation we have in Ireland is very robust. That should be summarised so that that argument is made to people who are making decisions about the legislation at the moment. The proposed legislation should be stalled; perhaps it is entirely unnecessary. I have an open mind about it.

We have seen the emergence of the 125 or 130 fraudulent or falsified birth certificates, which is probably only the tip of the iceberg. Since GDPR came in, Tusla is absolutely refusing to give any information. I have attended meetings with the Minister and with other Members of the Oireachtas at which it has reiterated that refusal. At some of the meetings when, for instance, the issue of birth mothers came up, representatives of Tusla have said to people like me, “Our birth mothers”, meaning that in an institutional sense the birth mothers are being minded by Tusla. One of the protections it is offering to birth mothers is that their children will not have access to data when in practice most - although not all - have been quite amenable to information sharing and to information being made available, which is not the same as contact.

What has been said this morning is very important. Do the witnesses believe that the powers they mentioned under the National Archives Act, the freedom of information legislation, GDPR and the Data Protection Commission are strong enough to address these issues? Do those powers mean that this new legislation, which is being offered as a must-do alternative on the basis of the promises made as part of the Michael Woods deal, is not particularly necessary?

**Dr. Fred Logue:** It would be interesting if we could rely on politicians’ promises.

**Senator Paul Gavan:** I would welcome that.

**Dr. Fred Logue:** Everyone would welcome that. On a more serious note, it is obvious that a politician can make a promise that is against the law. We are talking today about a draft Bill, which in our view is against the law. Destroying the records or putting them beyond reach for a very long time has more or less the same effect on the people who are alive today. I believe both courses of action would be against the law. The structure of the GDPR, and even that of the Freedom of Information Act, allows for rights to be balanced against each other. If there is a public interest reason for restricting access to information, there is sufficient architecture in the GDPR to allow that to happen. The Legislature has to do it through very specific legislation that meets the standard of the GDPR. It cannot just pass a law stating that people cannot have access and that is the end of it.

In response to Senator Gavan, I say it might strike a balance, but the balance is zero for the survivors and 100% for the State. Technically that is a balance, but GDPR requires that where a balance is to be struck, any restriction on rights must be strictly necessary to meet a public

interest objective. There must be evidence to show that that objective will be met. One cannot just say, “We have struck the balance and that is the balance that will be struck.” The law sets constraints on that.

I believe that the Bill should not be passed and that we should rely on the Freedom of Information Act, the National Archives Act and GDPR. However, if the Legislature believes that particular interests need to be protected in the public interest, then much more work needs to be done in crafting restrictions on rights that meet the standard of European human rights law. Article 23 of the GDPR sets out how to go about that.

**Dr. Maeve O’Rourke:** My personal view, based on how difficult it is for someone to use the GDPR against a State body without any explicit legislation that helps to do so and without any legal or advocacy assistance, is that we could do with an access to records Bill. It seems to us that the National Archives Act 1986 brings the Ryan commission archive within its scope. Apparently there are 2 million documents in that archive which seemingly already falls within the scope of the National Archives Act. A lot of material still in Government Departments that relates to all of the institutions currently falls under the National Archives Act. We have to ask, however, what it will take for the appropriate resources to be given to the National Archives to make operational all of their obligations. Under that Act, it is envisaged that the director could work with the Ryan commission and operationalise the Act and could do what should have been happening over the decades in all of our institutions and all Departmental records relating to them that are now over 30 years old. I will defer to Ms Crowe and Dr. Buckley in that regard. It may be that legislation is required to set up the compartment of the National Archives with the advisory committee that receives everything and that then brings the funding that is necessary. I would make the point to politicians and the Government specifically that memorialisation was the number one recommendation of the Ryan commission. It was also a recommendation of Mr. Justice Quirke in respect of the Magdalen laundries. Money was supposedly designated to implement these recommendations so, in theory, that money should be available.

In terms of the Freedom of Information Act, this goes to whether the promise could possibly have been made, particularly in respect of the Ryan commission. During my research I noticed that until 2014 the Freedom of Information Act applied to the Ryan commission under the Commission to Inquire into Child Abuse Act 2000. In 2014, in an appendix to the Act which was practically impossible for anybody to notice, the definition of “public body” was stated now to exclude the Commission to Inquire into Child Abuse, demonstrating that previously it had included it. Now it was to exclude it except for its own records of its own administration. That goes to that promise but it also shows that there may be an issue now with the Freedom of Information Act not being sufficient. It also indicates, although I will defer to Dr. Logue on this, that the records are older than freedom of information legislation and there may be issues around the extent to which the legislation actually applies to them, so there may be a need to strengthen that.

On GDPR, as I have said already, the rights need to be put explicitly in legislation. There is an immediate need to amend the Commission to Inquire into Child Abuse Act and the Residential Institutions Redress Act 2002 to say that people have an express right. Ideally, the legislation would provide for a right to advocacy assistance.

**Dr. Fred Logue:** I would add that there is no reason the balance cannot be struck in favour of survivors. It is open to the Legislature to restrict the rights of religious institutions or members of the congregations. The GDPR recognises historical research and archiving as a public interest that can justify restricting data subject rights in that context. We are having the

same conversation, as Deputy Burton knows, about access to adoption information for adopted people. It is open to have greater access than the default that would be provided under the Freedom of Information Act or GDPR in the interests of survivors and in the interests of historical research and having a good archive.

**Deputy Joan Burton:** I have one short supplementary question. Perhaps Ms Crowe might be able to answer it. The threat to people who are in government was that if there is not some legislation like this, the imperative would be to destroy the records. There has been a genuine fear on the part of many, given what people with particular views in this area have done in the past. Does Ms Crowe think realistically that today, in the event of there being no legislation, there could be a view in the Department or the Office of the Attorney General that there is an imperative to destroy the records? That is part of the reason legislation like this has been offered. It is not that people intend to be destructive but they have been told and advised that the records may be destroyed in the absence of legislation. That is the kind of gun that is put to people's heads. Could people in the relevant Departments decide that they should implement what was seen to be in the deal? It was not just a promise. It was an agreement between the then Government and the then Minister. It was not reflected in law but it was certainly widely broadcast across the country. People like Ms McDonnell Byrne and the late Christine Buckley, who is sadly not here today, would have all been told that unless there is a structure, the records can all be destroyed. I would just like to ask Ms Crowe about that.

**Ms Catriona Crowe:** It was not an intelligent promise to make in the first place and it was done without consultation with the people whom it was going to most affect. However, that does not mean that it stands. Dr. O'Rourke's submission, which I commend to everyone to read in its entirety, is the best account we have of the legislation. She has painstakingly gone through how everything was constructed. Her submission seems to me to put that issue to rest in the sense that the word "destruction" is not mentioned anywhere while the word "disposal" is. "Disposal" has been taken to mean destruction in archival terms over the years but this is not the case in the context of the National Archives Act. It is a separate thing. That argument can easily be made. In any case, there is nothing to say that people cannot change their minds. Scaremongering about this is ridiculous. Again, we are back to this point - what we need to do is consult the survivors. Only 100 survivors have been consulted so far by the Department out of all the people who gave evidence. We have Revenue Commissioners and a Department of Social Protection that can contact any citizen at any time they like. It cannot be beyond the bounds of the Department of Education and Skills to get a proper consultation system into operation that finds out what the feelings of survivors are around destruction and preservation, whether we should open the records now or keep them for 75 years or whatever the case may be. We need to know what they actually think. So far we have heard today from four people who want the records to be open, certainly to themselves. When we go further and start to look and see what else happens, that is it. They have to be at the centre of it.

There has been scaremongering about destruction of the records. I had discussions with a number of officials in the Department of Health and Children as it was then known about the necessity to keep these records for posterity, not to speak of the pressing need for survivors to have access to them. The issue is a paper tiger really and it needs to be removed. The Department of Education and Skills, however, has a disgraceful record in terms of destroying its own records before the National Archives Act of 1986 came into being. I am not saying I would not put anything past it; that would be very wrong and I do not wish to attribute bad motives to anybody. If the Department were to attempt to go ahead and destroy these records, there would be a national outcry the like of which we have not seen. Everybody now knows how important

this material is so I do not think that is going to happen.

**Senator Alice-Mary Higgins:** I am very struck by all the testimony. We should not have what would effectively be a second wave of indemnity whereby mistakes would be dug in further by a sealing of the records. That point is important. I agree with Dr. Logue that GDPR is not a thing we use to look at legislation after the fact. It is now prevailing law so we cannot legally draft legislation that conflicts with it, no more than with the Constitution which reaffirms our commitment to enforce that European law. It certainly is not a fix that individuals should have to try to use after the fact. It must apply at the design stage of any legislation and this legislation does not meet GDPR standards.

An argument was made which seems to me most disingenuous. I refer to the idea that we would have a gagging order to silence women and stop them talking about their experiences and that we would then say we have balanced out their interests and are choosing to speak for them, versus our natural desire for collective knowing. It seems that there is neither a case made in terms of individuals nor a case enumerated in the public interest. This is despite the possibility that a very strong public interest argument could be made in terms of an openness of information in healing, learning and moving forward as a State. That was articulated in the course of the testimony.

There is a question about disposal and transfer. We know one of the tests of the GDPR is deciding what is necessary and proportionate. Currently, it seems that there is a mechanism which involves a decision. The director of National Archives is currently in a position to look at necessity and proportionality regarding particular records; this is to apply GDPR processes even if they are not there in terms of law. Under the National Archives Acts, is that a better current solution when it comes to necessity and proportionality?

The protocol of redaction issue was really interesting, as the decision regarding redaction comes under necessity and proportionality. The GDPR gets thrown around a bit. It has been thrown around by Tusla as an excuse to close records. My understanding of the regulation is that it concerns people's rights to information and records and knowing what happened or which decisions were made about them. The GDPR is not there to protect administrative processes or the secrecy of those processes. Ms Crowe described the administrative processes that she was able to extract with regard to overseas adoptions. When we look to the administrative processes within the Department of Education and Skills, we could see what happened with transfer patterns in a moment of abuse. I was really struck by Ms McDonnell Byrne hearing her story and other similar stories. It is her story but it is a pattern so it is not really simply about survivors and perpetrators; it is about processes, systems and abusive practices that were embedded and allowed. We may or may not want to redact the name of an individual, depending on whether that individual was an employee or doing a job that he or she was paid to do, but the process, decisions and the reality of people's lived experiences should certainly not be redacted. This relates to whether a person was sent to hospital or a decision on fostering, for example.

Will the witnesses comment on the importance of having their story placed alongside others and in the public space being able to see that their experience was part of a bad systemic practice that society now acknowledges and rejects? Will they also comment on the gagging rule? There were comments about War of Independence records and the fight for Ireland. All these men wrote about their experiences, including violence and attacks, and it is all in the public realm. Some of the books came out well within the 75-year limit. Those are men's stories and I notice that many women's stories and vulnerable women's stories in particular are not allowed to be told in the public space in the same way.

**Dr. Fred Logue:** The GDPR is a comprehensive law. I will go back to the threat of destruction. Destroying personal data comes under the definition of processing under the GDPR and this can only be done if there is a lawful basis to do it. We have already heard that the legal requirements is to dispose of records and not destroy them. Any interpretation of that must be compatible with the GDPR.

The data controller must retain the information for as long as necessary. There is a retention obligation and the Department of Education and Skills, or specifically whoever is the controller, cannot just destroy the information on a whim. There must be a retention policy. There is a debate about what happens to these records so any destruction, unless mandated explicitly by law, could be a breach of the GDPR and expose the controllers to compensation claims. If a controller destroys information that it knows people want or there is a debate about it, in and of itself, that would be a breach of the GDPR. All the scenarios must be considered through the lens of the GDPR data protection rights. Any kind of threat or suggestion that unless a particular law is passed everything will be lost would be hollow. The Department of Education and Skills must be specifically asked what is the legal basis for any potential destruction. It must be examined explicitly and in detail by this committee or the Legislature.

**Chairman:** Do any of the survivors wish to respond to the Senator?

**Dr. Mary Lodato:** We are a unique part of the history of Ireland and our voices must be heard. We are all getting older and we will not be around for very much longer because of the state of our health. As survivors and because of what we have been through, our life expectancy is much shorter. We need to tell our history rather than having it written by other academics or people in the public arena. Our voices must be heard.

**Chairman:** I am conscious that Leaders' Questions will begin soon. Will Ms Crowe respond very quickly to the point made by Senator Higgins about women being written out of history?

**Ms Catriona Crowe:** Women stopped being written out of history around 1985, when Dr. Margaret Ward wrote *Unmanageable Revolutionaries*, so it is time we took cognisance of that. They have been written into history in a major way since. Women made statements to the Bureau of Military History and applied for pensions under the Military Service Pensions Acts, which the Deputy spoke of. The people who made submissions or applications to both those bodies, which are effectively the oral history of our revolutionary period and unique in Europe, became the leaders of this country after the revolutionary period in various ways. It is very valuable material and all of it is in the public domain and there is no problem. The sky has not fallen on our heads. These people became Fianna Fáil and Fine Gael Deputies and Senators, with a few exceptions. This is, in effect, a record of people who became quite powerful after suffering a great deal during the period of the revolution.

What has happened to our eloquent survivors and their sisters and brothers is of a scale, significance and importance of equal level to what happened in the revolutionary period. It took place over a much longer period and it was hidden for a huge period. As Ms McDonnell Byrne has said, it carried a burden of shame that should have been on the other side but it does not seem to have made itself felt, which is strange. I have not heard a single person from the State or religious orders say they felt ashamed, which is strange.

We are talking about a gigantic archive of abuse, mistreatment, psychological deprivation and a lack of shame on behalf of those who should have been giving care and compassion to

vulnerable children. It is a mind-blowingly important archive that this country badly needs to understand and learn from. First and foremost, the survivors must be placed at the centre and made cognisant of their own records. They must be given whatever they want.

None of this is undoable. We are here discussing an unnecessary piece of legislation that will waste much time. I hope that, ultimately, that legislation will not be passed. All of the people speaking before the committee today have stated that they do not want or need this. There are ways to get this done and there are people sitting before the committee who would willingly give their time and expertise to help manage this process in order to give survivors, scholarship and the public what they need at whatever time that is necessary.

**Chairman:** This has been a very powerful engagement and it was important for us to have the opportunity to engage with the witnesses. We listened to the expertise and particularly to the voices of the survivors. It is one thing getting and reading submissions; it is another hearing them in the witnesses' voices and having the opportunity to ask questions and to listen to them. It has been a very humbling experience. I know I speak for all the members when I say I completely honour the witnesses for what they have gone through. At the very least, as recommended in the Ryan commission report and committed to by the Government under the Magdalen redress scheme, there should absolutely be a memorisation in the form of a national archive regarding what has happened in order that we cannot wipe this out of history.

Is it okay if we send all the witnesses' statements to the Minister? As this was of a sensitive nature, we had decided we would publish the report when we had the opportunity to discuss it further. We were not going to include some of the statements just because of the sensitivities involved, but is it okay if we send everything to the Minister? We feel that that absolutely is important. I take it everyone assents to that.

**Ms Eileen Molloy:** I really meant to say this a while ago, and I am sorry for the delay, but the gagging order was not meant as a threat to us. Also, it is my story; no one else owns it, just me. All the girls' stories are their stories.

**Chairman:** Absolutely.

**Senator Lynn Ruane:** Chairman-----

**Chairman:** No, I will not take any further contributions. I just want to say-----

**Senator Lynn Ruane:** In terms of the-----

**Chairman:** No. We are-----

**Senator Lynn Ruane:** The public record-----

**Chairman:** We are finished now.

**Senator Lynn Ruane:** Once there is nothing of privilege on the public record, like every other testimony that comes before the committee, the witnesses' statements should be published.

**Chairman:** I have asked all the witnesses' permission and they have said "Yes, that is fine", so, obviously, their statements will be published.

Again, I thank the professionals before us, namely, Dr. Logue, Dr. O'Rourke, Dr. Buckley,

Ms Crowe and Dr. Lodato, for giving their expertise. Most particularly, however, I thank the survivors, who should have the last word if any one of them wants to give the last word on this occasion. I ask the members to stay behind after the meeting for just a few minutes. We will not have non-members, just the members of the committee. I would appreciate that.

**Ms Carmel McDonnell Byrne:** I just want to thank everybody for inviting us in today. It is very important to be listened to, and I get the feeling we were actually heard for the first time in my life.

I remember, going back to 1997, when I met Deputy Micheál Martin and Bertie Ahern. They had only come into power. They asked us, that is, Christine Buckley, Bernadette Fahy and me, to give a brief of what happened to us, and I was so taken aback by the response. They stood up, looked us in the eye and apologised. That started me on my road of healing and recovery. I am still on that road of healing, as are all the survivors.

We have poured our hearts out today and it is not easy. Thankfully, counselling helps us to get through these things because we are so passionate about protecting other survivors and ourselves. Therefore, I just hope what we have said today does not fall on deaf ears because many survivors do not trust the Departments at all. We still hear survivors say, "Let them bury the records because they never believed me anyway."

I am not the perpetrator. From the time I got involved in this in 1996, which was after the "Dear Daughter" documentary, I have had phone calls from people attempting suicide. I do not want to get those phone calls. I have had them all my life. My role as a survivor is not to protect another survivor from suicide. I am not the perpetrator. I am only trying to help. It is about time someone was held accountable and, as I said, that our voices were heard loud and clear and we were respected because we need to be honoured as a whole group. As Ms Harney said earlier, we are unique people and none of us are here screaming and shouting, despite what happened. We may have anger and other things but we have learned how to control that. That was very evident after the Ryan report, when we had the march of solidarity. There was no screaming and shouting; people walked in silence. I was part of that, as were some of my sisters here.

On that note, I thank everybody - I really do. I did not say that in my three minutes at the beginning. It means so much. It also means so much to hear the professionals who are working so hard and putting so many hours into trying to put right the wrongs that happened. Thank you.

**Chairman:** You absolutely have our respect, I can assure you of that. In time, history will look on you as heroes, not as survivors, so the name will change.

**Ms Eileen Molloy:** I have been listening today and I know the legalities have to be taken into consideration and they are very important when it comes to the finalisation of the Bill. However, we also spoke about balance. I have heard that word used. I hope it was not just bandied about and I really hope this will be balanced. Our opinion would not be nearly as important, obviously, as the legalities, because the law is the law, but it is almost side by side with that and they should go hand in hand. If our records are revealed to us now, once and for all, it is done. However, we are getting this in drip feed after drip feed. It is tiring. I hope the committee does not think we are going to go away because we are not.

**Chairman:** We do not want you to go away.

**Ms Eileen Molloy:** We are not going away.

RETENTION OF RECORDS BILL 2019: DISCUSSION

**Chairman:** As there is no other business, the committee will now go into private session.

The joint committee went into private session at 1.46 p.m. and adjourned at 1.57 p.m. until 2.30 p.m. on Thursday, 5 December 2019.