

# NUI MAYNOOTH

Ollscoil na hÉireann Má Nuad

UNMARRIED MOTHERS: THE LEGISLATIVE CONTEXT IN IRELAND, 1921

– 79

By

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## **Abbreviations**

D.D.A.: Dublin Diocesan Archives

N.A.I.: National Archives of Ireland

N.L.I.: National Library of Ireland

C.P.R.S.I.: Catholic Protection and Rescue Society of Ireland

I.F.S.: Irish Free State

## **Introduction**

Between 1922 and 1979 over 100,000 illegitimate children were born in Ireland – not a particularly high number, and yet the cause for concern on the part of both the Irish government and the Catholic church over who were somewhat fixated over these births. The ‘problem’ of the unmarried mother and child has been extensively documented by historians and sociologists for a number of years, however, the Irish state’s role in the treatment of this class of people has been comparatively neglected. It is the aim of this thesis to document the state’s role in the treatment of unmarried mothers by providing an overview of the law concerning the unmarried mother in independent Ireland between 1921 and 1979. The period under consideration is particularly important in the context of change. The twentieth century has often been described as one of the most tumultuous centuries in history and indeed this is particularly true in the Irish context. With the culmination of the War of Independence, the establishment of the Irish Free State and the devastating effect of the Irish Civil War, there was a conscious attempt by the Irish government to move away, in some respect from what was considered ‘British’. In this study the focus is limited to the twenty-six counties. Ireland was promoted as a Catholic and morally pure country, thus those who transgressed this moral code were frowned upon and, if possible, were to be somewhat hidden from society. Unmarried mothers and their children were one such group, and this thesis aims to explore the transition from an Irish state that tried firstly to prevent activities that were perceived as an embarrassment towards a slow acceptance of a more liberal and all-inclusive attitude.

The issue of illegitimacy and unmarried motherhood is complex. It encompasses many dimensions including the wider social spectrum of sexuality and the treatment of women. As views, attitudes and beliefs changed, legislation had to adjust to reflect the changing society. This thesis will explore the legislation passed throughout the twentieth century by contextualising the changing Irish society, and to a lesser extent, the prevailing attitudes on the wider international stage – this became particularly important when Ireland entered the European Economic Community in 1973. In light of the shifting tensions and attitudes which existed throughout twentieth-century Ireland, this study aims to discover what the legal rights and entitlements were for Irish unmarried mothers and what the significance of this legislation was.

The role of the Catholic church within the Irish Free State is particularly important when examining the significance of legislation. A number of studies have been made of the relationship between the Catholic church and the Irish state in this period. J.H. Whyte's pioneering study, *Church and state in modern Ireland, 1923 – 1979*, should certainly be consulted when examining church and state relations. One chapter is of particular use, entitled, 'The Catholic moral code becomes enshrined in the law of the state, 1923 – 37'. In this chapter Whyte studied legislation passed between 1923 and 1937 to establish how and why traditional moral values were upheld in law. Between these years there was much emphasis on the Catholic moral code and the 'social evils' which were attributed to the falling of moral standards. These are examined in the various reports published throughout the 1920s.

Throughout the study Whyte explores the changing relationship between the Catholic church and the Irish state and determines that the turning point in this partnership was the mother and child scheme in the 1950s. He investigates the Catholic church's role in shaping state policy throughout the twentieth century. He identifies the problem that former ideas about the relationship between church and state were oversimplified and that the history between the two is particularly complex. Rather than influencing legislation, the church in fact influenced society, which in turn affected state policy, which reflected and upheld the views of society.

The theme of women, their changing status and their relationship with sexuality is also a significant topic. Sandra McAvoy has focused much of her work on female sexuality, sexual crime and the responses of the state to these issues. Two of McAvoy's articles are particularly relevant: 'Sexual crime and Irish women's campaign for a Criminal Law Amendment Act, 1912 – 35' in Maryann Valiulis (ed.) *Gender and power in Irish history*<sup>1</sup> and 'The regulation of sexuality in the Irish Free State, 1929 – 1935' in Greta Jones and Elizabeth Malcolm (eds.) *Medicine, disease and the state in Ireland, 1650 – 1940*.<sup>2</sup> Both articles focus on legislation in the periods noted above, with specific emphasis on the Criminal Law Amendment Act, 1935. In 'The regulation of sexuality in the Irish Free State, 1929 – 1935' McAvoy identifies three areas which the Irish state attempted to address through legislative

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<sup>1</sup> Sandra Mc Avoy, 'Sexual crime and Irish women's campaign for a Criminal Law Amendment Act, 1912 – 35' in Maryann Valiulis (ed.) *Gender and power in Irish history* (Dublin, 2009), pp 84 – 99.

<sup>2</sup> Sandra Mc Avoy, 'The regulation of sexuality in the Irish Free State, 1929 – 1935' in Greta Jones and Elizabeth Malcolm (eds.) *Medicine, disease and the state in Ireland, 1650 - 1940* (Cork, 1999), pp 253 – 266.

means: access to contraception and information on sexuality, the problem of unmarried mothers and sexual crime and public morals.<sup>3</sup> She identified these fields by focusing on government reports from the committee on evil literature, the commission on the relief of the sick and destitute poor, including the insane poor, and the committee on the criminal law amendment acts (1880-5) and juvenile prostitution. She focuses on the homogenous male make-up of the dáil and the role of the Catholic church when examining these reports and their resultant legislation.

McAvoy focuses both of her articles on the effects that the state's social policies had on women and women's position in the Irish Free State. Her studies generally finish at 1935 with the culmination of the Criminal Law Amendment Act, an act which she perceived as 'overdue and inescapable.'<sup>4</sup> Unlike other historians, McAvoy examines these changes in Ireland's social policy through gender analysis, and ultimately opens up new ways of viewing and thinking about the developments of the Irish state in this time. Indeed she notes that gender analysis 'may also facilitate further considerations of the role of the Roman Catholic church and open up new and more complex understandings of social and political developments of this period.'<sup>5</sup> This is the reason why McAvoy is so important to the present study: she breaks away from the male homogenous 'norm' of other historians and offers a new perspective on this period.

Additionally, the work of Caitriona Clear has illuminated women's lives in Ireland, particularly during the 1930s, 1940s and 1950s. Her article entitled 'Women in de Valera's Ireland, 1932 – 48: a reappraisal'<sup>6</sup> particularly contextualised women's lives in this era, focusing on what 'de Valera's Ireland' realistically meant for Irish women. To do this she concentrates her study on women's job opportunities in Ireland. She also underlines the importance of differentiating between women of different social classes which is particularly important when examining opportunities for women outside of the domestic sphere.

The most comprehensive study on sexuality is Diarmaid Ferriter's study, *Occasions of sin*.<sup>7</sup> His chronological study focuses on state, church and society's

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<sup>3</sup> Sandra McAvoy, 'The regulation of sexuality in the Irish Free State', p. 253.

<sup>4</sup> Sandra McAvoy, 'Sexual crime and Irish women's campaign for a criminal law amendment act', p. 85.

<sup>5</sup> *Ibid.*, p. 97.

<sup>6</sup> Caitriona Clear, 'Women in de Valera's Ireland, 1932 – 38: a reappraisal' in Gabriel Doherty and Dermot Keogh (eds.) *De Valera's Ireland's* (Cork, 2003).

<sup>7</sup> Diarmaid Ferriter, *Occasions of sin* (Dublin, 2009).

attitudes to sexuality, exploring themes such as homosexuality, prostitution, marriage, infanticide and abortion. Two questions persist throughout Ferriter's study: Does sexuality have national characteristics? And, was Ireland unique in its preoccupation with morality and its quest to contain sexuality? Ferriter denies that Ireland was unique in this context as he compares Ireland with America, Britain, Italy and Spain. America and Britain are of particular interest as the argument about the influence of the Catholic church cannot be used in those contexts.

Ferriter focuses much of his attention on sexual 'crimes' which were prevalent and remained constant in Ireland throughout the twentieth century. In his study, one of his primary themes is infanticide, especially in the chapter concentrating on the period 1922 – 40. In this era infanticide was notably prevalent and before 1949 it was a capital offence. Indeed much of Ferriter's study encompasses the theme of unmarried motherhood and illegitimacy as he argues that Ireland's preoccupation with sexual immorality 'was due to the number of children being born outside of marriage'.<sup>8</sup> Therefore sexuality and perceptions of it are directly concerned with unmarried motherhood.

Much has been written on motherhood in the twentieth century and Lindsey Earner – Byrne's book entitled *Mother and child: maternity and child welfare in Dublin, 1922 – 60*<sup>9</sup> focuses on all areas of motherhood, both married and unmarried. As the title suggests, Earner – Byrne's study of motherhood is limited to Dublin and furthermore her study of unmarried mothers is limited to just one chapter – a general study of the social welfare opportunities available to unmarried mothers. Earner – Byrne attributes the lack of these services to the influence of the Catholic church's moral teachings and although she is correct to an extent, it can be argued that there is too much emphasis on the role of the Catholic church. Indeed the role of the Irish state in relation to the availability of social services is a neglected area and it has become almost a cliché to blame the Catholic church for any deficiencies.

Recent historical scholarship has tended to focus on Ireland's use of institutions in the twentieth century. One such study is James M. Smith's *Ireland's Magdalen laundries and the nation's architecture of containment*.<sup>10</sup> Though

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<sup>8</sup> Ferriter, *Occasions of sin*, p. 101.

<sup>9</sup> Lindsey Earner-Byrne, *Mother and child: maternity and child welfare 1922 – 60* (Manchester, 2007).

<sup>10</sup> James M. Smith, *Ireland's Magdalen laundries and the nation's architecture of containment* (Manchester, 2007).

his study is primarily concerned with the Magdalen laundries, Smith argues that all the interconnected institutions in Ireland created an ‘architecture of containment’, that is, these institutions served to contain socially marginalised women and the reality of extra-marital sex in Ireland in this period. Smith concentrates on the ten Catholic Magdalen laundries in operation in Ireland in the twentieth century. However, he begins his study in the nineteenth century to attempt to provide a more comprehensive historiography and to fully explain how they functioned. He studies all women who spent time in these institutions such as women convicted of infanticide, women on remand, unmarried mothers and young women transferred from industrial and reformatory schools.

In his preface Smith acknowledges that one of the objectives of his book is to challenge the nation ‘– including church, state and society – to acknowledge its complicity in Ireland’s Magdalen scandal and to respond by providing redress for victims and survivors alike.’<sup>11</sup> In this objective, there is clearly a purpose to the study which may suggest that Smith is not wholly impartial. Admittedly it cannot be denied that state, church and society all played a role in this history, however the files for these institutions are closed, and therefore no one can gain a full history of the Magdalen asylums. Only documents that are open to the public, and the admission of ‘survivors’ can be relied upon. The media in recent years have made much of the oral testimony of former Magdalen residents: yet it must be noted that the oral testimony of survivors cannot wholly be relied upon. Of course this is not to suggest that the former Magdalen residents are wrong in their memories of the institution, but media coverage has not been particularly balanced, and has tended, in recent decades, to polarise opinion. However, while it can be argued that oral histories may not be wholly reliable accounts of history, they remain an extremely important source, as they provide a personal account of past experiences.

Recent scholarship has also attempted to illuminate the experiences of children who have remained on the margins of history. *Precairous childhood in post-independence Ireland*<sup>12</sup> is Moira J. Maguire’s new study of the experiences of Irish childhood in the years after independence in Ireland. This study focuses on the experiences of legitimate and illegitimate children alike, as well as other topics relating to childhood.

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<sup>11</sup> James M. Smith, *Ireland’s Magdalen laundries*, p. xiii.

<sup>12</sup> Moira J. Maguire, *Precairous childhood in post-independence Ireland* (Manchester, 2009).

Maguire's study describes the reality of daily life for children and their parents in this period. She has interpreted the relationship between church and state and the effect this had on Irish people, and she notes that her book is the first study to interpret government social policy and the influence of the Catholic church in realistic and practical terms. Maguire also notes the class difference between the people who suffered from these policies (the working-class) and the people who made these policies (the middle-class). In focusing on these practical questions, Maguire provides study of the working-class experience in post-independence Ireland.

Throughout secondary discourses on unmarried motherhood, it has been found that the majority of historians have focused their study on the post – independence era and have confined their study to the twenty-six counties. It would be beneficial to the study of unmarried motherhood if comparisons could be drawn with other countries, which would help in contextualising the Irish experience.

Additionally, most historians have focused on one source or topic, be that the various government enquiries, the Criminal Law Amendment Act, 1935, or emigration and repatriation. This thesis attempts to investigate the connection between social attitudes and social legislation by creating a genealogy of how social attitudes, social legislation and government reports and enquiries produced an environment, in terms of the law, which was not only hostile to but fearful of the unmarried mother and her child.

In addition to the records of Dáil Éireann and Seanad Éireann, most primary sources used for this research have been drawn from the National Archives of Ireland (N.A.I.), the National Library of Ireland (N.L.I.) and the Dublin Diocesan Archives (D.D.A.). The Department of Taoiseach files in the N.A.I. are particularly rich in material. The N.L.I. of course holds one of the largest and richest archives of newspaper material relating to Ireland and this is particularly advantageous when examining regional newspapers. The D.D.A. holds a large amount of records from former archbishops of Dublin. For this research Archbishop McQuaid's papers are particularly important. Additionally, the D.D.A. holds files on lay organisations such as the Legion of Mary and files on adoption, and these are an extremely rich source of information.

Informed by various reports and enquiries, a large amount of legislation was passed through Dáil Éireann, much of which pertained to unmarried mothers and

illegitimacy.<sup>13</sup> Although a great deal of this legislation had a direct impact on unmarried motherhood, some legislation impacted unmarried motherhood on a more indirect basis – all are explored in this thesis. Although its primary strength lies in demonstrating the attitudes toward unmarried mother in a very practical way, it also provides an insight into how these attitudes changed. Legislation from different decades will be examined and this primarily provides a timeline in which attitudes can be identified as gradually changing from tarnishing unmarried mothers as blackmailers and untrustworthy, to believing that helping the unmarried mother both financially and socially was in the best interests of the illegitimate child.

Dáil and seanad debates also allow an insight into the beliefs and attitudes of various politicians throughout the time period under examination.<sup>14</sup> This attempt understanding at the views of politicians and the government is geared towards reaching an understanding of why legislation was passed in particular time periods, and more importantly, why certain provisions were put in place within their legislation.

Reports are particularly useful in this context. Much legislation, particularly before 1950, was introduced through the recommendations of government enquiries and reports. These are valuable sources of information, and the reasons for undertaking such enquiries can often reveal more than the reports themselves. A number of enquiries were carried out throughout the period under study, however, the 1920s and 1930s in particular established a number of committees and commissions that produced reports, namely the *Report of the commission on evil literature*, 1926, the *Report of the commission on venereal disease*, 1926, the *Report on the commission of the sick and destitute poor*, 1927 and the *Report of the committee on the criminal law amendment acts (1880-85) and juvenile prostitution*, 1931. After this time the number of enquiries in Ireland pertaining to this topic decreased; however the commission on the status of women was established in 1970 and produced its report in 1972.

The *Report on the commission of the sick and destitute poor*, 1927 was established to examine whether relief for the poor could be provided in a better and more comprehensive fashion. It is particularly important to this thesis as the

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<sup>13</sup> All Irish legislation pertaining to this research can be found on the Irish statute book website, <http://www.irishstatutebook.ie>.

<sup>14</sup> All dáil and seanad debates can be found on the Parliamentary Debates website, <http://historical-debates.oireachtas.ie/en.toc.D.F.html>.

unmarried mother and her child were one of the groups under consideration. This was the first time the government had attempted to explicitly address the ‘problem’ of unmarried motherhood. It was also the first time that unmarried mothers were classified into two groups: those amenable to reform and the ‘less hopeful’ cases.<sup>15</sup> This classification was a hallmark of how the unmarried mother was provided for and treated by the government.

The *Report of the committee on the criminal law amendment acts (1880-85) and juvenile prostitution*, 1931, hereafter referred to as the Carrigan report, was specifically established to enquire into the ‘moral climate’ of the country, more especially, to enquire into the sexual conduct of Irish citizens. Indeed the report was very explicit about the issues attached to illegitimacy as it linked illegitimacy with ‘crime and vice’.<sup>16</sup> It notes that ‘sexual crime’ – a term that the report itself used – was rising and more shockingly, that the majority of victims did not report the crime. Furthermore, the report established that Ireland had a very serious problem with sexual crime.

This thesis also examines British legislation, debates and reports, though to a much lesser extent than their Irish equivalents. Many historians have debated the ‘uniqueness’ of Ireland in relation to sexuality and ‘taboo’ subjects, and this thesis assesses the claim that Ireland treated unmarried mothers differently from other countries. By exploring the equivalent British legislation and studying why this legislation was introduced, it may help to explain further why Ireland introduced such legislation.

The annual reports for the department of local government and public health are a rich source of information for the 1920s and 1930s. The N.A.I. holds all of these reports from 1922 until the department’s closure in 1939. (The department was discontinued after its responsibilities grew too large and it split into two new departments: the department of health and the department of social welfare). The annual reports are particularly important for studying the rate of infant and maternal mortality and the disparate rate of infant mortality between legitimate and illegitimate infants. These statistics allow for a comparative study between mortality rates. For every year the illegitimate mortality rate of children was higher than the

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<sup>15</sup> *Report of the commission on the relief of the sick and destitute poor, including the insane poor* (Dublin, 1927), p. 68.

<sup>16</sup> *Report of the committee on the criminal law amendment acts (1880-85) and juvenile prostitution* (Dublin, 1931), p. 8.

overall mortality rate for children and this can be considered in the light of the lack of provision for unmarried mothers and their children. A comprehensive range of appendices were included in the annual reports such as the reports of the inspectors for boarded-out children, statistics for the number of children boarded-out in each county, and a table showing the number of unmarried mothers in receipt of poor relief in each county. These are of particular value as they give both statistical and geographical information. The reports of the inspectors for boarded-out children are especially valuable as they give a personal insight into the way the state perceived and tried to provide for illegitimate children.

A wide range of newspapers were examined over the course of this research, including the *Irish Times*, the *Irish Independent*, the *Connacht Tribune*, the *Tuam Herald* and other regional newspapers. Many 'letters to the editor' provide information on how unmarried mothers and illegitimate children were viewed. Newspapers can also provide insights into how pieces of legislation were received by society, or more importantly, the reasons for their implementation. In some cases, there were calls from the public for pieces of legislation and this was sometimes one of the reasons given for the implementation of some laws.

Voluntary organisations and groups were particularly successful as pressure groups in the latter half of the century. These pressure groups lobbied for better and more practical legal rights for the unmarried mother and so the papers of these organisations are especially relevant. The N.L.I holds a number of publications by the CHERISH organisation, now called One Family. CHERISH was an organisation set up by unmarried mothers in 1972. For the time period, this was a controversial group as it was the first time that unmarried mothers were explicitly offered support by an independent organisation. Indeed it also marked a change in how society perceived unmarried mothers which can be attributed in part to the influence of the CHERISH organisation.

Relevant publications by CHERISH includes: *The unmarried parent and child in Irish society*,<sup>17</sup> *Cherish news: information for one parent families*<sup>18</sup> and *Singled out: single mothers in Ireland*.<sup>19</sup> These publications allow the researcher to

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<sup>17</sup> CHERISH organisation, *The unmarried parent and child in Irish society* (Dublin, 1974).

<sup>18</sup> CHERISH organisation, *Cherish news: information for one parent families* (Dublin, 1974).

<sup>19</sup> CHERISH organisation, *Singled out: single mother's in Ireland* (Dublin, 1983).

gain a view into the administration of the CHERISH organisation, why it was set up and how it survived in a country which was prejudicial toward one-parent families.

CHERISH was the most successful voluntary organisation which campaigned for the rights of unmarried mothers and their children in the state. Grainne Farren has written a comprehensive history of CHERISH, entitled: *From condemnation to celebration: the story of CHERISH 1972 – 1997*.<sup>20</sup> This gives an insight into the aims and objectives of this organisation and how it survived in a country which was hostile toward unmarried motherhood.

The D.D.A. holds an extensive collection of papers from lay organisations and adoption societies, particularly for the Catholic Protection and Rescue Society of Ireland (C.P.R.S.I.). These provide an excellent insight into the treatment of illegitimate children between 1940 and 1960. The collection also offers an understanding of how adoption was viewed and then managed after 1952. Annual reports of the C.P.R.S.I. in addition to letters to and from Archbishop John Charles McQuaid, 1940 – 72, are preserved in the D.D.A. which allow for a statistical analysis of the pervasiveness of adoption during the twentieth century. Full details are given in the bibliography.

Organisations such as the Legion of Mary are also of particular interest. The legion and Frank Duff, its founder, set up the Regina Coeli Hostel which housed unmarried mothers and helped them to keep their children which was an innovative idea in the 1920s. The papers include letters from Frank Duff to Archbishop Edward Byrne, 1921 – 40, and legion reports which detail its activities and the organisation of the Regina Coeli Hostel. Two people who worked in the Regina Coeli Hostel since the 1960s also were interviewed for this thesis and this information was particularly useful.<sup>21</sup>

The department of health and children hold a number of department of health files. The A series in the collection contains documentation concerning institutional health care, and access was granted to the author for a select number of these files to be viewed.<sup>22</sup> The annual returns of unmarried mothers and illegitimate children in mother and baby homes and auxiliary homes were of particular use. They reported

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<sup>20</sup> Grainne Farren, *From condemnation to celebration: the story of CHERISH 1972 – 1997* (Dublin, 1997).

<sup>21</sup> See appendix B.

<sup>22</sup> To gain access to these files an application must be made to the department of health and children's record management unit requesting privileged access to these files and if granted it is necessary to go to the department to view the papers.

how many mothers and children were in each institution, how many were taken in and how many left each year. They also recorded where both mother and child went: for example, if they went to relatives, employment, another institution or in the child's case, were adopted. No names or personal information are provided in these returns, they comprise statistical information only. These returns are particularly useful when examining the Adoption Act of 1952, as it can be assessed how many children from these homes were put up for adoption.

Statistical sources have also been addressed. With the exception of Lindsey Earner-Byrne's *Mother and child* study, few secondary sources pertaining to this topic make use of statistical enquiries. Throughout this thesis statistical information is provided to empirically demonstrate the effects of various legislation. This shows that although much legislation relating to unmarried mothers and illegitimate children was introduced, it was not always successful.

The 'secrecy' and taboo that surrounded unmarried motherhood and illegitimacy in the twentieth century is still apparent in today's society. Primary sources for the experience of unmarried mothers themselves are limited. Many unmarried mothers are unwilling to speak publicly about their experiences and those who have told their stories have been somewhat sensationalised by the media. Additionally, the files and papers of the religious organisations which established the various mother and baby homes and Magdalen laundries, are closed. There has been no attempt by the religious organisations themselves or on the part of the Irish government to make these files available and so until they are released, a somewhat limited history of unmarried motherhood remains.

This thesis aims to provide some insights into unmarried motherhood through the use of interviews and oral testimony. Letters were sent to a variety of regional newspapers asking unmarried mothers, or people who had experience in the area of illegitimacy and unmarried motherhood, to come forward to partake in an interview.<sup>23</sup> In response to these letters two men came forward, the first to give his insight into the treatment of illegitimate children in Ireland in the 1930s, and the second to reveal his family history in which his grandmother became an unmarried mother in the early 1900s. However, only one unmarried mother responded to the letter and she wishes to remain anonymous. Her story is vitally important to this

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<sup>23</sup> See appendix A.

research and her wish to remain anonymous demonstrates the need to move unmarried mothers into the spotlight of Irish history and to provide a comprehensive study into the experiences of these women, as has been done for the victims of child sexual abuse.

The sources used will complement the examination of the state's legislative history toward unmarried mothers and help illuminate how significant and practical this legislation was.

The first chapter explores the connection between the status of women and the unmarried mother throughout the period 1921 – 79. This chapter tracks the gradual change in the status of women from the First World War until the 1970s in which the women's liberation movement was particularly successful. As women gained more social and political freedom, attitudes to the unmarried mother began to change and thus a connection was formed between the liberation of women and the legislative rights of unmarried mothers. The public and private sphere of women was examined in detail as well as legislation pertaining to the workplace. This legislation is especially important as it gave not only women, but unmarried mothers more rights and security within the workplace. This chapter formed a background for the thesis as a whole.

This thesis is essentially a chronological study and so chapter two deals with the period 1921 – 39. This chapter is particularly relevant in relation to the creation of the Irish Free State and how this affected the treatment of unmarried mothers. A number of acts are examined, most of which dealt with the unmarried mother or the sexual practice of Irish citizens. Moral order and the 'moral code' were particularly important concepts in this era and the legislation reflects this attitude. The legislation aimed to legislate for morality while attempting to eradicate sexual permissiveness. Statistical enquiries in the period suggests a need to improve the medical needs of unmarried mothers and children and the financial situation of the unmarried mother to care for her child – neither of which was achieved in this period.

Chapter three gives the first insight into how Irish attitudes toward the unmarried mother gradually began to change in the twentieth century. This chapter examines the period 1940 – 69 and explores the idea of the welfare state and how this affected the legal rights of the unmarried mother. Unmarried mothers and illegitimate children became more visible in this era as the Adoption Act, 1952, and the Infanticide Act, 1949, directly related to illegitimacy. The Adoption Act was

particularly significant as this was the first time that the unmarried mother received the government's support to give up her child if that was her decision. The reports from An Bord Uchtála (Adoption Board) are used in conjunction with the annual returns from the mother and baby homes to understand how prevalent adoption was before and after 1952.

The period under study effectively finishes in 1979 because it has been found that after this, unmarried mothers and illegitimate children became more visible figures within Irish society. Although the 'taboo' surrounding illegitimacy had not been totally eradicated and more could have been done on the part of the state to help the unmarried mother, chapter four reveals the transformation of Irish society from disapproval to some degree of acceptance. There was also a noticeable change in the legislation passed in this period, as legislators came to realise the difference between civil and criminal law and accepted that they could not, at least practically, legislate for morality. The 1973 Social Welfare Act was a defining moment for unmarried mothers as they received financial assistance from the state for the first time, thereby making them visible Irish citizens. Chapter four also details how the practice of adoption decreased as many women decided to travel to England for an abortion – a practice which remains controversial and hotly debated.

This thesis will demonstrate the gradual change in Irish attitudes and official policies toward the unmarried mother. Although it focuses on Catholic unmarried mothers, it is not a study of religion, nor is it based on class. Rather it is a legal and social history of one class of people. The aim of this thesis is not to 'blame' the Catholic church, or the Irish government, for the deficiencies in the treatment and experiences of unmarried mothers and their children. Rather it attempts to understand the relevant legislation and its context, to explore how the legislation affected unmarried mothers, and to raise some questions as to how unique Ireland was in its treatment of such women.

## **Chapter One: The changing status of women in twentieth-century Ireland**

The status of women is an aspect which cannot be overlooked when studying illegitimacy and unmarried motherhood. It is this chapter's argument that this theme directly relates to the unmarried mother's experiences and treatment, not only by society in general, but also by people in authority. Attitudes towards women broadly influenced the ways in which politicians legislated for, and sometimes against, the unmarried mother. However it also must be remembered that the status of women in general throughout the twentieth century was quite unstable and somewhat ambiguous. It is this chapter's argument that the status of women influenced, though not always directly, attitudes toward the unmarried mother in Ireland. The chapter will begin by considering what historians have said on the matter and then go on to look at legislative and other sources.

Much has been written on the topic of women, particularly with regard to their status and their constitutional rights. Sociologist Pat O'Connor and Irish women's historian Maryann Valiulis must be acknowledged for their endeavour to bring women's rights and women's history to the forefront of scholarship.<sup>1</sup> Although the status of women was not the only issue to affect unmarried motherhood, it did have relevance. Unmarried mothers endured the full force of their pregnancy while the putative fathers were generally forgotten about and rarely required to confront their responsibilities. It is this chapter's argument that this discriminatory practice had its basis in the perception of women and the 'role' of men in twentieth-century Ireland. Few scholars have focused on both unmarried motherhood and the role of women in such a way; however, it can be argued that the two are intrinsically linked. This chapter will particularly focus on women's legal rights between 1921 and 1979. It will be found that as the century progressed women became more liberated, economically, legally and socially. Running parallel to this trend are the legal rights of unmarried mothers, which also gradually became more liberal throughout the century. As perceptions and beliefs about women in general changed, so did the beliefs attached to unmarried mothers.

The status of women and women's rights issues are themes not solely of interest to historians. Political theorists and sociologists as well as feminists and

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<sup>1</sup> See Pat O'Connor, *Emerging voices: women in contemporary Irish society* (Dublin, 1999) and Maryann Valiulis (ed.), *Gender and power in Irish history* (Dublin, 2009) and *Gender and sexuality in modern Ireland* (Massachusetts, 1997).

historians have studied women's position in society. Women's struggle for the right to vote, equality in the workplace and the right to equal pay have been highly documented, because these struggles were experienced on an international level as well as a domestic one. Ireland was not unique in its treatment of women, or that of unmarried mothers as will become more apparent in the subsequent chapters. Akin to many western countries, women began to gain independence in the 1960s and 1970s; before this most were confined to the domestic space of the home and the family. However, this had not always been the case.

During the nineteenth century, progress was made, giving women greater autonomy, freedom and equality with men. Political and cultural tensions throughout the nineteenth century added to this ideology of equality; however it was confined to upper and middle class women. Education, or lack of it for some women, became a particularly controversial subject, as education could lead to better employment opportunities. Fee – paying convent schools were opened for middle – class Catholic girls while fee – paying day schools were opened for the less well off. The Queen's Institute also offered training 'for sewing machinists, law writers, telegraph clerks, and commercial clerks' – all middle class occupations.<sup>2</sup> The introduction of examinations for women and the Irish Universities Act, 1908, also created better employment opportunities and by the beginning of the twentieth century many Irish women had entered employment which in the past had been inaccessible owing to the lack of education.

At the turn of the twentieth century the two principal sectors of female employment were domestic service and the manufacturing industry. In the 1911 census one-third of all working women were employed in the domestic service industry<sup>3</sup> while manufacturing was the second largest employer of female labour in both Dublin and Cork.<sup>4</sup> However, both positions would have been considered lower – class occupations, particularly domestic service jobs, which were both unskilled and badly paid. These occupations have been highly documented by historians in recent years; however the history of women's employment in professional and white collar jobs remains somewhat obscured, even though by 1911 one quarter of women workers were employed in such an occupation. Caitriona Clear has noted that at the

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<sup>2</sup> Mary Cullen, 'Women, emancipation and politics, 1860 – 1984' in J.R. Hill (ed.), *New History of Ireland, Ireland 1921 – 1984* vii (Oxford, 2003), p. 836.

<sup>3</sup> Mary E. Daly, *Women and work in Ireland* (Dublin, 1997), p. 31.

<sup>4</sup> *Ibid.*, pp 34 – 35.

beginning of the century there were many professional female workers in Ireland: ‘At the turn of the century they were nurses in hospitals and rural communities, itinerant cookery instructresses, secretaries, telephonists and telegraph operators, and they made up half of all national school-teachers.’<sup>5</sup> However, again these were all middle class occupations. Working class women were not provided with the same opportunities and so were confined to such occupations as needlework, agricultural work and domestic service positions.

After the creation of the Irish Free State, female participation in the workforce began to drop. ‘According to the 1926 Census 40 per cent of women either worked on their own account or as assisting relatives and over 60 per cent were engaged in either agriculture or domestic service.’<sup>6</sup> Indeed within five years of the Irish Free State’s creation, Catholic social policy and nationalist rhetoric had succeeded in reducing the female workforce and confining them in the home to partake in ‘socially acceptable’ occupations such as home assistance and agriculture.

This evidence enables the historian to review how attitudes towards women gradually changed. If women were employed outside the home at the turn of the century then it can be assumed that this was accepted in society – women were viewed as more than wives and mothers. However, as the century gradually progressed, women, both officially and unofficially, became increasingly confined to their domestic role outside the public sphere.

In recent years, women’s history and particularly women’s role in wartime has been documented. Before this, the part women played in various wars was forgotten in the face of heroes such as Collins, Pearse and Connolly. At the turn of the century women became more politically active, and although they were not necessarily engaged in the fighting, their roles in parties such as Sinn Féin became significant. In addition to this, women began to set up their own organisations such as Inghinidhe na hÉireann (1900), the Irish Women’s Worker’s Union (1911) and Cumann na mBan (1914). Their significance lay in the fact that these were women – only organisations, set up by women for women.

However, the women who created these organisations were generally from middle to upper class backgrounds, and usually had a formal education. Therefore,

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<sup>5</sup> Caitriona Clear, ‘Fewer ladies, more women’ in (ed.) John Horne, *Our war: Ireland and the Great War* (Dublin, 2008), p. 159.

<sup>6</sup> Daly, *Women and work*, p. 41.

unlike the majority of Irish women, they had the power and the financial means to set up organisations such as these. Whether they made a significant impact on Irish women's lives is debatable. It can be proposed that most women were burdened with societal and economic problems rather than political issues, in view of the prevalence of hunger and poverty in both rural and urban areas in Ireland in the early twentieth century. It can be assumed that the majority of Irish women did not view their status in society as a particularly important problem when their families were threatened by poverty, hunger and destitution. Thus, in the early twentieth century the status of women in Irish society was a largely middle to upper class problem. Additionally Mary Cullen has argued that employment opportunities also played a part in this class divide: 'Few working-class women worked in situations conducive to feminist politicisation and organisation.'<sup>7</sup> It can be argued that the status and position of women began to be significant for working class women in the latter half of the twentieth century when the economic problems of the country were not as extreme as those in the earlier half of the century. Although issues, earlier in the century, such as the right to vote may not have reached the lower class women in Irish society, women's organisations did have an effect on politicians through campaigns and various publications.

In addition to these societies and organisations, *Bean na hÉireann*, a woman's monthly journal, was established in 1908. The significance of *Bean na hÉireann* lay in its intention not only to emancipate women and give them a political voice, but also in its objective to emancipate Ireland from the British empire. Unlike later twentieth-century feminists, the women associated with this journal envisioned women's liberation alongside Ireland's: 'We must set about raising the present position of women in the social and political life of the country...which incidentally means the development of the nation and of the race.'<sup>8</sup> These feminists did not make distinctions between the two causes, for them they were one and the same. This may be a cause of why Irish women's liberation took so long to take shape and become a success: women had two inferiorities to overcome, firstly of being Irish, and secondly of being a woman. It was reported that 'The rights of Irishwomen are in Ireland, and must be won in Ireland, not in England or any foreign country.'<sup>9</sup>

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<sup>7</sup> Cullen, 'Women, emancipation and politics, 1860 – 1984', p. 846.

<sup>8</sup> *Bean na hÉireann*, January 1909.

<sup>9</sup> *Ibid.*, February 1909.

Therefore, for many nationalist women equality and independence were fundamentally linked to each other.

Cumann na mBan, in contrast to other women's organisations and parties, has been more documented than others because of the part it played in the Easter Rising of 1916. Ann Matthews notes that 'On Easter Monday 1916, when the rebel army marched out to challenge the might of the British Empire, Cumann na mBan and the women associated with the Irish Citizen's Army at Liberty Hall formed an integral part of this army.'<sup>10</sup> The 1916 Proclamation, *Poblacht na hÉireann*, demonstrates the significance of these women by including Irish women as well as men in its declaration. It reads: 'The Irish Republic is entitled to, and hereby claims, the allegiance of every Irishman and Irishwoman'.<sup>11</sup> However, this was not the first time that women were included in an Irish political agenda. Daniel O'Connell called for votes for women in the 1840s, and sixty years on in 1905, the political party Sinn Féin was created, and this was the first political party to encourage women to become politically active. In 1917, women delegates to the all – Ireland conference won their campaign to insert a clause into the Sinn Féin constitution giving women equal status with men. Ann Matthews takes the view that this 'convinced the political women that a new Ireland held the promise of opportunity.'<sup>12</sup>

Were these women correct in their observations that a new Ireland would be more supportive of them, or were their beliefs overly optimistic? Indeed, political opportunities were changing for women on a global scale – New Zealand, the first country to give women the right to vote, did so in 1893. Additionally, the U.K. gave women over the age of thirty the right to vote in 1918 (this included Irish women also) and in 1928 women received the right to vote on equal terms with men, that is all women were allowed to vote once they were over the age of twenty-one. In 1922 the constitution of the Irish Free State was adopted, giving equal political rights to both men and women. Article 14 of the 1922 constitution gave all citizens the right to vote, provided they had reached the age of twenty-one years, and Article 15 gave every citizen who was twenty-one or over the right to become a member of Dáil

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<sup>10</sup> Ann Matthews, *Renegades: Irish republican women 1900 – 1922* (Cork, 2010), p. 10.

<sup>11</sup> Poblacht na hÉireann, 1916, available at CAIN web services, University of Ulster, <http://cain.ulst.ac.uk/issues/politics/docs/pir24416.htm> [03 October 2011].

<sup>12</sup> Matthews, *Renegades*, p. 11.

Éireann, provided they were not disabled or incapacitated in some other way.<sup>13</sup> The 1922 constitution can be viewed as a somewhat liberating document, which gave equal political status to women and free practice of religion to every Irish citizen. No religion could be endowed, prohibited or restricted by the government of the new Irish Free State.<sup>14</sup> At the beginning of the new state, women may have been correct to be optimistic about their future, as attitudes toward women seemed to be changing and the new state offered women equal political status to men.

Thus by 1922 the women's emancipation movement had succeeded in removing virtually all legal barriers to women's personal autonomy and citizenship. However, during the campaigns there had been signs that formal equality might not remove less visible barriers of custom, tradition, and entrenched paradigms of male and female roles.<sup>15</sup>

Indeed, the new government was not to be as liberating as first expected.

The limitations of the 1922 constitution can be seen when the 1926 Civil Service Regulation (Amendment) Act and the 1927 Juries Act are taken into consideration. The latter act prohibited women from jury service, and the Civil Service Regulation (Amendment) Act prohibited women from sitting examinations for the civil service, thereby preventing them from obtaining higher ranking positions. These two acts helped to reinforce a gender division within the Irish Free State, particularly in the professional arena. A view was formed that women were suited to certain professions such as nursing, typing, and general clerks, while men were suited to other such professions as the army, the police force and ultimately, the political sphere. This was a view not held by men alone, as Margaret Collins – O'Driscoll declared in a *dáil* debate on the civil service regulation (amendment) bill: 'The more I study this bill the more I see that I would be injuring my sex by voting against it. The number of appointments women would be excluded from would be very small...The appointments he [minister for finance, Ernest Blythe] mentioned could not very well be filled by women...'<sup>16</sup> This gender division was one that remained in the minds of Irish politicians throughout the twentieth century, and indeed became more pronounced as the century progressed. It seeped into women's

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<sup>13</sup> Articles 14 and 15 of the Constitution of the Irish Free State, available at the Irish Statute Book, <http://www.irishstatutebook.ie/1922/en/act/pub/0001/print.html> [28 September 2010].

<sup>14</sup> Article 8 of the Constitution of the Irish Free State, available at the Irish Statute Book, <http://www.irishstatutebook.ie/1922/en/act/pub/0001/print.html> [28 September 2010].

<sup>15</sup> Cullen, 'Women, emancipation and politics, 1860 – 1984', p. 863.

<sup>16</sup> *Dáil Éireann deb.*, xiii, c. 515 (18 Nov. 1925), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0013/D.0013.192511180025.html> [29 October 2010].

private as well as public lives and confined women to the ‘natural’ role of wife and mother. ‘The government, moreover, appropriated to itself the role of arbiter of the natural order with the right to decide for women what their role in the Free State would be.’<sup>17</sup>

Many historians, particularly those who have studied the child sex abuse scandals in recent times, have held the Catholic church responsible for the oppressive direction the government took after 1922. Mike Millotte in his study *Banished babies*<sup>18</sup> and Mary Raftery and Eoin O’Sullivan in their study *Suffer the little children*<sup>19</sup> are particularly fierce critics of the Catholic church. Additionally, James M. Smith in his examination of ten Catholic Magdalen laundries puts much emphasis on the Catholic church’s role within the state.<sup>20</sup> However, it is this thesis’s argument that the Irish government must be held equally responsible for its ‘moral’ overtone. As we shall see in following chapters, the government became more concerned with the moral conduct of its citizens than with their welfare, which led to a number of oppressive acts, such as the Censorship of Films Act, 1923 and the Censorship of Publications Act, 1929. Yet as oppressive as the Cumann na Gaedheal party may have been, it was the Fianna Fáil government that introduced the most politically oppressive document: *Bunreacht na hÉireann* in 1937.

Caitriona Clear has asserted that ‘The three words “de Valera’s Ireland” are used to convey an oppressive, stagnant, uncomfortable social environment for women.’<sup>21</sup> Indeed the 1937 Irish Constitution can be viewed as the apotheosis of this view of ‘de Valera’s Ireland’. The 1937 constitution has been a highly analysed and documented text, many studies about women’s status circulate around the assumptions made in it. However, it must be noted that the feminist groups and organisations at this time were successful in implementing some changes which were written into the 1937 constitution. Mary Cullen has determined that article three, which gave equal citizenship without distinction of sex, and article fourteen, which declares that everyone over the age of twenty one had the right to vote, are two such

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<sup>17</sup> Maryann Gialanella Valiulis, ‘Power, gender and identity in the Irish Free State’ in *Journal of women’s history* vi & vii, numbers 4 & 1 (1995), p. 123.

<sup>18</sup> Mike Milotte, *Banished babies: the secret history of Ireland’s baby export business* (Dublin, 1997).

<sup>19</sup> Mary Raftery and Eoin O’Sullivan, *Suffer the little children: the inside story of Ireland’s industrial schools* (Dublin, 1999).

<sup>20</sup> See introductory chapter for a critique of James M. Smith, *Ireland’s Magdalen laundries and the nation’s architecture of containment* (Manchester, 2007).

<sup>21</sup> Clear, ‘Women in de Valera’s Ireland’, p. 104.

changes which the feminist organisations had been campaigning for.<sup>22</sup> Although the 1937 constitution included the political equality of all men and women, it was assumed that women, in their rightful role, would not avail of this opportunity. Article 41.2 has been the most controversial piece in the constitution, which was heatedly debated by women's rights activists. Article 41.2 declares that: 'In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved', and 'The State shall, therefore, endeavour to ensure that *mothers* shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home' (emphasis added).<sup>23</sup> This article not only assumes that a woman wants to be a wife and mother but also that she does not want to work outside the home. This assumption is based on the fact that the state gave women duties in the home which men did not have, rather men's duties were in the public sphere of work. Yvonne Scannell observes that this article can be read in two ways, the second of which can be read as 'an implicit denial of freedom of choice to women in personal matters, a freedom taken for granted by men.'<sup>24</sup> It is this chapter's argument that this was the way de Valera and others who helped to draft the constitution intended it to be. If it was not, then the term *mothers* would be taken to include all categories of mother, among married women, widows, deserted wives, and unmarried women. As subsequent legislation demonstrates, this was not the case.

The meaning of the term 'mothers' is indirectly given in the previous article, Article 41.1, which gives the family indispensable rights as a 'moral institution'.<sup>25</sup> Although it does not define what it means by 'family', subsequent legislation illustrates that the term 'family' is confined to the nuclear family of husband, wife and children born in wedlock; anything other than this was not classed as a family in the eyes of the state.

Many women's rights activists campaigned for article 41.2 to be removed from the constitution; however, de Valera refused to delete it. Scannell observes that 'his reasons for refusing show that his vision of the role of woman in Irish society was that of a full time wife and mother in an indissoluble marriage, having "a

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<sup>22</sup> Cullen, 'Women, emancipation and politics, 1860 – 1984', p. 874.

<sup>23</sup> Article 41.2 of *Bunreacht na hÉireann* (Dublin, 1937), pp 137 – 138.

<sup>24</sup> Yvonne Scannell, 'The constitution and the role of women' in Brian Farrell (ed.) *De Valera's constitution and ours* (Dublin, 1988), p. 125.

<sup>25</sup> Article 41.1 of *Bunreacht na hÉireann* (Dublin, 1937), p. 136.

preference for home duties” and “natural duties” as a mother.<sup>26</sup> Although there is no way of knowing if this assumption is correct or not, an examination of de Valera’s view of Ireland may offer a better explanation. In a now notorious address to the nation on St Patrick’s Day, 1943, de Valera spoke of the Ireland that was dreamed of:

The ideal Ireland that we would have, the Ireland that we dreamed of, would be the home of the people who ... satisfied with frugal comfort, devoted their leisure to the things of the spirit. A land whose countryside would be bright with cosy homesteads, whose fields and villages would be joyous with the sounds of industry, with the romping of sturdy children, the contests of athletic youths and the laughter of happy maidens...<sup>27</sup>

This romantic notion of Ireland was not one held by de Valera alone; this was shared by many Irish men and women. The 1916 Proclamation demonstrated a romantic, nationalist notion of Ireland as a woman, and Irish citizens as her children. As this image portrays, de Valera and other nationalist leaders dreamed of a traditional and somewhat mythical Ireland of men at work and women staying at home, caring for their husbands and children. This may serve to better explain the reasons behind de Valera’s constitution.

Whichever way historians and others tend to look at these provisions in *Bunreacht na hÉireann*, what is surprising to note is the lack of debate involving women in the dáil about it. At this time, there were three women T.D.s: Helena Concannon (Fianna Fáil), Margaret Mary Pearse (Fianna Fáil), sister of Patrick Pearse, and Bridget Mary Redmond (Cumann na nGaedheal), none of whom uttered a single word during the debating of the constitution, suggesting their approval of it. Outside the dáil, however, there were many women lamenting the new constitution, wanting to either reinstate the 1922 constitution, or establish the 1916 proclamation as the new constitution, both of which put women on an equal footing with men. At the forefront of this opposition to the constitution were the Women Graduates’ Association, which worked alongside the Joint Committee of Women’s Societies and the Standing Committee on Legislation Affecting Women ‘to persuade the three women members of the Dáil to support their sex.’<sup>28</sup>

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<sup>26</sup> Scannell, ‘The constitution and the role of women’, p. 125.

<sup>27</sup> Address by de Valera, 17 March 1943 available at RTE libraries and archives, [http://www.rte.ie/laweb/11/11\\_t09b.html](http://www.rte.ie/laweb/11/11_t09b.html) [30 September 2010].

<sup>28</sup> Margaret Ward, *Hanna Sheehy Skeffington a life* (Cork, 1997), p. 325.

The most heated debate, however, came from a London – based organisation, the Six Point Group, which in a letter to de Valera, declared Articles 40, 41.2 and 45.4 (ii) to be based ‘on a fascist and slave conception of women as being a non-adult person who is very weak and whose place is in the home.’<sup>29</sup> This British feminist organisation may have been the most outspoken of the organisations to contact de Valera throughout the drafting of *Bunreacht na hÉireann*; however the number of organisations and individual women who were against the constitution was considerable, all believing it to limit women’s freedom outside the home.

There was, of course, support for the constitution also. ‘Letters to the editor’ in the *Irish Independent* and the *Irish Times* demonstrate an espousal of the constitution from a number of citizens, mostly men. Their support was in favour of the role of the married woman who stayed in the home to look after her husband and children. As one reader of the *Irish Times* declared: ‘There is a very noble tribute to the married woman embodied in the Constitution which it is important to retain...Women have a right to the protection of the State in fulfilling this vocation [to marry], which is their most important social function.’<sup>30</sup> One reader controversially argued that to officially recognise women’s place within the home was the ‘national thing to do’: ‘I can positively say that the most popular thing you could do, as well also as the very best thing nationally, would be to make it known that your desire was to send women back to the home where they belong.’<sup>31</sup> It is apparent that this opinion of women was probably held for economic reasons as well as romantic ones: by limiting women’s position in the workplace, more men could obtain work, thereby lowering the growing unemployment level.

From the 1840s on there had been heightened efforts by upper and middle class women to partake in philanthropic activities such as working to reform prostitutes, and to help the sick poor and the generally poorer classes in society. However, by the end of the nineteenth century this work had been largely taken over by religious orders such as the Irish Sisters of Charity, the Sisters of Mercy and the Ladies’ Association of Charity of St. Vincent de Paul. Although these charities employed a moralistic and religious tone, the class status of them remained the same:

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<sup>29</sup> Letter to de Valera from the Six Point Group, 14 June 1937, N.A.I., s9880.

<sup>30</sup> *Irish Times*, 22 May 1937.

<sup>31</sup> Letter to de Valera from Mr. J. Walsh, 15 May 1937, N.A.I. s9880.

The founding mothers were women of formidable character and vision, but also of wealth and social standing who, as single women or widows, had control over the use of their property, and could decide to use their money and position to establish the new organisations.<sup>32</sup>

Thus it was only women of the middle and upper classes that had the means of setting up such organisations, women of a lower class were not permitted to partake in such activities.

There was one occupation outside the home which women of all classes could enter, however: female religious orders. Nuns, since the mid-nineteenth century, were regarded as the 'ideal' woman – religious, pure and obedient. Both nuns and married mothers were idealised in Ireland, which can be a complex notion, considering the two ideals were at odds with one another. The mother was married, she had children and she looked after her home, the nun was not married (although it was considered that she was married to God), she did not have children and she was expected to remain chaste throughout her life. It remained a popular belief that if a woman was not willing to get married and become a mother then she should join a convent and become a nun.

Although there seemed to be little choice for women in this period, Maria Luddy views the decision to become a nun as a liberating one: 'The women who chose convent life were making a rational decision based on choice, and the variety of occupations it offered by convents no doubt encouraged women to join.'<sup>33</sup> Certainly, for some nuns, convent life opened up choices which these women would never otherwise have had. Nuns in this period were teachers, nurses, carers, and the majority of them were devoted to helping the poor – the Irish Sisters of Charity took a vow of devotion to the poor in addition to the vows of chastity, poverty and obedience.<sup>34</sup> Therefore they were authorised, by the Catholic church, to enter the public sphere without a backlash from officials or the public; indeed nuns were perceived as providing an invaluable service to society.

Although this view is indeed correct, there remained a class structure within the convent. Those of higher social status or class became choir nuns and those of lower social class and less formal education remained as lay sisters. Maria Luddy has determined that 'In general, poorer women could only become lay sisters and played

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<sup>32</sup> Cullen, 'Women, emancipation and politics, 1860 – 1984', p. 831.

<sup>33</sup> Maria Luddy, *Women and philanthropy in nineteenth century Ireland* (Cambridge, 1995), p. 33.

<sup>34</sup> Caitriona Clear, *Nuns in nineteenth century Ireland* (Dublin, 1987), p. 70.

no part in the public life or leadership of the congregation.<sup>35</sup> It has been argued that female religious gained more freedom and liberation because of their status in society; however, the internal hierarchy of the convent suggests that, akin to the public life of women in general, only those of higher social standing played any major role in philanthropic activities.

Although they were certainly more liberated than the majority of Irish women, nuns still came under the authority of the Catholic church and in particular, the clergy. Indeed many women who wanted to work with the poor on a voluntary basis became nuns and therefore became formally part of the church's missions. Women such as Nano Nagle, Mary Aikenhead and Frances Ball all ultimately became female religious after setting up various schools and homes. Luddy explains: 'This [charitable work] had to take the form of a religious community because it was the only collective grouping of philanthropic women which was acceptable to Catholic church authorities.'<sup>36</sup> Charitable work thus remained inside church control and this ultimately offers an explanation as to how the church held such control over areas such as health and education in the twentieth century.

This 'charitable work' and the establishment of schools and homes by female religious ultimately evolved into the establishment of a different type of institution. After the 1864 Reformatory Act, nuns began to establish reformatory schools for juvenile offenders. They also established industrial schools, implemented by the Industrial Schools Act, 1868, to educate children in certain areas of industry, and from the 1840s onwards female religious orders began to set up Magdalen homes. The four primary religious orders to establish these homes were the Sisters of our Lady of Charity of the Refuge, the Good Shepherd orders, the Sisters of Charity and the Sisters of Mercy. These Magdalen homes were generally next to convents, and in the 1840s 3.7 per cent of convents ran Magdalen homes.<sup>37</sup> In hindsight it is clear that these Magdalen homes offered minimal help to the women who resided in them, however at the time of their establishment and throughout the twentieth century it was believed that the Magdalen homes were doing society a service as they were hiding those people who might 'contaminate' the rest of society. Caitriona Clear

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<sup>35</sup> Luddy, *Women and philanthropy*, p. 33.

<sup>36</sup> *Ibid.*, p. 24.

<sup>37</sup> Clear, *Nuns in nineteenth century Ireland*, p. 105.

explains that this form of institutional relief was one that society in general was in favour of:

Nuns' growing involvement in asylum care of various kinds in these mid century years can be seen as part of a wider tendency of all organisations statutory or voluntary, secular or overly religious, to put people who were perceived to be vulnerable or deviant, or both, into institutions.<sup>38</sup>

Indeed nuns were perceived to be the best people for this job as they were regarded as 'perfect' women – the nuns could influence the way in which these women could live by showing them how to live pious, holy lives. 'The nuns by their own example were living embodiments of the ideal Christian woman and they tried to instil the same moral and religious standards in the women they helped.'<sup>39</sup>

Although the 'cosy homesteads' and the 'laughter of happy maidens' may have been the dream of many Irish men, and possibly some Irish women, in practical terms this was not always realistic. When needed, countries and governments, used women to fill the void men left. Certainly, on an international level, this became clear during Second World War when women took up employment in factories and other industrial work, primarily manufacturing ammunition and uniforms for the war. In Ireland, in spite of the restrictions on travelling, many women went to England during the war in search of work. However, this was not the first time that Irish women were employed in male work for the purposes of war. First World War had, on some level, offered women the opportunity to gain more freedom and independence. Between 1914 and 1918 women worked in nursing, factories and clerical work, often replacing men who had gone to war. Although it has been noted that during First World War there was not the same passion for women's work in Ireland as there was in Britain, it has also been acknowledged that women gained a certain level of independence, away from the domestic sphere of family life. Caitriona Clear observes: 'Whether the Great War was thanked or cursed for this social transformation, it played as much a part in the emergence of women's new freedoms in Ireland as in every other European country.'<sup>40</sup>

When the Second World War began it was again expected that women would join the workforce, indeed it was not only expected but necessary. As experience from First World War showed, war could be a liberating experience for women who

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<sup>38</sup> Ibid., p. 106.

<sup>39</sup> Luddy, *Women and philanthropy*, p. 47.

<sup>40</sup> Clear, 'Fewer ladies, more women', p. 170.

wanted to escape their role in society which confined them to the family. Many Irish men as well as women travelled to Britain to help in the war effort; men obtained building work, while women generally joined auxiliary forces or took part in civilian work in offices and factories. Ireland at this time was suffering from severe unemployment and so Britain experienced an influx of Irish migrant workers, as did Northern Ireland where job opportunities were much more available than in the south. Women received training in a multitude of areas, including machine operating and engineering; such opportunities would never have been available in the Irish Free State in part because of its tendency to classify and confine women to 'women's jobs' or the private sphere of domesticity and also because there would have been fewer such jobs in Ireland.

Throughout the 'Emergency', job opportunities continued to rise for women in Britain, however career opportunities for women, single and married, were limited to the length of time it took to win the war. It was expected that once the war was over many women would leave their work and go back to their family life at home and men would take over their old jobs. As Mary Muldowney observed through the medium of oral testimony, women 'did not actively fight for social change. They did, however, grasp whatever opportunities came their way, including those created by the Second World War, and in doing this they helped to erode the legal and social barriers that had been erected around them.'<sup>41</sup> Although these barriers ultimately did come down, they did not do so after the war, indeed it took far longer for these barriers to fall away.

This argument is validated in the legislation passed throughout the twentieth century by the Irish government. The legislation demonstrates a belief that women were only eligible for financial aid if their husbands had died. The Widows and Orphans Pensions Act, 1935, provided for a contributory pension for widows whose husbands were insured, and died on or after the appointed date of 2 August 1935 – the date the act was implemented. This provision also applied to orphans if their parents had been insured persons and if they had been under the age of seventy when they died. The orphan who was eligible for this pension received seven shilling and sixpence per week and the widow's pension differed in rate depending on the number of children she had: if she had no children she received ten shillings per

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<sup>41</sup>Mary Muldowney, *The second world war and Irish women: an oral history* (Dublin, 2007), p. 174.

week, known as the widows (contributory) allowance, if she had two or fewer children she received five shillings (known as the child's (contributory) allowance) plus the widows (contributory) allowance, and if she had three or more children she received the above widow's and child's (contributory) allowance in addition to three shillings per week per child, other than the eldest.<sup>42</sup> There were subsequent Widows and Orphans Pensions Acts in 1937 and 1947.

From 1935 onwards the state provided relief for any woman whose husband had died. However not until 1960 was there 'relief for a woman living apart from and unable to obtain financial assistance from her husband'. In 1970 such a woman was officially recognised as a deserted wife and was entitled to an allowance if firstly she had been deserted by her husband, secondly, was less than seventy years of age, and finally, if less than fifty years of age and had at least one child. Although both deserted wives and widows were without the support of a husband, until 1960 it was solely widows who were acknowledged as eligible for relief. Why was this? Widows could do nothing to avoid their husband dying, however was it believed that a woman could avoid her husband leaving? This twenty-five year gap between the widow's pension and assistance for a deserted wife would suggest so.

The belief that a woman's, and particularly a married woman's, 'place' was in the home persisted throughout the twentieth century, aided by official provisions which certainly helped to keep women in the home. In 1933 a marriage bar was introduced, preventing women teachers from working after their marriage: this was extended to female civil servants in 1935 with the introduction of the Employment Act, 1935. By introducing a marriage bar, the government forced such women into the familial role whether they wanted to leave employment or not. Interestingly, the marriage bar was not extended to the lower paid sectors of work, inferring a process whereby a woman had no incentive to obtain an education – if she did she would become redundant when she married. Clear has also made the excellent observation that 'The marriage bar against women national teachers was introduced in a cynical attempt to make jobs available for young, single women and men.'<sup>43</sup> The government did not interfere in the woman's 'traditional' role of domestic and agricultural work.

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<sup>42</sup> Widows and Orphans Pensions Act, 1935 (1935/29) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1935/en/act/pub/0029/index.html> [01 October 2010].

<sup>43</sup> Clear, 'Women in de Valera's Ireland', p. 107.

Only 5.6 per cent of married women were in paid employment in 1926 and this figure remained static until the 1960s.<sup>44</sup> However, Ireland was not unique in its pursuit of confining women to a domestic role. The U.K. and Australia for instance, also introduced a marriage bar for married women and this was not lifted until 1944 and 1966 respectively. The U.K. in particular was more stringent in its marriage bar which was introduced in 1923: it prevented doctors, nurses, cleaners and domestics as well as teachers and civil servants from working after marriage. Although Ireland did adopt this policy rather late, it also refused to remove the marriage bar until 1973, years after other countries had removed theirs, indeed this lagging behind in legislation was to become a characteristic feature of Irish legislation.

Akin to controlling women's professional careers, the state, with the aid of the Catholic church, attempted to control women's sexuality. It was thought that by controlling women's sexuality, sexual immorality could also be controlled. The procurement of birth control was viewed as wrong in the eyes of both the Catholic church and the Irish state as it was seen as interfering with women's natural role as mothers. The use and practice of birth control not only meant that married couples could determine the size of their completed families, it was also assumed that single people, and women in particular, could be promiscuous without the consequence of an illegitimate child. Birth control was viewed as a means by which single Irish citizens could become sexually active without risking pregnancy, and thus promote sexual promiscuity – compromising the pure, moral Irish woman. To combat this, the state had to introduce certain legislative measures, firstly, the Censorship Act, 1928, which prohibited the importation and sale of any literature which promoted the use of birth control. The debates which centred on this bill, for the most part, focused on public morality and sexual immorality, both of which seemed to become interchangeable. It is apparent from the debates that it was believed that 'immoral literature' was being imported from other countries such as the U.S.A. and the U.K., particularly through the importation of newspapers. '...if the whole tenor or course of these newspaper articles is such that it demoralises and depraves in sexual matters the persons who reads them then that newspaper must not be introduced into this

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<sup>44</sup> Myrtle Hill and John Lynch, 'The pursuit of sovereignty and the impact of partition, 1912 – 1949', available at Multitext project in Irish history, UCC, [http://multitext.ucc.ie/d/Ireland\\_society-\\_economy\\_1912-49](http://multitext.ucc.ie/d/Ireland_society-_economy_1912-49) [15 October 2010].

country and must not be sold in this country.’<sup>45</sup> There seemed to be a real sense of fear about the importation of foreign literature and the danger it presented to Irish citizens. Consequently the Censorship of Publications Act was passed in 1929, prohibiting any literature deemed to be obscene or sexually explicit.

When speaking about the prohibition of literature that promoted birth control, Minister for Justice James Fitzgerald-Kenney was particularly fierce:

We will not allow, as far as it lies with us to prevent it, the free discussion of this question which entails on one side of it advocacy. We have made up our minds that it is wrong. That conclusion is for us unalterable. We consider it to be a matter of grave importance. We have decided...that that question shall not be freely and openly discussed. That question shall not be advocated in any book or in any periodical which circulates in this country.

It is not surprising then, that in 1935 the government went even further to control sexuality and prohibited the sale, importation and advertisement of contraceptives in the Criminal Law Amendment Act, 1935. This act went so far as to prohibit contraceptives even to married women who had been advised not to have any (more) children for health reasons, and who were therefore left with a decision: either to become sexually inactive, or risk their health by getting pregnant. This prohibition sent a message that if a woman could not become a mother she was not a valued citizen who should be protected by law – the promise of the 1937 Constitution.

The attempted control of women’s sexuality remained in force until 1974 when the prohibition on the sale, importation and advertisement of contraceptives was repealed. The repeal of this section of the Criminal Law Amendment Act had been desirable for quite a while as the 1960s experienced a ‘sexual revolution’. The ‘condom train’ of 1971, when the Irish Women’s Liberation Movement bought contraceptives and travelled with them from Belfast to Dublin has become somewhat idealised as a watershed in the contraceptives campaign, and whatever the facts, it remains one of the most imaginative ideas women had of liberating themselves from the social and legal restraints erected around them by the government. As Mary Kenny has written since:

The contraception revolution which occurred during the Sixties was a drama on a lesser scale than great wars or political events: but it had a profound impact on people's lives. Arguably, it changed women's lives more than the vote, and it has altered family structure, health, social policy, manners and

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<sup>45</sup> James Fitzgerald-Kenney, *Dáil Éireann deb.*, xxvi, 106 (18 Oct. 1928), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0026/D.0026.192810180015.html> [15 October 2010].

morals. It almost completely dissolved previous traditions about the value of virginity.<sup>46</sup>

Indeed the sexual revolution of the 1960s and 1970s was the beginning of major social change in Ireland. Ideas not only about sexuality in general but women and sexuality began to change. Before the 1970s it would have been unimaginable for any kind of sexual revolution to take place, so what happened in Irish society, and on an international level, to change this?

A number of changes took place which gradually lifted the conservative and often stifling beliefs of the state and the Catholic church. Firstly, the arrival of television altered people's perception of Irish society, and television became so popular that it was estimated that by 1965 350,000 homes had a television.<sup>47</sup> With the advent of television, external forces such as the ideas of the U.K. and America (which had always been more progressive), could more easily penetrate Irish society.

Akin to the advent of radio, the arrival of television brought fresh concerns and anxieties about the vulnerability of Irish society to outside cultural influences. American television programmes in particular were a cause for concern, not only because of the issues they raised, but also because of their popularity with Irish audiences: 'US networks accounted for roughly half of everything broadcast by Telefís Éireann.'<sup>48</sup> Additionally, certain Irish television programmes became controversial, which made them more popular. In 1962, the *Late Late Show* was aired and steadily became a controversial topic of conversation. Chris Morash recounts an episode in 1966 when Gay Byrne asked a member of the audience what colour was his wife's nightgown on the night of their wedding and the man's wife responded that she was wearing nothing. The same year an audience member branded the bishop of Galway a 'moron'.<sup>49</sup> *The Late Late Show* was the first publically significant challenge to official institutions:

If the argumentative tone of news and current affairs were the most visible signs of a different kind of public sphere emerging in Ireland in the 1960s, the fact that controversy could spring up in more unlikely television genres is perhaps indicative that this was part of a much wider change taking place in Irish society of the time.<sup>50</sup>

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<sup>46</sup> *Irish Independent*, 13 May 2001.

<sup>47</sup> Ferriter, *Occasions of sin*, p. 374.

<sup>48</sup> Chris Morash, *A history of the media in Ireland* (Cambridge, 2010), p. 175.

<sup>49</sup> *Ibid.*, p. 179.

<sup>50</sup> *Ibid.*, p. 178.

The insular culture of Ireland was, not for the first time, being impinged upon by outside cultural influences.

In 1967 the Censorship of Publications Act, 1929, was liberalised, and the prohibition of books that had been censored twelve years earlier would cease to have effect, in essence, allowing previously perceived ‘obscene’ material to be sold in Ireland.<sup>51</sup> This allowed any books and publications relating to such subjects as crime, sexually explicit material, incest and unwed pregnancy to be read by the Irish public. Additionally, publications on birth control and sexuality could now be sold to the Irish public, thereby giving access to family planning information. The importance of this is reflected in the significance of access to information: people were able to gain access to information and advice; furthermore, ‘taboo’ subjects were publicised, and so with the freedom of this act, birth control, unmarried motherhood and sex were able to escape their taboo status and become topics for public debate. ‘At a stroke, dozens of books that had never been seen openly on Irish bookshelves suddenly materialised, and a piece of legislation that had defined Irish culture since the 1920s was defanged.’<sup>52</sup> Irish culture, as well as Irish society, was gradually changing and becoming more liberated in the 1960s.

On 31 March 1970 a group of thirteen people, six of whom were men, were requested by the minister for finance to report on the status of women in Ireland. This was the first time that women’s status in society had been addressed in Ireland, thus becoming a watershed in women’s history. The aim and objective of the commission on the status of women was:

To examine and report on the status of women in Irish society, to make recommendations on the steps necessary to ensure the participation of women on equal terms and conditions with men in political, social, cultural and economic life of the country and to indicate the implications generally – including the estimated cost – of such recommendations.<sup>53</sup>

Therefore the commission had a broad remit. The report, for the most part, concentrated on the married woman within the workplace and examined how stereotypical views of women impinged on their lives and ultimately curtailed their role in the workplace. It was reported that women were predominantly not trained in the workplace because of the fear, perceived or real, that they would leave the

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<sup>51</sup> Censorship of Publications Act, 1967 (1967/15), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1967/en/act/pub/0015/print.html> [18 October 2010].

<sup>52</sup> Morash, *A history of the media in Ireland*, p. 180.

<sup>53</sup> *Report of the commission on the status of women* (Dublin, 1972), p. 7.

workplace either on their marriage or when they had their first child. It seems that the traditional view of men as worker and woman as housewife remained in the minds of Irish people, women included, and if any change was to be made it had to begin with the changing perceptions Irish society had of the roles of men and women.

As well as social and cultural changes taking place, economic changes were also taking hold in Ireland. In 1973 Ireland became part of the European Economic Community (E.E.C.) which had serious consequences for Irish women as well as the Irish economy. By entering the E.E.C. Ireland entered into an agreement to promote and defend democracy throughout Europe. Therefore a number of measures had to pass into law for Ireland to conform to this ideal, however while Ireland eventually did make changes in the area of discrimination toward women, it fought hard to prevent these changes from taking place. Even before the E.E.C.'s existence, the United Nations had tried to promote equal pay for equal work in its declaration of human rights in 1948,<sup>54</sup> as did the International Labour Convention (I.L.O. 100) in 1953.<sup>55</sup> The European Social Charter reaffirmed these rights in 1961.<sup>56</sup> In all of these cases Ireland disregarded the proposals and was the only European country which refused to ratify I.L.O. 100. However in 1973, if Ireland wanted to remain in the E.E.C., it was obliged to accept the conditions of the Treaty of Rome. Clearly, the Irish government decided that the advantages of being a part of the E.E.C. and ensuring the stability of the Irish economy outweighed the benefits of discriminating against women.

Second wave feminism too, began to emerge in society in the 1940s: this phase culminated in Simone de Beauvoir's highly publicised book, *The second sex*,<sup>57</sup> in 1949. De Beauvoir defined women as 'other' and this led to a psychoanalytical study of women and their status, thinking in new ways about women and their position in society. The idealised view surrounding women, de Beauvoir maintained, was why women were 'other' to men – mythologizing women and confining women

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<sup>54</sup> Article 23 of the United Nations Declaration of Human Rights, available at United Nations, <http://www.un.org/en/documents/udhr/index.shtml> [20 May 2011].

<sup>55</sup> *International Labour Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value*, available at University of Minnesota human rights library, <http://www1.umn.edu/humanrts/links/ilo100.html> [20 May 2011].

<sup>56</sup> *European Social Charter*, available at Council of Europe, <http://conventions.coe.int/Treaty/en/Treaties/html/035.htm> [20 May 2011].

<sup>57</sup> Simone de Beauvoir, *The second sex* (London, 1997).

suiting men's 'economic interests...but it conformed also to their ontological and moral pretensions.'<sup>58</sup> This theory conformed to the treatment of women in the Irish context: morally, women were pure and whole, conforming to the Catholic ideal, economically, by defining them by the home and the family, there would be more work for men.

The discrimination against women both inside and outside the workplace had been fermenting for quite some time, on an international and domestic level. As we shall see, Ireland was certainly not unique in its perception or treatment of women. Indeed in most countries, women were subject to discrimination inside and outside the home. On an international scale, as in Ireland, women had been assigned the role of wife and mother and this culminated in a highly publicised and politicised women's movement in the U.S.A. Rallied by the success of the civil rights movement in the 1960s, the women's rights movement campaigned for equality in all areas of life – socially, culturally, politically and economically. Although there was no movement in Ireland on the scale that there was in the U.S.A. and other countries, with the advent of television and a reforming of the Censorship of Publications Act, feminist ideologies and ways of thinking did begin to penetrate Irish society. One instance is an article in the *Irish Times* in 1970 entitled, 'How it works in America'.<sup>59</sup> The article informed the reader of the popularity of the 'women's lib' movement in America; however more interestingly it reported that these movements encouraged women to discuss subjects which were perceived as anathema at the time. Subjects about sexuality and repression were encouraged to "undo" the de-humanising effects of the feminine mystique.<sup>60</sup> Additionally, the *Irish Times* ran a series on women's liberation during 1970 – 71 and the *Late Late Show* also ran a feature on the gradual interest in an Irish women's liberation movement. People, specifically Irish women, began to pay attention to the success of the women's liberation movement in the U.S.A.

The movement began to take hold in Ireland, so much so that even regional newspapers, such as the *Nenagh Guardian*, began to run articles about the liberation movement. Indeed if the *Nenagh Guardian* is taken as an example, it can be argued

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<sup>58</sup> Ibid., p. 171.

<sup>59</sup> This is not the only example, see also, *Irish Times* 6 October 1970 for women's liberation in the U.K., *Irish Times* 9 March 1971 for the Irish women's liberation movement. See also the *Nenagh Guardian* 9 September 1972 and 30 March 1974.

<sup>60</sup> *Irish Times*, 5 October 1970.

that the suffragist movement in the early twentieth century and the women's lib campaign in the latter half of the twentieth century seemed to have an impact in rural areas of Ireland. Articles from the *Nenagh Guardian* from the 1910s demonstrate a practice of reporting on the suffrage movement and suffragette issues. Indeed Nenagh itself had a Women's Suffrage Federation, which held meetings in Nenagh town hall. These meetings were not only advertised in the *Nenagh Guardian* beforehand<sup>61</sup> but also reported on what happened and what was discussed in these meetings.<sup>62</sup> This tradition of reporting on suffragettes seemed to continue into the 1970s: one such article in the *Nenagh Guardian* reported the sixtieth anniversary of the suffragist movement.<sup>63</sup> A reporter, only known as Patricia, featured strongly in women's articles in the *Nenagh Guardian* and she was not the only journalist to report such changes in Irish regions. The *Anglo – Celt* also advertised meetings of the women's liberation movement and the *Kerryman* also featured women's liberation articles.<sup>64</sup>

Informing Irish society about what was happening in other countries provided new ways of thinking about Irish women and the perceived ideas about them. This availability of information, combined with Ireland entering into the E.E.C., provided a mechanism to oblige the Irish government to change the discriminating legislation against women.

In 1974 the Irish government passed the Anti – Discrimination (Pay) Act, making it unlawful to pay women a lower wage than men if women were doing the same work or work of equal value to men. Additionally, if an employer were to attempt to dismiss a woman on these grounds, women were legally entitled to seek redress from the employer in court. This legislation was an important step as it emphasised the inequality of women in Irish society and helped to readdress women's status. The dáil and seanad debates on the anti – discrimination (pay) bill reflected the need to revise women's role in society. 'It is our objective as an administration to allow women to play a full part in the life of the State and to eliminate those barriers which prevent them from doing so.'<sup>65</sup> The government went

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<sup>61</sup> *Nenagh Guardian*, 14 September 1912.

<sup>62</sup> *Ibid.*, 21 September 1912; 3 May 1913.

<sup>63</sup> *Ibid.*, 9 September 1972.

<sup>64</sup> *Anglo – Celt*, 2 March 1973; *Kerryman*, 7 April 1973.

<sup>65</sup> Michael O'Leary, minister for labour, *Dáil Éireann deb.*, cclxx, 2031 (5 March 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0270/D.0270.197403050044.html> [22 October 2010].

further in legislating for women in the workforce when it passed additional acts in 1977.

The Employment Equality Act of 1977 declared that it was ‘an act to make unlawful in relation to employment certain kinds of discrimination on grounds of sex or marital status...’<sup>66</sup> Therefore, not only had the marriage bar been lifted in 1973, it was now unlawful to dismiss a woman (or a man) on the grounds of their sex. Additionally, the Unfair Dismissals Act came into effect in the same year, thereby giving women security in the job sector which they had never had before. It became more difficult to dismiss women, as employers now had to have a proper reason for their dismissal, reasons other than sex, marriage or pregnancy.

All of the dáil and seanad debates surrounding these bills focused on the need to reform society by means of legislation. Indeed women’s status was not only cemented in past legislation but also on people’s perception of women. It is important to note that many women as well as men believed that a woman’s rightful place was in the home, as Brigid Hogan – O’Higgins, T.D. for the Fine Gael party admitted: ‘Women put up with this; so in fact, we are as much to blame as the males in our society.’<sup>67</sup> This may be the reason why the status of women changed so gradually: although in legislation women’s status changed within ten years, it took longer for Irish society as a whole to perceive that women could have a legitimate role other than as wives and mothers or religious.

Additionally, publications such as the Irish Housewives Association annual reports helped to reinforce these assigned gender roles. The Irish Housewives Association published annual reports on specific issues aimed at Irish women and more specifically, Irish housewives. In one such issue there was an article by Eileen Petrie entitled, ‘A woman’s place?’ which focused on working married women. In it she stated that if it was not necessary for a woman to work then she should not, and only if it was out of financial necessity or because of the death or illness of a husband. It was not acceptable to work so as to create material wealth: ‘Those mothers working to achieve a larger house, the latest car or even higher education for their children would do well to accept that the right type of living makes the real

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<sup>66</sup> Employment Equality Act, 1977 (1977/16) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1977/en/act/pub/0016/print.html> [21 October 2010].

<sup>67</sup> Brigid Hogan – O’Higgins, *Dáil Éireann deb.*, cclxx, 2058 (5 March 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0270/D.0270.197403050044.html> [22 October 2010].

home.’<sup>68</sup> Although the author did accept some situations where the woman would be obliged to seek employment, the article reflected the 1937 constitution values of the woman staying at home to care for her husband and children. Nowhere does the author mention the circumstances of unmarried mothers or deserted wives who had no men to support them and their children, rather it was the article’s argument that if working was to the detriment of the child then it should not be pursued at any cost: ‘Basically I shall always feel a woman is meant to have a home and rear a family, and if working is going to impair this aspect of her life, then she should stay out of the business world.’<sup>69</sup>

The outcome of anti-discrimination legislation meant of course more women entering, and remaining, in the workforce, even after marriage and having children. ‘By 1996 there were 488,000 women at work – an increase of 213,000 since 1971...In 1996 half the female workforce was married – 241,400 married women were working outside the home, an increase of more than 600 percent since 1971.’<sup>70</sup> With this increase in the number of working women, the 1937 constitution became almost obsolete in its assumption that women could give no greater service to the nation than staying at home and caring for their husbands and children.

Discrimination against women remained prevalent in Irish society for some time after the introduction of anti-discrimination legislation. Matters did begin to change gradually throughout the 1970s, and the changing status of women affected the changing status of the unmarried mother. However, at the beginning of the century, it is apparent that alongside nuns, the married mother was the ‘ideal’ woman for state and society, and anyone who wished to transgress this social ‘norm’ was to be ostracised. Irish society had a tendency to classify women into two groups. Firstly the married mother who became associated with the Virgin Mary – pure, whole and clean. ‘The ideal of the virtuous and pure woman was critical in providing ideological justification for independence and thus had to be ensured through law.’<sup>71</sup> The dominant religious discourse at the time attempted to promote and emphasise

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<sup>68</sup> Eileen Petrie, ‘A woman’s place?’ in *The Irish Housewife annual report* (Dublin, 1967), p. 19.

<sup>69</sup> *Ibid.*, p. 20.

<sup>70</sup> Goretti Horgan, ‘Changing women’s lives in Ireland’ in *International Socialism Journal*, xci (2001) available at the Socialist review and international socialism journal index, <http://pubs.socialistreviewindex.org.uk/isj91/horgan.htm> [21 October 2010].

<sup>71</sup> Maryann Gialanella Valiulis, ‘Virtuous mothers and dutiful wives: the politics of sexuality in the Irish Free State’ in Maryann Gialanella Valiulis (ed.) *Gender and power in Irish history* (Dublin, 2009), p. 103.

this 'ideal'. It concurred with the perception of the ideal woman either as a celibate member of a religious order, or as wife and mother: unselfish and self sacrificing. By obtaining the support of the Catholic church, the Irish state attempted to force this view on every Irish woman, and those who did not conform to what would now be classed as the 'norm' for women, were treated as outcasts. 'The image of a passive, self – sacrificing mother has strong roots in Irish Catholicism: linked indeed with an image of Mary as a woman who obeyed without question and who devoted her life to the service of her Son.'<sup>72</sup>

The second category of women was situated within this critique. This image was in direct opposition to the Virgin Mary ideal which the Irish government wished to present. The second classification was a dirty, immoral woman who was not to be trusted on any level, indeed, rather than being the virgin she became the whore. This was not only true for unmarried mothers, but any woman who transgressed the social code, including prostitutes and lesbians. A woman who had children outside of wedlock or who was presumed to be promiscuous became classed as a prostitute, a seductress or deceitful. This ideology becomes most apparent in dáil debates:

Those who opposed giving such protection or advantages to the unmarried mother repeatedly spoke of her as 'seductress' and very frequently mentioned the opportunities for blackmail...examples were given of unscrupulous female servants...<sup>73</sup>

This 'virgin versus whore' ideology made it impossible for the unmarried mother to be regarded in a positive light. On the one hand she was a mother, the glorified institution, on the other hand she had had a child out of wedlock, she had no man to support her and no man to define her role as *wife* and mother. It was this second category that received the most attention from both government officials and ecclesiastical leaders. It was such women, it was thought, who were the cause of Irish citizens sliding into immorality. As women were believed to be the central figure in the family, they were also viewed as the cause of all sexual immorality in Ireland, both perceived and real.

The mythical woman was used in many different countries and societies and served to characterise women as soft, emotional, weak and vulnerable. As Helena Streijffert explains, 'The main purpose of the various myths is to support the belief that women are out of place in most contexts outside the traditional domain; that they

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<sup>72</sup> Pat O'Connor, *Emerging voices: women in contemporary Irish society* (Dublin, 1999), p. 87.

<sup>73</sup> Maryann Gialanella Valiulis, 'Virtuous mothers and dutiful wives', p. 112.

are suited for this and no other role...'<sup>74</sup> In Ireland the unmarried mother challenged this ideology by transgressing the social norm and thus it was feared that she would give other women ideas to become sexually liberated, thus attacking the national ideal of Ireland as a pure and moral country. As we shall see in subsequent chapters, the Irish government, with the help of the Catholic church, attempted to prevent illegitimate pregnancy by introducing various laws to discriminate against and confine unmarried mothers.

As women's freedom and more importantly, sexual freedom, became greater, so did that of unmarried mothers. The legislation passed in Ireland in the 1970s promoting women's rights in the workforce was particularly significant, as it gave unmarried mothers the opportunity to earn a living, thereby helping them to keep their children. Prior to this, the likelihood of an unmarried mother obtaining employment other than as a domestic servant was minimal, and so many unmarried mothers did not have the financial resources to care for their children. After the Anti-Discrimination (Pay) Act, 1974, the Employment Equality Act, 1977, and the Unfair Dismissals Act, 1977, unmarried mothers stood a greater chance not only of obtaining employment but also of remaining in it.

The culmination of these acts resulted in the status of the family losing the stronghold it once held in Irish society – the dominant ideology of woman as wife and mother and father as breadwinner became less persuasive. The defining lines between man and woman became more blurred and thus less significant. Children were cared for by nannies, grandparents or went to a crèche or nursery and so the role of mother as carer and moral guardian became less pronounced as others took on these roles.

It is clear from this examination of the status of women that motherhood was an ambiguous and complex concept. Although the term 'mother' in principle meant all mothers, no matter what their social class or position, it is clear from this chapter that this is not what it actually meant. 'Mother' was a term given to married women who had children in wedlock. This narrow interpretation excluded many mothers, including prostitutes and unmarried mothers. By oversimplifying the circumstances of those who violated the 'natural' order and viewing them all in the same light, the Irish government failed to view them as individuals with individual aims and

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<sup>74</sup> Helena Striejffert, 'The women's movement: a theoretical discussion' in *Acta Sociologica* xvii, no. 4 (1974), p. 349.

ambitions. It took nearly a century of changing perceptions and attitudes to understand and view with compassion the woman's and effectively the unmarried mother's circumstances. As the status of the married mother lost its Virgin Mary reputation, unmarried mothers began to be viewed in a different light. Although this change was very gradual and had not fully lifted by the end of the 1970s, this era witnessed a gradually changing Irish society which was becoming more liberated in its outlook.

## **Chapter Two: The Irish Free State and the unmarried mother, 1920 – 39.**

The 1920s was a confusing and disturbing epoch in the twentieth century. As discussed in the previous chapter, the Irish Free State was keen to reorganise itself and create a national image, one which was distinct from that of Great Britain. The Irish government and the Catholic church were both anxious to portray Ireland as an upholder of Christian moral values. The portrayal of the Irish Free State as a Catholic, moral country had ideally to conform to reality. However, this was not easy to accomplish. It will be argued here that the Catholic church and the Irish government, in their attempt to uphold this ideal image of Ireland, impinged on the lives of Irish citizens. There were strict moral codes for Irish citizens, particularly in the area of sexuality, which were defined ultimately by the values and beliefs of the Catholic church and promoted by the Irish Free State. Most people who transgressed these moral codes, were liable to be punished for violating the ‘moral order’ which the Irish Free State embraced at this time. Unmarried mothers were also thought as violating the ‘moral code’, however it must be noted that many unmarried mothers became pregnant because of rape or incest, and as such it was not them who transgressed the moral order but the men who brutalised them. This chapter will examine how in the period 1921 – 39, the Irish state, Catholic church and Irish society treated women who contravened the social and moral order by becoming mothers outside of wedlock, with special attention to legislation in this field.

Sexual morality was a contentious issue for both the Irish state and the Catholic church throughout the 1920s and 1930s. After independence and the Irish civil war, the Irish state and the Catholic church turned their attention toward a perceived decline in moral standards. Lindsey Earner – Byrne has argued in her study on maternity and child welfare that ‘society began to assess the meaning of independence in terms of social and moral order’,<sup>1</sup> and available evidence certainly supports this argument.

A link evolved which connected ‘Irishness’ with morality and some have argued that this was because of the power the Catholic church held within Ireland at this time. However, it can be argued that this association cannot be attributed to the Catholic church alone, as Patrick Corish has claimed: ‘The government was as

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<sup>1</sup> Lindsey Earner – Byrne, *Mother and child: maternity and child welfare 1922 – 60* (Manchester, 2007), p. 173.

anxious as the clergy to preserve what were regarded as traditional values.’<sup>2</sup> This argument is most apparent in the censorship legislation passed in the late 1920s to preserve moral values. The attempt by the Irish state to censor and conceal anything which did not conform to the idealized picture of Ireland was reflected in legislation such as the Censorship of Films Act, 1923, the Censorship of Publications Act, 1929 and government enquiries such as the committee on evil literature, set up in 1926.<sup>3</sup> The aim of censoring and suppressing the often more liberated views of the radio, cinema and literature, resulted in a stricter control of moral conduct. Mary Cullen has described the 1929 Censorship of Publications Act as ‘the apotheosis of the moral crusaders’ and it could be argued that this interest in Irish Catholics upholding conservative values, beliefs and morals resulted in a society and a government which were overly sensitive to issues of sexuality and morality.<sup>4</sup> Any practice of sex before or outside of marriage was regarded with disapproval and so what may have been believed to be declining moral values of Irish citizens may not have been as serious or widespread as some contemporaries believed. This is certainly the case when examining the illegitimacy rates (which both the church and the state seemed to use to measure the ‘moral decline’ of the country) comparative to other countries in Europe. Diarmaid Ferriter in his study on Irish sexuality has argued, ‘The irony of all the focus on sexual morality in Ireland is that it was being conducted in a country where, in terms of official statistics, there was very little [extra – marital] sexual activity.’<sup>5</sup> This chapter will discuss in detail this alleged ‘decline’ in moral standards and the steps taken by both the Catholic church and the Irish state to ensure that Catholic morals would be upheld in society.

In the eyes of the Catholic church sex before marriage was a mortal sin and an illegitimate child was visible proof of the woman’s sins. Thus, for an unmarried mother to keep and support her child in public contravened the moral codes of the country and reflected on the failure of Catholicism in Ireland. Indeed the Catholic church was intent on unmarried mothers not influencing other young women and girls in society, and therefore only ‘legitimate families’ were to be publically encouraged. An article written by an anonymous priest entitled ‘How to deal with the

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<sup>2</sup> Patrick Corish, *The Irish Catholic experience: a historical survey* (Dublin, 1985), p. 244.

<sup>3</sup> The report of the committee on evil literature resulted in the introduction of the Censorship of Publications Act, 1929.

<sup>4</sup> Cullen, ‘Women, emancipation, and politics, 1860 – 1984’ , p. 405.

<sup>5</sup> Ferriter, *Occasions of sin* (London, 2009), p. 103.

unmarried mother' in the 1922 issue of *Irish Ecclesiastical Record*, highlights the importance of this issue: 'This whole subject [of the unmarried mother] is of extreme importance, concerning as it does the preservation of a strict standard of moral life in the nation, and the saving from utter ruin of the faith and the morality of so many Catholic girls.'<sup>6</sup> The article contended that it was in the best interests of all Irish citizens if illegitimacy could be decreased if not eradicated, as it impacted on the moral life of all Irish citizens.

Unmarried motherhood was a social phenomenon that was not unique to Ireland; it was a problem the Catholic church faced in many countries. In 1930 Pope Pius XI issued the 'Casti connubii', a papal encyclical, which primarily discussed the sanctity of marriage and the belief that marriage was a sacred and holy union. In this encyclical the pope condemned the use of contraceptives and abortion. The pope also expressed his views on unmarried motherhood and illegitimacy, declaring: 'We are sorry to note that not infrequently nowadays it happens that through a certain inversion of the true order of things, ready and bountiful assistance is provided for the unmarried mother and her illegitimate offspring (who, of course must be helped in order to avoid a greater evil) which is denied to legitimate mothers or given sparingly or almost grudgingly.'<sup>7</sup> Pope Pius XI failed to understand that the unmarried mothers' situation was far more ambiguous than that of the married mothers. Moira Maguire's study, *Precarious childhood in post-independence Ireland*<sup>8</sup> demonstrates that many families were living in poverty and were economically disadvantaged, however married mothers and families deemed to be 'legitimate' did not have to survive the social stigma which the unmarried mother did; arguably, unmarried mothers required more, not less support, than married mothers. Careful attention should also be paid to Pope Pius XI's declaration of the 'inversion of the true order of things',<sup>9</sup> implying that the unmarried mother and her child were not a natural family structure. For the pope, the 'true order' was the married mother who would maintain her family in a moral and religious setting. An unmarried mother could not comply with this, and since to have a child out of

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<sup>6</sup> 'Sagart' (Irish for priest), 'How to deal with the problem of the unmarried mother' in *Irish Ecclesiastical Record*, xx (1922), p. 152.

<sup>7</sup> Pope Pius XI, chapter 122, Casti connubii, 31 December 1930, available at the *Vatican Archives*, [http://www.vatican.va/holy\\_father/pius\\_xi/encyclicals/documents/hf\\_p-xi\\_enc\\_31121930\\_casti-connubii\\_en.html](http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_31121930_casti-connubii_en.html) [24 March 2010].

<sup>8</sup> Moira Maguire, *Precarious childhood in post-independence Ireland* (Manchester, 2009).

<sup>9</sup> Pope Pius XI, chapter 122, Casti connubii, 31 December 1930.

wedlock was immoral, it was believed that she could not instil Christian moral values into her child.

De Grazia has underlined the importance of the 'Casti connubii' in many Catholic countries, with particular attention to Italy, arguing that it 'was widely regarded as giving firm theological foundation to state policy', particularly with regard to motherhood and the ideology of the family.<sup>10</sup> Indeed the aforementioned attitude expressed by the pope can be seen reflected in the legislation and the values attached to motherhood and family life which permeated Ireland throughout the twentieth century.

Concern with immorality had been fermenting since before the creation of the Irish Free State; however after the civil war this concern became more pronounced. An examination of the *Irish Catholic Directory* clearly demonstrates this view: 'Owing to the distracted state of the country [civil war], there is reason to fear a considerable falling away from temperance'.<sup>11</sup> Dance halls and social evils were perceived as rampant throughout the country at the time. As the 1920s progressed the Irish clergy gradually paid more attention to societal issues, namely amusements and pleasures which were available to young people. In a Lenten pastoral in 1926, Dr. Edward Byrne, archbishop of Dublin, declared, 'In these later years indications are not wanting that the moral fibre of our people has become somewhat relaxed, and that the pleasures of the world have found too large a place in the hearts of our young people.'<sup>12</sup>

However, the issue of 'respectability' and morality was not new to Ireland. The nineteenth century had experienced a growing awareness of class difference and propriety which was exacerbated and enhanced by the prominence of the Catholic church in Ireland from the 1870s onwards. Comerford has concluded that all the churches played a role in the promotion of respectability and the 'moral code', asserting that:

The standing of individuals and communities in the eyes of the world...depended on conspicuous adherence to a strict code of manners and morals...The consequent individual and social discipline was readily

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<sup>10</sup> Victoria de Grazia, *How fascism ruled women Italy 1922 – 1945* (London, 1992), p. 56.

<sup>11</sup> Cardinal Logue quoted in the *Irish Catholic Directory* (Dublin, 1924), p. 556.

<sup>12</sup> Archbishop Byrne in a Lenten Pastoral, *Irish Catholic Directory* (Dublin, 1927), p. 568.

identified by the churches with the Christian moral and spiritual order and promoted accordingly.<sup>13</sup>

Respectability, morals and manners are inextricably linked with ‘Victorian virtues’. This concern for respectability continued into the twentieth century, so much so that it affected the ways in which relief was distributed.

Ireland experienced mass destitution in the famine years, and the relief of the poor brought disapproval from rate payers. ‘Above all, it was the overwhelming burden of the rates in unions where mass destitution prevailed that condemned the poor law system in the eyes of the rate paying critics.’<sup>14</sup> Owing to the number of people seeking relief, there was an attempt to differentiate between the ‘deserving’ and the ‘undeserving’ poor – a practice which originated in the Middle Ages. The ‘deserving poor’, or the so-called ‘respectable poor’, were believed to be destitute through no fault of their own. It was believed that the ‘deserving poor’ were those who if they could work would, if circumstances such as the economic climate or their health, were not working against them. The ‘undeserving poor’ were those who were believed to be those who were lazy or destitute because of their own actions and/or the choices they made. This differentiation between ‘deserving’ and ‘undeserving’ is particularly important in the case of the unmarried mother, believed to be ‘undeserving’ because she had made the choice to have a child out of wedlock.

The issues of morality were also woven into this class distinction, which was reaffirmed by the royal commission’s report in 1901 on poor relief. Gertrude Himmelfarb has highlighted the importance of this document by stating: ‘Yet it was of vital importance, for it reaffirmed not only the institution of poor relief but the *right to relief*’ [emphasis added].<sup>15</sup> The *Report of the royal commission on the poor laws and relief of distress* in 1909 reaffirmed these beliefs. It also split unmarried mothers into three separate classes: the feeble-minded, those who had fallen a first time and ‘the women who have no desire to lead a respectable life’.<sup>16</sup> The report recommended that different relief methods should be provided for different classes, and it stated: ‘Should these recommendations be carried into effect, we confidently

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<sup>13</sup> R.V. Comerford, ‘Introduction: Ireland 1870 – 1921’ in W.E. Vaughan (ed.) *A New History of Ireland: Ireland under the union, II 1870 – 1921* vi (Oxford, 2005), p. xlv.

<sup>14</sup> James S. Donnelly Jr., ‘The administration of relief, 1847 – 51 in W.E. Vaughan (ed.) *A new history of Ireland: Ireland under the union, 1801 – 70* volume v (Oxford, 1989), p. 327.

<sup>15</sup> Gertrude Himmelfarb, *The de-moralization of society: from Victorian virtues to modern values* (London, 1995), p. 130.

<sup>16</sup> *Report of the royal commission on the poor laws and relief of distress* [C4499], H.C. 1909, xxxvii, p. 563.

anticipate a great diminution in the numbers of...illegitimate and degenerate children who are born only for an early death or to become a lasting burden upon the community.<sup>17</sup>

In the late nineteenth century and the early twentieth century many, particularly Catholic people, believed that these illegitimate births were the result of young people going to dance halls. Although they were not a new phenomenon in the early twentieth century, they did become more modern, breaking away from the 'traditional' Irish dances. They also became less controlled and supervised by parents and adults in the community, which of course raised much concern. Throughout the 1920s and 1930s, the bishops and the archbishops of Dublin and Armagh focused many of their Lenten pastorals on the dangers and evils associated with dance halls. Speculation was rife that these dances lasted all night and that the modesty of many Irish girls was being lost at these dances. Indeed as J.H. Whyte has suggested, the clergy were not preoccupied with 'the dances themselves ... as what was likely to happen after them.'<sup>18</sup>

Although the reaction in Ireland to dance halls was marked, Diarmaid Ferriter has argued that it was not in fact unique.<sup>19</sup> In America there was an apprehension about the 'new woman' image which was sweeping the country because of the new dance craze. This unease was due more to what the new jazz dances symbolized rather than the actual dances: 'it [jazz] also symbolized broader transformations in the culture as a whole'.<sup>20</sup> It can be speculated that this unease about what the dances symbolised was one of the primary problems for the Irish state also: the 'frugal living and country homestead' which de Valera had envisaged for Ireland was becoming lost to outside cultural influences of American and English dance. Although the concern surrounding dance halls was not unique to Ireland, it can be argued that the lengths to which both the clergy and the politicians went to attempt to prevent dances and dance halls were certainly extreme, demonstrated by Dr. Thomas O'Doherty, bishop of Galway in 1926, who declared: 'I now formally forbid every Catholic in these dioceses to organise or take part in these Saturday night dances.'<sup>21</sup>

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<sup>17</sup> Ibid., p. 566.

<sup>18</sup> J.H. Whyte, *Church and state in modern Ireland 1923 – 1979* (Dublin, 1980), p. 25.

<sup>19</sup> Ferriter, *Occasions of sin*, p. 178.

<sup>20</sup> Lewis A. Erensberg, 'Everybody's doin' it: the pre World War I dance craze, the Castles, and the modern American girl' in *Feminist Studies*, iii (1975), p. 155.

<sup>21</sup> *Irish Catholic Directory* (Dublin, 1926), p. 561.

However it was not until 1935 that the state attempted to combat these alleged ‘abuses’.

The Public Dance Halls Act, 1935,<sup>22</sup> attempted to prevent unsupervised dances in private houses from taking place because of the perceived abuses which surrounded them. Certainly a rise in illegitimate births was attributed to the rise in popular entertainment and this ultimately led to an attempt to regulate and control popular amusements as much as possible. Many of the problems associated with the dance halls sprang from the lack of parental control surrounding them, especially in rural areas where there was allegedly insufficient policing. This of course had a direct impact on the issue of unmarried mothers as it was argued that many women became unmarried mothers owing to the dance halls. ‘We have in mind the rural dance-hall...conducted with no sort of responsible supervision, a cause of ruin to many innocent girls...’<sup>23</sup> There was also concern about couples and young girls walking home alone after the dances as again, there was a suspicion that many illegitimate pregnancies were the result of these late night walks: ‘...withdrawal from the hall for intervals, and the dark ways home have been the destruction of virtue in every part of Ireland.’<sup>24</sup>

The dance halls were a concern, however, not only for the clergy, but also for much of the public and the government. National newspapers such as the *Irish Times* and the *Irish Independent*, as well as various regional newspapers, published articles on the problems with dance halls and their association with Irish morals. An article published by the *Irish Times* in 1929 was concerned with the lack of morals Irish citizens had and ‘a sheer defiance of all the conventions, from a complete lack of principle, from the deliberate intention to have “a good time” at any cost.’<sup>25</sup>

The illegitimacy rate between 1921 and 1926 (which also coincided with the rise in popular dance halls) was between 1,500 and 1,700 births per annum, that is, between 2.63 and 2.68 per cent of the total births.<sup>26</sup> Of course these were only the registered illegitimate births and so most probably an underestimation of the actual

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<sup>22</sup> Public Dance Halls Act, 1935 (1935/2) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1935/en/act/pub/0002/index.html> [18 October 2011].

<sup>23</sup> Lenten pastoral of the bishop of Achonry, quoted in R.S. Devane, ‘The dance hall’ in *Irish Ecclesiastical Record*, xxxvii (1931), p. 173.

<sup>24</sup> ‘Statement of the archbishops and bishops of Ireland issued at their meeting, held in Maynooth, on 6<sup>th</sup> October, 1925’ in *Irish Catholic Directory* (Dublin, 1926), p. 597.

<sup>25</sup> *Irish Times*, 2 March 1929.

<sup>26</sup> Statistics taken from Appendix v. *Report of the commission on the relief of the sick and destitute poor, including the insane poor* (Dublin, 1927).

numbers.<sup>27</sup> The prevalence of concealment of birth, infanticide, post-conception weddings (also known as ‘shotgun’ weddings) and abortion, evident in court records and newspaper articles, are also factors to consider when examining statistics such as these. Even so, this was not a particularly high illegitimacy rate in comparison to other countries across Europe, although it could be speculated that any sexual activity outside marriage would have been criticised, as it was in direct conflict with the puritan values of the Catholic church and the Irish state. In contrast, England and Wales had an illegitimate birth rate in 1921 of just below fifty per 1,000 live births, which decreased in 1925 to around forty per 1,000 live births, this averaged at a little below five per cent and four per cent respectively.<sup>28</sup> Thus in comparison to Ireland, this illegitimate birth rate was much higher.

Illegitimacy was not only a problem for the Catholic church but also for the Irish state, as unmarried motherhood resulted in more people requiring relief from the government. Although there was no social welfare benefit for unmarried mothers in the 1920s and 1930s, the state did in fact provide capitation grants for several homes for unmarried mothers which were under the control of external authorities. In addition to this, many illegitimate children were boarded out during this period. Although the boarding out system did not provide solely for illegitimate children, but for any dependent child (this term refers to orphans and children whose parents could not support them), the large majority of children who were boarded out were in fact illegitimate. In order to appreciate how costly this process was, for the years 1924 – 28 the boarding out scheme cost the government £121,366 in total.<sup>29</sup> It was also noted in the *Irish Times* that an illegitimate child cost the state £300 per year.<sup>30</sup> Therefore, although there was no direct relief available to unmarried mothers and their children, there was in fact indirect relief. Illegitimacy became a social and economic problem as well as a moral one, which affected both the church and the state. It was a problem that both institutions wanted to prevent, or at least decrease, by whatever means possible, including through legislative means.

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<sup>27</sup> To see the total number of registered illegitimate births between 1922 and 1939 see Figure 2.1, p. 51.

<sup>28</sup> Statistics taken from Kathleen Kiernan, et. al., *Lone motherhood in twentieth century Britain from footnote to front page* (Oxford, 1998), p. 24.

<sup>29</sup> *Annual Report of the department of local government and public health, 1928 – 1929*, (Dublin, 1930), p. 117.

<sup>30</sup> *Irish Times*, 7 September 1928.

Because of the rising concern about morality, a number of enquiries were established under the auspices of the government, of which the two most important for this study were the *Report of the commission on the sick and destitute poor, including the insane poor*, 1927, and the *Report of the committee on the criminal law amendment acts (1880 – 85) and juvenile prostitution*, 1931. While some government officials were involved in these enquiries, a number of members of the public who had experience in the area were also involved, and it was common practice to have representatives from the Catholic church and the Protestant church on such committees to ensure that a rounded and balanced view was represented. The two aforementioned reports investigated, among other things, the ‘moral climate’ of the country. Again, this perceived decline in morality was attributed to the illegitimacy rate in the country and the anxiety surrounding illegitimacy is demonstrated in the various reports and enquiries conducted throughout the country.

The *Report of the commission on the sick and destitute poor including the insane poor*, 1927, found that an affiliation orders act was necessary to accommodate unmarried mothers seeking relief from the putative father as ‘...at present the law gives the man every loophole for escape from the shame and dishonour that is cast upon the woman.’<sup>31</sup> And so the Illegitimate Children (Affiliation Orders) Act,<sup>32</sup> which will be discussed in detail later in this chapter, was passed in 1930. In 1862, the Poor Relief (Ireland) Act, had obliged the father to support his illegitimate child, but because of the opposition to it, this section of the act had been repealed in 1863. Between 1863 and 1930 therefore, the only means of obtaining relief was if a case of seduction was brought against the putative father, in this instance the unmarried mother could not bring the case in her own name, rather her father or employer had to bring the case before the court. Such cases were not generally brought against the putative father and the great majority of cases that were brought before the court were dismissed. It has been observed that ‘in the absence of the father [being] willing to marry them [the unmarried mother], or in the case of the father denying parenthood or simply disappearing, there was little the woman could do except depend on charity.’<sup>33</sup> Therefore, 1930 was the first time in effect that the father’s

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<sup>31</sup> *Report of the commission on the relief of the sick and destitute poor, including the insane poor* (Dublin, 1927), p. 72.

<sup>32</sup> Illegitimate Children (Affiliation Orders) Act, 1930 (1930/17) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1930/en/act/pub/0017/index.html> [18 October 2011].

<sup>33</sup> Ferriter, *Occasions of sin*, p. 55.

responsibilities had been recognised as such. It can be argued that the act may have indicated that attitudes towards illegitimacy and unmarried motherhood were slowly changing.

There had also been many calls for an act such as this in various newspapers which demonstrate the support of the public for such a measure.<sup>34</sup> Various articles and letters to the editor were predominantly sympathetic to the situation of the unmarried mother, which demonstrated a certain level of understanding in Irish society at the time. However the majority of these letters came from people working in fields which made them aware of such women's plight at this time and so they might not have expressed the views of Irish society as a whole. M.J. McKean, honorary secretary of the 'Committee for the reform of the laws relating to the protection of young women and girls' (an organisation set up in Dublin in the 1920s) stated:

The Committee is appealing through the medium of the press in the hope that those who sympathise with the unfortunate girls who have to shoulder alone the shame and disgrace...may be stirred to support the claim for urgent attention to the remedying of this crying injustice.<sup>35</sup>

A dichotomy of views was presented in newspaper articles and letters to the editor. Many were sympathetic to the plight of the unmarried mother. Alternatively, some were anxious about the number of unmarried mothers becoming taxable on the rates, particularly as the number of illegitimate births had been steadily increasing since 1922, reaching a peak in 1934 of just over 2,000 illegitimate births.<sup>36</sup> Another view or belief expressed was that by reducing the financial burden on the unmarried mother, acts of infanticide or concealment of birth might be prevented. 'The care of the child is one of the most important levers in the reformation of the mother, and acts as a deterrent should temptation again assail her...'<sup>37</sup>

Fig. 2.1: Annual no. of recorded illegitimate births in the Irish Free State 1922 - 1939<sup>38</sup>

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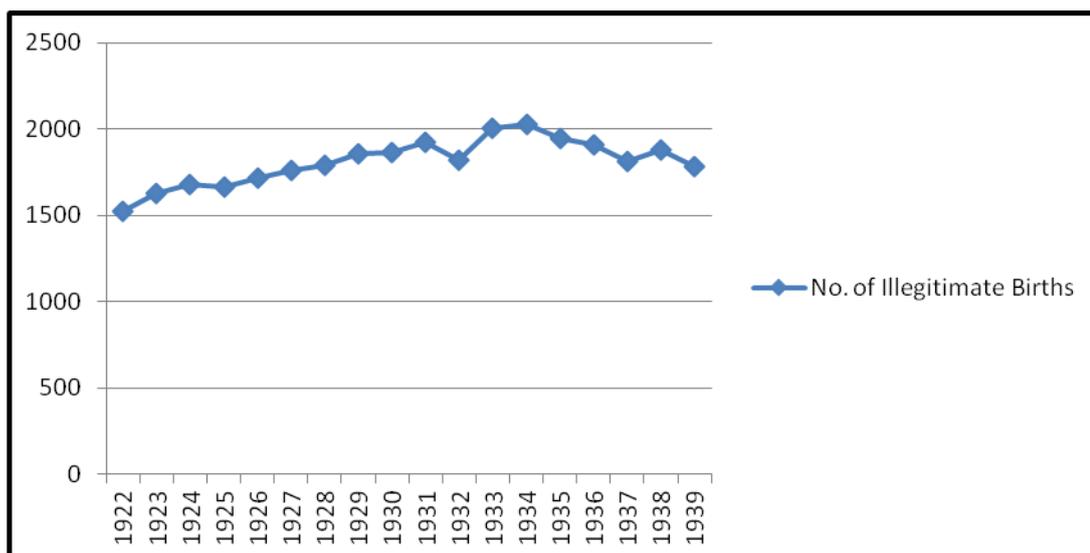
<sup>34</sup> See *Irish Times*, 15 December 1927; 16 December 1927; 3 July 1929.

<sup>35</sup> *Irish Times*, 15 December 1927.

<sup>36</sup> See Figure 2.1, p. 51.

<sup>37</sup> *Irish Independent*, 1 February 1930.

<sup>38</sup> Compiled from statistics taken from Earner-Byrne, *Mother and child: maternity and child welfare, 1922 - 60* (Manchester, 2007), p. 174. These figures are for the recorded number of births only - the actual illegitimacy rate may have been higher.



If the Illegitimate Children (Affiliation Orders) Act, 1930 is examined in closer detail it can be seen that a number of debilitating provisions were also put in place. The most contentious provision in the act was that the unmarried mother had to provide corroborative evidence of a material particular to prove the identity of the illegitimate child’s father. In short, this provision meant that the unmarried mother would need a witness who could prove that the alleged father was indeed the biological father of her illegitimate child. However, it is difficult to understand how another person could prove this when it was explicitly acknowledged in a dáil debate by the minister for justice, James Fitzgerald – Kenney, that ‘No one can have knowledge as to who is the parent of that child except the father and mother.’<sup>39</sup> A year before this statement, the same minister for justice also declared that this provision was ‘a wise precaution, because it would leave open a very wide door for blackmail and false proceedings if corroboration were not required.’<sup>40</sup> It is difficult to understand the intentions of this provision when the statements of the minister for justice were so contradictory. The assumptions about unmarried mothers clouded many of the politicians’ judgment when debating this topic in the dáil and seanad. Many senators and T.D.s were anxious that no man be brought before the court unless he was unquestionably the child’s father.

This provision epitomises how state attitudes toward unmarried mothers obscured justice when attempting to ‘protect’ the illegitimate child. This act’s

<sup>39</sup> *Dáil Éireann deb.*, xxxiii, 126 (12 Feb. 1930), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0033/D.0033.193002120041.html> [16 March 2010].

<sup>40</sup> *Dáil Éireann deb.*, xxxii, 521 (30 Oct. 1929), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0032/D.0032.192910300036.html> [16 March 2010].

primary objective was to maintain and support the illegitimate child, however, during the dáil debates there was a failure to recognise that in order to do this the unmarried mother would also have to be helped. Many people had a stereotypical view of the unmarried mother, they believed her to be promiscuous, unscrupulous and immoral; they did not consider the individual unmarried mother who wanted to keep her child and who would need financial assistance. Dr. Francis Constantine Ward, Fianna Fáil, expressed the belief that ‘the male section of the population will require some protection under the terms of the bill...there is little doubt that some of them [unmarried mothers] would use the powers conferred by this bill for the purposes of blackmail’.<sup>41</sup> It is possible that Dr. Ward was of this view because he thought that some unmarried mothers would bring affiliation orders against a man who may not have been the child’s father. Although some unmarried mothers might have done this, it must also be acknowledged that the reputation of unmarried mothers as a group superseded that of the unmarried mother as an individual and tarnished the reputation of the illegitimate child in the process. Ultimately this provision in the act remained intact in the final drafting and it may be assumed that many unmarried mothers could not bring the putative father to justice because they did not have corroborative evidence, and thus many illegitimate children were left without any maintenance or support from their fathers whatsoever.

Another provision of the act was that unmarried mothers had to bring their case against the father either before the birth or within six months of the birth. The draft originally allowed for twelve months after the birth; however a compromise was necessary as many T.D.s believed that this gave unmarried mothers too much time to form a plan of blackmail. Frank Fahy, Fianna Fáil, suggested: ‘I think there is a slight possibility of blackmail; that a certain type of mother is inclined, in collusion with friends or others, to saddle a man, whom they consider to be a good mark, with the parentage of the child.’<sup>42</sup> There was an underlying fear at this time that unmarried mothers could influence and corrupt ‘respectable’ young girls and that the ‘problem’ would become more prevalent; this argument is certainly borne out by the above statement.

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<sup>41</sup>*Dáil Éireann deb.*, xxxii, 524 (30 Oct. 1929), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0032/D.0032.192910300036.html> [16 March 2010].

<sup>42</sup>*Dáil Éireann deb.*, xxxiii, 129 – 130 (12 Feb. 1930), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0033/D.0033.193002120041.html> [16 March 2010].

Again, this provision reduced the unmarried mother's opportunity of bringing court proceedings against the putative father, and thus the illegitimate child had to suffer the consequences. This can be confirmed when district court records are examined. To bring a case against a putative father, the unmarried mother would first have to summon the man to the local district court. During the court case the complainant, defendant and the corroborative witness would give evidence. If the magistrate was satisfied with the evidence that the mother and the witness provided then he would admit the defendant to be the putative father of the illegitimate child. Costs and maintenance support would then be ordered: on average the defendant would be ordered to pay ten shillings per week for maintenance of the child plus the costs of the court case. In very rare instances, a lump sum would be ordered and when that was paid, the defendant would no longer have to provide for his child. Of course the defendant could appeal his case in the circuit court and at times he would win his case, however in the majority of the cases, the defendant did not appeal. Through this brief description of the court system, it can be clearly deduced that the court case was, in theory, a speedy process, however this was not always the case.

When court records are examined it becomes clear that the court system was in fact a long and sometimes frustrating process. The records which this chapter examines are somewhat new, to the extent that many historians have overlooked them. Certainly, this is the only known study which has examined court records to determine how effective the Illegitimate Children (Affiliation Orders) Act, 1930, was. However, without a full study of the entire country it is difficult to know the exact number of affiliation cases brought before the courts. However, it has been found that between 1940 and 1948 there were 281 cases brought before the Dublin district court, although only 236 cases recorded the judge's ruling on the case and so this chapter will examine these cases only. Of these cases, the majority involved people from the city centre, while the remainder of cases were brought by residents from surrounding suburbs. The Dublin cases were recorded in a book especially for the affiliation cases in the Dublin region: the Dublin district court affiliation orders record book. Cases in the rest of the country, on the other hand, were recorded into the justice's minute books with other cases from the district court; this would suggest that Dublin had a greater number of affiliation cases than the rest of the country. Indeed in the period 1939 – 50 Kildare district court had just seven affiliation cases, of these cases five were approved. In one case the father admitted paternity of the

child.<sup>43</sup> In Gort district court, County Galway, there were just four affiliation cases (two were approved),<sup>44</sup> while in Ballinrobe district court, County Mayo, there was not one affiliation case recorded for the same years.

From this short comparison it can be noted that urban areas had the highest proportion of affiliation cases. Gort and Ballinrobe however, both rural areas, had a very low number of cases. This disparity may be attributed to the fact that in urban areas it was less likely that people would know the unmarried mother than in rural areas which had lower populations. It should be expected that big towns and cities would have a higher proportion of cases because of the tendency of many girls to move to places where they would not be known. The staff at the Regina Coeli Hostel supports this view as they confirmed that the women who sought relief from them came from all over the country: 'They [unmarried mothers] would come from all parts of the country, Donegal, Kerry, Galway, Offaly.'<sup>45</sup> Additionally, it has been found that the presence of army barracks or coastal towns also had higher numbers of illegitimacy due to the prevalence of soldiers in the area. Indeed, Luddy has made this argument in relation to prostitutes in garrison towns, particularly the Curragh, Co. Kildare.<sup>46</sup>

To take Dublin district court as an example, there were many disparities between cases within this period. 122 cases were 'approved' (the judge ruled in favour of the unmarried mother), which is just under half, and all of these cases provided corroborative evidence of a material particular. The remainder of the cases did not, which demonstrates the difficulties these women faced in proving their cases.<sup>47</sup> It is also surprising to note that fifteen of these cases all involved minors, therefore the girl's parents or guardians, usually her father, had to bring the case against the putative father; not all of these cases were approved. Eighteen cases were dismissed because the unmarried mother did not appear; in one of these cases the father did not appear, suggesting that the stigma attached to parenting an illegitimate child did not relate solely to the mother. This was indeed an intimidating process for

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<sup>43</sup> Justice's minute book, Kildare district court, 1939 – 41; 1941 – 45; 1945 – 50, N.A.I. CC/2005/64/165; CC/2005/64/166; DFA/2005/64/167.

<sup>44</sup> Justice's minute book, Gort district court, 1941 – 44 and 1944 – 47, N.A.I. 92/15/134.

<sup>45</sup> Interview with Moira Hayden and Mary Murphy, Regina Coeli Hostel, Morning Star Ave, off North Brunswick Street, Dublin 7, (7 June 2010), see appendix C.

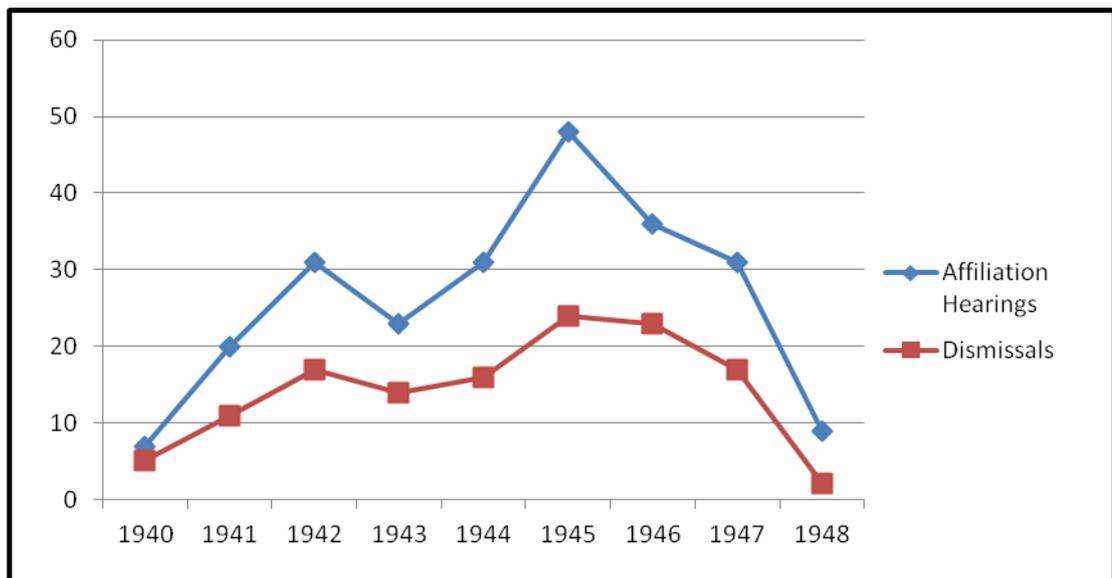
<sup>46</sup> Luddy, *Prostitution in Irish society*; Luddy, *Women and philanthropy*, pp 98 – 105.

<sup>47</sup> A material particular was defined as a witness to the act or some object which could connect the father to the illegitimate child. Most women who were successful had a witness who could confirm that the girl had sexual relations with the accused man.

both parties, particularly as they would have had their names published in the local paper. An examination of a selection of regional newspapers, including the *Meath Chronicle*, *Tuam Herald* and the *Connacht Tribune*, reveals a practice in the 1930s and 1940s of publishing the names and addresses of the people involved and the dates of the court hearings. It was possible that the unmarried mother (if not the putative father), might have felt unable to live in her home town any longer, especially if she was from a rural area of Ireland, as the stigma pertaining to unmarried motherhood would have been too difficult to live with. When the affiliation orders were published in a newspaper it would have been very difficult for the unmarried mother to escape her ‘shame’ and it can be supposed that many unmarried mothers did not take action against the putative father for this reason.

However, the most striking insight to be gained from this investigation is how many cases were adjourned and the number that were adjourned several times. In none of these cases was a reason given for adjourning and they ranged from just once to as many as ten times, demonstrating the long and costly process many women faced, a process presumably which many of these women would have been unable to afford. In fact, on a number of occasions after the cases were adjourned some unmarried mothers either withdrew their case or simply did not appear.<sup>48</sup>

Figure 2.2: Affiliation proceedings and dismissals, Dublin district court, 1940 – 48.<sup>49</sup>



<sup>48</sup> Compiled from statistics taken from the Dublin District Court Affiliation Orders Record 1940 - 50, N.A.I., 2007/36/24 (G).

<sup>49</sup> Ibid., 281 cases in total.

From this evidence one can see that the Illegitimate Children (Affiliation Orders) Act did not succeed in the way that it was, in principle, designed to do. Most unmarried mothers did not use the opportunity available to them and from the provisions put in place one can understand why. Even when women did use this system, it did not always work for them, in fact as the investigation of the Dublin district court records demonstrates, most of the time it did not. As Sandra McAvoy argues, the act

was a step forward to the extent that it provided a mechanism whereby a woman could take action in her own name, but doing so remained an ordeal in a society in which her pregnancy brought disgrace and the legal process was intimidating.<sup>50</sup>

The Illegitimate Children (Affiliation Orders) Act, 1930, was the most important act from this period which directly impacted on the lives of unmarried mothers. However there were many other acts to be considered from this period which affected the lives of these women. We will now turn to the Legitimacy Act, 1931.

The Legitimacy Act, 1931,<sup>51</sup> appeared to epitomise the Catholic church's attitudes towards illegitimacy. The act aimed to legitimize illegitimate children if their parents subsequently married. At first glance this act gives an impression of being enacted for the benefit of the illegitimate child. In some sense it was, as the reputation of being illegitimate would no longer blight the life of the child. The child and the parents would be regarded by the Irish state and the Catholic church as a legitimate family, a family described in the 1937 Irish constitution as 'the natural primary and fundamental unit group of society...a moral institution.'<sup>52</sup> Therefore by marrying, the parents and illegitimate child would become a socially accepted institution.

The act declared that in order to establish the legitimacy of the child, the parents not only had to marry within ten months of the child's birth, but that the paternity of the child had to be established by an affiliation order. The unmarried mother who married the putative father may not have had the same difficulty attempting to prove the paternity of her child, as it is probable that her husband would have admitted paternity. Therefore this provision was a separate issue, as the

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<sup>50</sup> McAvoy, 'The regulation of sexuality in the Irish Free State, 1929 – 1935', p. 260.

<sup>51</sup> Legitimacy Act, 1931, (1931/13) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1931/en/act/pub/0013/index.html> [18 October 2011].

<sup>52</sup> Article 41, *Bunreacht na hÉireann* (Dublin, 1937), p. 136.

primary purpose of the Illegitimate Children (Affiliation Orders) Act was to provide maintenance and support for the illegitimate child. If the parents married then the husband would naturally be obliged to maintain and support the child and so it is not clear why an affiliation order was needed. It is also surprising to note that out of 236 affiliation cases studied, there were only four cases in which the putative father admitted paternity.

Additionally, at least one of the parents had to be legitimate for the illegitimate child to become legitimate, and if the child was conceived as a result of adultery then the child could never be legitimated, as divorce was not recognised in Ireland. Therefore children could only be legitimated along very strict guidelines. These provisions upheld the sanctity of ‘the family’ as they safeguarded the ‘legitimate’ family of the wife, husband and children.

This act clearly upheld Catholic values, as canon law states: ‘Illegitimate children are legitimated by the subsequent valid or putative marriage of their parents or by a re script of the Holy See.’<sup>53</sup> In view of this statement the act was in conformity with the code of canon law and so it upholds Catholic morals, beliefs and teachings. From this law we can surmise that the Catholic church did not believe the illegitimate child to be equal to that of the legitimate child and this may be because of the attitudes towards marriage. The state’s answer to the problem of illegitimacy was of course for the parents to marry: if they did they would become a ‘legitimate’ family. Additionally, the parents would not have another child out of wedlock; as Lindsey Earner-Byrne argues: ‘The Legitimacy Act, 1931 was a logical conclusion of this outlook’.<sup>54</sup> In the Catholic church, marriage was, and still is, a holy sacrament and its primary purpose is to procreate and produce legitimate children. And thus those born out of wedlock were not abiding by canon law and those who transgressed it were perceived as immoral.

The United Kingdom had introduced a Legitimacy Act in 1926 – five years before the Irish act.<sup>55</sup> The U.K.’s version of the act also declared that the parents

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<sup>53</sup> Canon 1139, Book IV, Title VII, Chapter VIII, Code of Canon Law, available at the Vatican Archives, [http://www.vatican.va/archive/ENG1104/\\_INDEX.HTM](http://www.vatican.va/archive/ENG1104/_INDEX.HTM) [18 March 2010].

<sup>54</sup> Lindsey Earner-Byrne, ‘Reinforcing the family: the role of gender, morality and sexuality in Irish welfare policy, 1922 – 1944’, in *History of the Family*, xiii (2008), p. 364.

<sup>55</sup> Legitimacy Act, 1926 (16 & 17 Geo. V, c. 60 [U.K.]) available at Office of Public Sector Information (O.P.S.I.), [http://www.opsi.gov.uk/acts/acts1926/pdf/ukpga\\_19260060\\_en.pdf](http://www.opsi.gov.uk/acts/acts1926/pdf/ukpga_19260060_en.pdf) [10 September 2010].

must marry for the child to be legitimated and so the subsequent marriage of the parents was most probably the most apparent and simple means of legitimating a child. Indeed the British and Irish legitimacy acts were nearly the same – legitimate children ranked from the day of legitimation rather than the day of birth, the child could not be legitimated if it was the result of an adulterous union and the father had to be domiciled in the country. Importantly, the U.K. version of this act also required that an affiliation order be made to prove the paternity of the child. However, the father could also make a statement confirming him to be the father of the child, either when the child was registered, at the time of marriage, or in writing to the registrar-general within one year of marriage. The Irish version was more stringent than the U.K. legislation when legitimising a child, perhaps owing to the assumptions surrounding the Irish unmarried mother. The U.K. act however, also included provisions for inheriting a title of honour – that is, a legitimated child could not inherit such title.

Although both acts are nearly identical in form the Catholic argument cannot be applied to the British case. The United Kingdom did not have a Catholic ethos, its established church was the Church of England. The Church of England, while accepting that marriage was a sacrament, nevertheless did not accord it the same status as the two ‘sacraments of the gospel’, baptism and the lord’s supper.<sup>56</sup> Dáil debates on the Legitimacy Act also suggest that this act was not drafted to bring Ireland into line with Catholic social teaching, albeit the distinct Catholic ethos may have helped its implementation. Rather, the act was introduced for two reasons, firstly, the issue of respectability was a convincing argument. It was thought that by having the parents married they would become a respectable family and thus the stability of society would no longer be ‘threatened’ by social transgressors. Secondly, and more practically, the Legitimacy Act was introduced to bring Ireland in line with international law, Senator Michael Comyn explained: ‘It is intended to bring the law in this country into line with the public law of Europe.’<sup>57</sup> Therefore, the act was drafted to modernise Irish law, as European countries, and more particularly the U.K., were ahead in drafting public legislation. This is a theme that recurs throughout the twentieth century.

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<sup>56</sup> ‘Articles of religion’, *The book of common prayer of the Church of England* (London, n.d.), pp 373-82.

<sup>57</sup> *Seanad Éireann deb.*, xiv, 578 (18 March 1931), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0014/S.0014.193103180010.html> [08 September].

Although the act's Catholic overtones certainly helped it to become law, the act was in fact introduced to provide clear instructions regarding property rights. Prior to this, illegitimate children had no rights in relation to their parents' property; however following the enactment of this legislation, legitimated persons could claim nearly the same rights as their legitimate siblings. Nearly, because although they did have the same rights, the legitimated child would rank as such only from the day he/she was declared to be legitimate, not from the day of his/her birth. From the Catholic perspective it is interesting to note that canon law 114 states that 'As regards canonical effects, legitimated children are equal in all things to legitimate ones, unless the law has expressly provided otherwise.'<sup>58</sup> It is understood that that Catholic church only recognised illegitimate children as equal if the state law expressly stated this to be so, if it did not, then they were only known as legitimated persons. Thus they were not treated as fully legitimate by the state or the church.

Through an examination of this act, state and church attitudes toward illegitimate children can be observed. However these attitudes were not unique to Ireland but also to be found in a number of European countries which enacted similar laws. The U.K. and Irish acts were nearly identical in form, with very few minor differences, and so the Irish state was not alone. It is unfortunate that these children had to become legitimated before the state and the church would regard them as equal to any other citizen. However even in the Irish Legitimacy Act, it was expressly stated that if the child had not been legitimated, he/she could only inherit the mother's property and only on the condition that she had no legitimate children; and an illegitimate child could not inherit the father's property. Ireland continued to lag behind other countries in the legislative context. In 1959 the U.K. brought in another legitimacy act and repealed section one, subsection two, of the 1926 version which stated: 'Nothing in this Act shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born.'<sup>59</sup> However in Ireland, as late as the 1970s, illegitimate children remained unequal to their legitimate counterparts in the law. In a dáil debate in 1974, Senator Mary

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<sup>58</sup> Canon 1140, Book iv, Title vii, Chapter viii, Code of canon law, available at the Vatican Archives, <http://www.vatican.va/archive/ENG1104/INDEX.HTM> [18 March 2010].

<sup>59</sup> Legitimacy Act, 1926 (16 & 17 Geo. V, c. 60 [U.K.]) available at Office of Public Sector Information (O.P.S.I.), [http://www.opsi.gov.uk/acts/acts1926/pdf/ukpga\\_19260060\\_en.pdf](http://www.opsi.gov.uk/acts/acts1926/pdf/ukpga_19260060_en.pdf) [10 September 2010].

Robinson argued that the failure of the law to regard illegitimate children as full Irish citizens was unconstitutional. She stated:

It derives from the failure of our laws at present to live up to the constitutional guarantees and, in particular, the guarantee contained in Article 40.1 of the Constitution that “all citizens shall, as human persons, be held equal before the law”.<sup>60</sup>

This statement would be a fair criticism of how the Irish state, and indeed other countries, regarded illegitimate children throughout the twentieth century as, in practice, illegitimate children were not regarded as equals of legitimate ones.

The aforementioned legislation gave unmarried mothers two options: to marry the putative father, or attempt to obtain maintenance from him. Yet, if the unmarried mother wanted nothing to do with the putative father, or vice versa, and yet wanted to keep her child, there were very few options left to her except to rely on her family or public assistance from the state.

Historically, the workhouse was the primary option for the unmarried mother. Paul Gray and Liam Kennedy have highlighted the importance of the workhouse, particularly in the years after the Famine. In a case study of Kilrush, County Clare, Gray and Kennedy found that Kilrush had an inordinately high illegitimate birth rate in the post-famine era in comparison with other towns in the west of Ireland. However a closer study of the area shows that this was linked to Kilrush workhouse:

Whilst workhouse illegitimacies constituted only 7 per cent of all illegitimacies in the period 1850-54, this jumped to 70 per cent in the 5 years that followed...But if workhouse illegitimacies are removed, then illegitimacy in Kilrush falls back towards levels more characteristic of the west of Ireland parish.<sup>61</sup>

Kilrush was not unique to this process; the *Return of the number of women having illegitimate children; and also of the number of illegitimate children relieved in each of the several poor-houses of Ireland during the half year ending the 29<sup>th</sup> day of September 1845* shows that 3,688 illegitimate children and 2,091 unmarried or

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<sup>60</sup>*Seanad Éireann deb.*, lxxix, 55 (04 Dec. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0079/S.0079.197412040009.html> [16 March 2010].

<sup>61</sup> Liam Kennedy and Paul Gray, ‘Famine, illegitimacy, and the workhouse in Western Ireland: Kilrush, County Clare’, in Alys Levane et. al. (eds.) *Illegitimacy in Britain, 1700 – 1920* (New York, 2005), p. 130.

expectant unmarried mothers were received by workhouses in Ireland.<sup>62</sup> However in the years after independence the workhouse system was drastically overhauled.

Throughout the course of 1921 and 1922 the workhouse system was abolished and the Local Government (Temporary Provisions) Act, 1923<sup>63</sup> provided for a county scheme which was intended to be a temporary measure until 1924. The reasoning behind the abolition of the workhouses was varied. Originating in the 1840s, and housing some of the worst cases of poverty and starvation during the famine years, the workhouses were associated with poverty, hunger, and desperation. On account of this recurring theme of stark poverty, the system was abolished and changed to the county home in the early 1920s: ‘The workhouse was the sole refuge of vagrants...and being largely availed of by these classes came to be regarded with abhorrence by the respectable poor, amongst whom relief in a workhouse carried with it an enduring stigma.’<sup>64</sup> The workhouses were also a legacy of the British system, and it was found that not only was the cost of this system excessive, but also that the workhouse system had become obsolete – it needed to be amended to suit the necessity of each individual county.

The government was reluctant to allow unmarried mothers to avail of the new service; however legally they could not be prevented from doing so. As in the nineteenth century, no special provision was made for the unmarried mother within the county homes, and so they were housed alongside married mothers and the ‘respectable poor’, which was not deemed beneficial for the other women. Again, concern was widespread that they could influence the other women in the county homes. In addition to this, with the possible exception of visits from the clergy, there was no provision for moral reform, and thus it was believed that unmarried mothers could not be reformed in such an institution.

There were many attempts by the government throughout this epoch to establish an efficient local government and relief scheme for the poor. These

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<sup>62</sup> *Return of the number of women having illegitimate children; and also of the number of illegitimate children relieved in each of the several poor-houses of Ireland during the half year ending the 29<sup>th</sup> day of September 1845, 1846 (79)*, available at the House of Commons parliamentary papers online, [http://gateway.proquest.com/openurl?url\\_ver=Z39.88-2004&res\\_dat=xri:hcpp&rft\\_dat=xri:hcpp:rec:1846-023597](http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1846-023597) [08 September 2010]. This figure is for the whole of Ireland.

<sup>63</sup> Local Government (Temporary Provisions) Act, 1923, (1923/9) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1923/en/act/pub/0009/index.html> [18 October 2011].

<sup>64</sup> *First report of the department of local government and public health during the lifetime of the fourth Dáil, 1922 - 1925* (Dublin, 1927), p. 52.

attempts came in the form of the various local government acts of 1925, 1927 and 1931 and public assistance acts of 1934, 1937 and 1939. All attempted to give greater scope in providing relief to the poor through both institutional and outdoor means. The 1937 Public Assistance Act<sup>65</sup> in particular was important as it allowed the minister for local government and public health to provide assistance to societies which provided relief for the poor.<sup>66</sup> It was the 1939 Public Assistance Act,<sup>67</sup> however, which was the most extensive in its scope.

By 1939 the Local Government (Temporary Provisions) Act, 1923, was still in place and had become out of date and impractical. The Public Assistance Act, 1939, was drafted to ensure that the poor were provided with the relief needed, either through institutional care or home assistance. The act abolished the county scheme authorities of 1923 and set up public boards of assistance to provide relief to the poor. More importantly, the act allowed for greater scope in setting up homes and institutions and this was one of the provisions which was greatly welcomed in the dáil:

So long as miscellaneous sections of the community are herded together in those institutions, I think the system is altogether wrong. I think the bill will be doing some good if it enables the Minister to reform that system, if it enables the minister to separate the various types of people who are at present committed to the county homes and have them treated in institutions specially designed to give them the most effective treatment.<sup>68</sup>

However, as this statement demonstrates, this provision was avidly welcomed more on account of the class issue which the county home presented than because separate institutions could give people the best possible care. Cogan continued: ‘Decent people who have worked all their lives and who have been in the habit of earning their living cannot be expected to go into an institution, no matter by what name it is called, so long as that institution is also open to other sections of the community.’<sup>69</sup> It was agreed that special homes would be created for unmarried mothers because such homes could not only attend to unmarried mothers’ particular needs but

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<sup>65</sup> Public Assistance Act, 1937, (1937/2), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1937/en/act/pub/0002/index.html> [18 October 2011].

<sup>66</sup> ‘Societies’ can be interpreted as both religious and secular.

<sup>67</sup> Public Assistance Act, 1939, (1939/27), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1939/en/act/pub/0027/index.html> [18 October 2011].

<sup>68</sup> Patrick Cogan, *Dáil Éireann deb.*, lxxvi, 555 – 556 (06 June 1939), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0076/D.0076.193906060009.html> [8 September 2010].

<sup>69</sup> *Dáil Éireann deb.*, lxxvi, 556 (06 June 1939), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0076/D.0076.193906060009.html> [8 September 2010].

additionally they would give the unmarried mother an alternative to the county home and therefore separate her from the ‘respectable poor’.

Historically, institutional forms of relief were favoured by both the government and the church. Most probably originating from the prison system in the nineteenth century, rehabilitation and reform were regarded as the favourable option as it was hoped that the convicts could become respectable and active citizens. Mountjoy prison was regarded as a model institution which had a separate sector for female prisoners. Yet, the institutional mode of relief originated more particularly from the reformatories which were built to house certain convicts who were near the end of their sentences and who could spend the remainder in a reformatory – these included convicts with illegitimate children. There were both Catholic and Protestant reformatories, and the Catholic reformatory in Goldenbridge was particularly successful. Built in 1856, St. Vincent’s Reformatory was run by the Catholic organisation, the Sisters of Mercy, and 1,500 convicts passed through its doors throughout its lifetime. The female prisoners would be trained in domestic work such as laundry duty and needlework in an attempt to train them for life outside the institution. Indeed the *Preliminary report of the royal commission appointed to inquire into the administration, discipline and condition of prisoners in Ireland, 1884 - 85* reported a degree of success in the rehabilitation practice of the reformatories. The lady superioress, Mother Kirwan, gave evidence that some of the girls wrote to her about their new lives, often abroad.<sup>70</sup> To contextualise, these reformatories were somewhat based on the workhouse system and appear to be the forerunners of the Magdalen laundries. Certainly a domestic training and rehabilitative ethos were adopted into such institutions and it appears that no real advancement was made in this system throughout the twentieth century. The only difference was the length of time the women would have to stay for, which was voluntary in the nineteenth century and a minimum of two years in the twentieth century.

Because first offenders were thought to be amenable to reform, it was believed that the unmarried mother and her illegitimate child could be ‘saved’. The illegitimate child could be boarded – out or fostered with a ‘respectable’ family, and

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<sup>70</sup> Sister Magdalena Kirwan, cited in: ‘Royal commission of enquiry on penal servitude (1884-5)’, in Angela Bourke (ed.), *The field day anthology of Irish writing: Irish women’s writing and traditions* (New York, 2002), p. 760.

the unmarried mother could then be reinstated back into her old life. And so, under the various public assistance acts, a number of homes were opened up to specially cater for the unmarried mother and her illegitimate child.

Mother and baby homes were set up in Bessborough, County Cork in 1922, Roscrea, County Tipperary in 1930, Castlepollard, County Westmeath in 1935, and Dunboyne, County Meath in 1955. All of these mother and baby homes, with the exception of Dunboyne, were run by the Sisters of the Sacred Heart of Jesus and Mary. Dunboyne, on the other hand, was run by the Good Shepherd Sisters. These homes, known as extern institutions, were provided with capitation grants by the government. Additionally, there were also homes known as auxiliary homes in Tuam, County Galway, Pelletstown, County Dublin and Kilrush, County Clare, all of which provided for the unmarried mother and her child. These were provided with financial aid through the local rates. Other such homes include the Navan Road, Dublin, run by the Sisters of the Charity of St Vincent de Paul. Although most homes received financial aid from the state in some form, various religious orders were left in charge of them. Therefore there was virtually no government involvement in either the mother and baby homes or the auxiliary homes, and thus no legal sanctioning for them. It was believed that nuns and religious orders were the best people to run such homes as they could aim to rescue and reform these 'fallen' women and help them get their old lives back; indeed this belief originated in the nineteenth century with the establishment of Magdalen homes designed primarily for the care of prostitutes. All of these institutions specifically catered for the unmarried mother, however only first offenders could avail of these services as it was believed that this class of woman was amenable to reform, therefore many unmarried mothers with more than one illegitimate child were left at the mercy of the county home.

The mother and baby homes were established to provide unmarried mothers with rehabilitation to ensure that they would not 'fall' a second time and so that they could be restored back to their 'normal' life. 'The Sisters [of the Sacred Heart of Jesus and Mary] believe they can influence those cases best by keeping them dissociated from those who have lapsed a second time or oftener.'<sup>71</sup> Because these women had only 'fallen' once it was agreed that they could attempt to avoid the stigma of being the mother of an illegitimate child if they went into one of the

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<sup>71</sup> *First report of the department of local government and public health, 1922 – 1925*, (Dublin, 1927) p. 56.

institutions available, stayed until their child was old enough to be boarded out or fostered and then return to their families. Although the regime could be harsh and centred around the Catholic religion, it must be acknowledged that these homes provided the unmarried mother with the shelter and accommodation which in some cases could not or would not have been provided for them in their own homes.

No legislation was passed requiring unmarried mothers to be sent to these homes or to keep them there for any specific length of time. Often it was parents, doctors, or priests who sent these women to institutions where they could be 'hidden' from society. However it must be noted that because of the unmarried mothers' precarious social position, it is possible that many families did not send away their daughters or sisters who became pregnant out of wedlock, but kept them at home. Although it is impossible to know how common this practice was because of the secrecy surrounding the issue, it does seem likely that many families defied the social conventions and took care of the unmarried mother and her child. It is possible that many illegitimate children were brought up by their grandparents as one of their children; the person thought by the child to be its mother was in fact its grandmother. Indeed one of the interviewee's for this thesis recalled that this practice was employed in his own family:

So for the purpose of the census they [his family] are claiming that she [the illegitimate child] ... is the daughter of her own grandmother, which was a common thing to do.<sup>72</sup>

This practice must be recognised as a way of keeping a family together while also escaping from the social stigma which the family would have to endure otherwise. It can also be speculated that as the century progressed this problem gradually became less wrapped up in secrecy and less necessary as unmarried motherhood became more accepted in society.

Possibly because of the prevalence of unmarried mothers staying in county homes and in light of the 1927 *Report of the commission of the sick and destitute poor, including the insane poor*, the Registration of Maternity Homes Act came into operation in 1934.<sup>73</sup> The report investigated every county and analysed its ability to provide institutional relief. It was found that the majority of county homes were

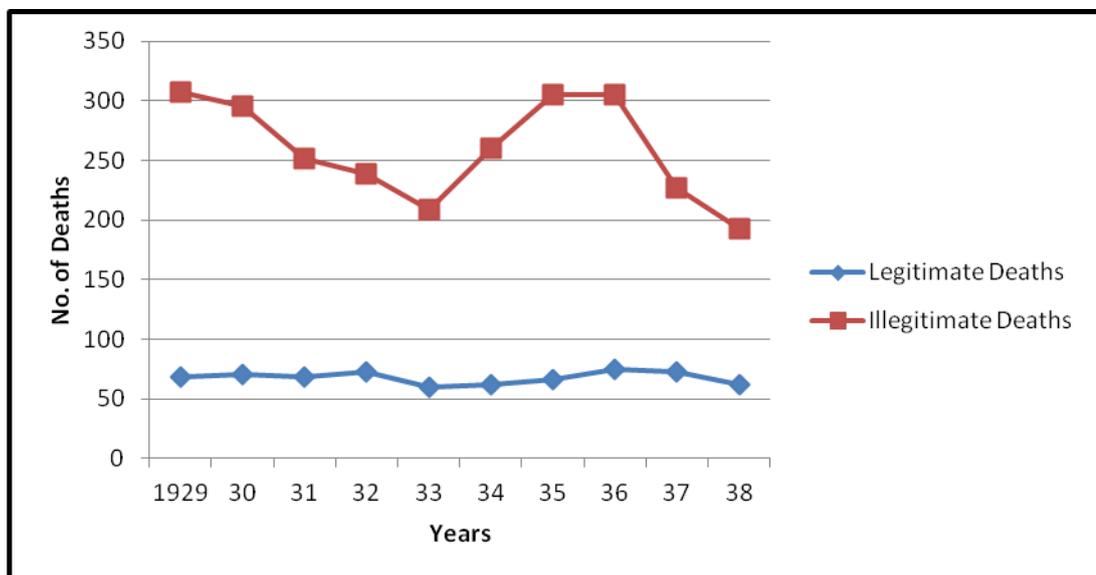
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<sup>72</sup> Interview with Stephen Lalor, 3Kennilworth Lane, Rathmines, Dublin 6 (23 Nov. 2010), see appendix F.

<sup>73</sup> Registration of Maternity Homes Act, 1934, (1934/14), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1934/en/act/pub/0014/index.html> [18 October 2011].

overcrowded, in a bad state of repair, and did not have sufficient facilities to provide for the number of unmarried mothers and their children seeking relief.<sup>74</sup> The high illegitimate infant mortality rate throughout the 1920s and 1930s can be directly linked to the inability of the county homes to provide sufficient care. The department of local government and public health published annual reports and in its 1929 – 30 report it was noted that in the year 1928 out of every 1,000 illegitimate children born, 307 died before their first birthday. In 1929 the number fell to 295 per 1,000 illegitimate births, however it still remained high, compared with that of legitimate children (see fig. 2.3).<sup>75</sup>

Figure 2.3: Legitimate and illegitimate infant mortality rates in the Irish Free State, 1929 – 38.<sup>76</sup>



The purpose of the Registration of Maternity Homes Act was for the government to have tighter control of maternity homes so that they could be run in a proper and sufficient manner.<sup>77</sup> It was acknowledged in a seanad debate by Dr. Francis Ward, parliamentary secretary to the minister for local government and public health, that ‘the Commission [of the sick and destitute poor, including the insane poor] drew attention to different evils which they traced to the poor-class maternity homes, or to the not too scrupulous management of those homes...’<sup>78</sup> And so from this evidence it can be seen why this act was seen as a necessary piece of

<sup>74</sup> *Report of the sick and destitute poor, including the insane poor* (Dublin, 1927), pp 13 – 50.

<sup>75</sup> *Annual report of the department of local government and public health, 1929 – 30*, (Dublin, 1931) p. 34.

<sup>76</sup> Compiled from statistics taken from annual reports from the department of local government and public health, 1929 – 39.

<sup>77</sup> For the number of maternity homes which this act encompassed see below, Fig. 4.4, p. 27.

<sup>78</sup> *Seanad Éireann deb.*, xviii, 979 (11 April 1934), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0018/S.0018.193404110008.html> [04 April 2010].

legislation. The act not only provided for the control of maternity homes but for the inspection<sup>79</sup> and upkeep of records of the reception, discharge and confinement of mothers, births, deaths, removal of children, and the addresses they were removed to.<sup>80</sup> These records were kept in an attempt to prevent the illegal fostering of illegitimate children and to decrease the high mortality rate among illegitimate children. Therefore as we can see from this examination this act was apparently a comprehensive piece of legislation which went a long way towards providing for mothers and their children.

However, this act did not apply to charitable institutions and maternity homes that were not run for profit, which would of course apply to most religious and government-run homes: 'It is very desirable to leave that discretionary power with the minister, having in mind mainly the charitable institutions that the minister might consider could be very well left out of the scope of the bill.'<sup>81</sup> The various Magdalen asylums, and the mother and baby homes would have been exempt as these were officially not – for – profit organisations. It seems that the government thought that only the commercially-run organisations needed to be monitored. In fact, both types would have been susceptible to bad and unhygienic practices. In addition both would have been susceptible to the illegal fostering of illegitimate children, which it was one of the primary objectives of the bill, supposedly to prevent. However, this provision reflected the attitude the state held at this time: charitable and religious organisations were the most appropriate agencies to run these homes

In effect, the Registration of Maternity Homes Act, 1934, did ultimately ensure that maternity homes registered under the act were properly equipped to care for women during and after childbirth. As some unmarried mothers used these homes then it did ensure that those unmarried mothers obtained the best medical treatment that could be provided. On the other hand, it could also be argued that by overlooking the charitable institutions the government in fact gave such institutions carte blanche when caring for unmarried mothers and their babies, and in hindsight, this may not have been the wisest decision. Indeed as fig. 2.4 demonstrates below, most counties each had less than ten maternity homes registered by the local

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<sup>79</sup> Preamble of the Registration of Maternity Homes Act, 1934, (1934/14) available at, the Irish Statute Book, <http://www.irishstatutebook.ie/1934/en/act/pub/0014/print.html> [21 April 2020].

<sup>80</sup> Section 10 of the Registration of Maternity Homes Act, 1934, (1934/14) available at, the Irish Statute Book, <http://www.irishstatutebook.ie/1934/en/act/pub/0014/print.html> [21 April 2010].

<sup>81</sup> *Seanad Éireann deb.*, xviii, 983 (11 April 1934), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0018/S.0018.193404110008.html> [04 April 2010].

authorities – only big cities and counties, such as Cork, Dublin and Tipperary, had more than ten maternity homes registered. Thus, in the case of the unmarried mother there were in fact very few homes that she could use which were registered to be sanitary and safe – the maternity homes which the unmarried mother was more likely to use were under the exemption clause. The exemption clause was also another example of church autonomy within the state; because these maternity homes were primarily run by religious institutions it was believed that ‘fallen’ women were in the best care possible. Additionally, the act did not succeed in lowering the illegitimate mortality rate which remained high throughout the century. There are a number of possible explanations for this. Firstly, because the Registration of Maternity Homes Act, 1934, failed to enquire into not – for – profit and charitable homes, comparatively few illegitimate children benefitted from the act. Secondly, as Mary Murphy from the Regina Coeli Hostel noted, there was a high rate of infant mortality among illegitimate children because of the unmarried mothers’ diet.<sup>82</sup> many children were malnourished. Thirdly, in 1939, the League of Nations attributed the high mortality rate to the unmarried mothers’ social and economic position: ‘The reasons for this higher rate [of infant mortality] are obvious: it is partly due to the less favourable legal status of the unmarried mother and the illegitimate child, partly to the social and economic consequences of this unfavourable position.’<sup>83</sup> Therefore the illegitimate infant mortality rate arose from more complex factors rather than simply from the unsanitary conditions of various maternity homes, and thus the act alone would never have succeeded in lowering the rate.

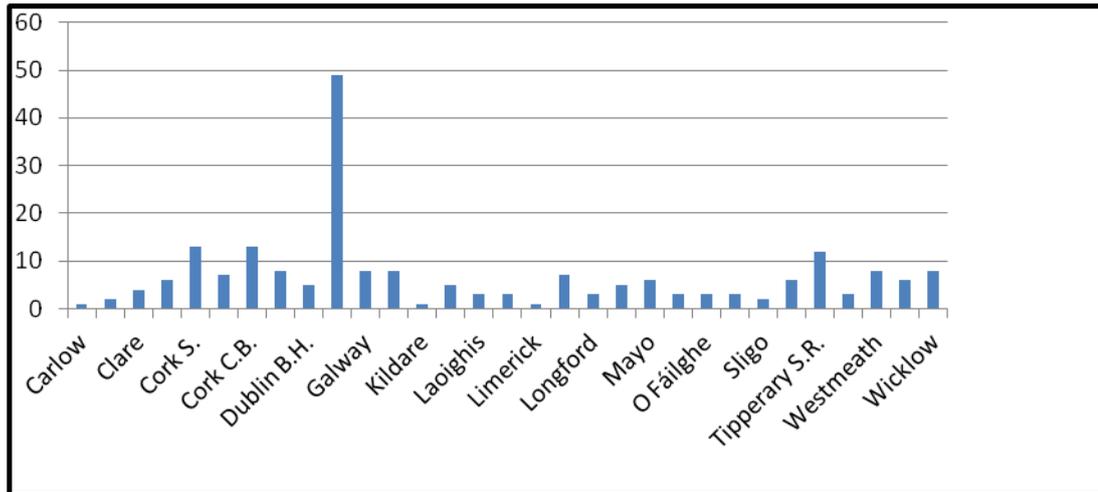
Figure 2.4: No. of maternity homes registered by local authorities 1937 – 38.<sup>84</sup>

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<sup>82</sup> Interview with Moira Hayden and Mary Murphy, Regina Coeli Hostel, Morning Star Ave, off North Brunswick Street, Dublin 7 (7 June 2010).

<sup>83</sup> League of Nations, *Study on the legal position of the illegitimate child* (Geneva, 1939) p. 111.

<sup>84</sup> Taken from the *Annual report of the department of local government and public health, 1937 – 38* (Dublin, 1939), p. 376.



Throughout the 1930s concern about the sexual morality of Irish citizens continued to ferment, and the resultant feature of this rising concern in sexual morality was the *Report of the committee on the criminal law amendment acts (1880 – 85) and juvenile prostitution*, also known as the Carrigan report, so called after the chairman, William Carrigan, K.C. a retired senior barrister. He was asked by the minister for justice to chair such a committee, most probably because of the experience he would have had in the area of sexual cases through his background in law. Indeed the prevailing thought of the 1920s and 1930s was reflected in the final report when the perceived intrinsic connection between illegitimacy and criminality was clearly expressed:

Though our enquiry was not directly concerned with the question of illegitimacy, we felt it necessary to make it a subject of enquiry, as illegitimacy must be regarded as one of the principal causes of the species of crime and vice...<sup>85</sup>

This statement demonstrates a popular attitude throughout the country at the time; illegitimacy was not a simple consequence of sex before marriage, rather it was a cause of sexual crime, most particularly, as a result of prostitution. Indeed, this perceived link between unmarried motherhood and prostitution, especially if the unmarried mother had more than one illegitimate child, can be reflected in the practice in workhouses and county homes of separating certain classes. Where this was practicable then the unmarried mothers would generally be segregated with prostitutes, a practice that inferred that unmarried mothers and prostitutes were one

<sup>85</sup> *Report of the committee on the criminal law amendment acts (1880-85) and juvenile prostitution* (Dublin, 1931), p. 8.

and the same. Maria Luddy argues that ‘This conflation of prostitutes with unmarried mothers was to last well into the twentieth century.’<sup>86</sup>

The Carrigan report had been on the political agenda for some time, and changes to the criminal law amendment acts had already been made in England, Northern Ireland and Scotland in the years 1922, 1923 and 1928 respectively. Therefore legislation was long overdue. The Criminal Law Amendment Act, 1935,<sup>87</sup> was the result of the Carrigan report and it endeavoured to make provision for the protection of young girls. This intention stemmed not only from the rising illegitimacy rate but also from the inadequacy of the law in connection to criminal vice. This was an important aspect as it can be speculated that many illegitimate children were the result of rape; however many perpetrators were not brought to justice because of the shame and disgrace an illegitimate birth evoked, even when it was a result of sexual crime. It was acknowledged in the Carrigan report that: ‘many cases of the defilement of girls go unpunished, because the victims are unwilling to prosecute...When a birth takes place, a prosecution of the offender is statute barred under the present law.’<sup>88</sup> The ensuing legislation provided that ‘whosoever shall be convicted of any indecent assault upon any female shall be liable...to imprisonment for any term not exceeding two years...’<sup>89</sup> Through this provision, not only unmarried mothers, but also any girl who was sexually assaulted would at least have the prospect of justice.

The Criminal Law Amendment Act, 1935, provided for a number of changes in the law, most particularly: it raised the age of consent to seventeen years; prohibited the sale and importation of contraceptives; defilement of a girl under fifteen would be regarded as a felony, and defilement of a girl between the ages fifteen and seventeen would be regarded as a misdemeanour.<sup>90</sup> All of these provisions were put in place in an attempt to protect young girls, to conserve the moral well – being of Irish citizens and, albeit indirectly, to lower the rate of illegitimacy. It is difficult to measure how effective this act was in protecting young

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<sup>86</sup> Luddy, *Prostitution and Irish society, 1800 -1940*, p. 59.

<sup>87</sup> Criminal Law Amendment Act, 1935, (1935/6), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1935/en/act/pub/0006/print.html> [18 October 2011].

<sup>88</sup> *Report of the committee on the criminal law amendment acts (1880-85) and juvenile prostitution*, p. 22.

<sup>89</sup> Section 6 of the Criminal Law Amendment Act, 1935, available at, the Irish statute book, <http://www.irishstatutebook.ie/1935/en/act/pub/0006/print.html> [22 April 2010].

<sup>90</sup> Criminal Law Amendment Act, 1935, available at, the Irish Statute Book, <http://www.irishstatutebook.ie/1935/en/act/pub/0006/print.html> [22 April 2010].

girls from sexual vice, however it can be argued that it was not successful in lowering the number of illegitimate births. In 1935 the number of illegitimate births was 1,946, and although it did decrease between 1936 and 1940 to 1,908 births and 1,824 births respectively, the rate sharply rose in 1942 to 2,419.<sup>91</sup> This sharp increase may also be attributed to the Second World War, as travel restrictions resulted in unmarried pregnant women being unable to travel to England to have their babies, therefore many would have been forced to remain in Ireland.

It is clear that the law did little to help unmarried mothers. It was stated in the introduction to this thesis that as time passed and society changed, laws and legislation would also have to change, however in this period this statement unfortunately does not ring true. In 1909 it was argued that ‘There is perhaps no more difficult problem in poor law administration than the treatment of unmarried mothers, and none in which discriminating methods might have greater results.’<sup>92</sup> This attitude prevailed into the 1930s. Indeed not only did the Catholic church condemn the unmarried mother for transgressing the Catholic moral code, the Irish state put provisions in place to make it as difficult as possible for the unmarried mother to keep and maintain her child. The Irish state regarded the mother not only in moral terms but also in socio-economic terms and legislated for the benefit of the state rather than the unmarried mother or her illegitimate child. Through the Illegitimate Children (Affiliation Orders) Act, 1930, the state attempted to ensure that it would not be financially liable for the cost of the illegitimate child: in principle, the putative father would be. However this act did not work to the benefit of the unmarried mother and ultimately it did not work to the state’s benefit either. Acts such as the Legitimacy Act, 1931, the Registration of Maternity Homes Act, 1934, and the Criminal Law Amendment Act, 1935, concurred with the ideology of the state at the time. In introducing these policies the state was attempting to ensure the ‘welfare’ of its citizens, but whatever the intentions of the Registration of Maternity Homes Act, 1934 and the Criminal Law Amendment Act, 1935, they had very little practical effect on the unmarried mother. The maternity homes which came under the register, although they would have been used by some unmarried mothers, would not have been used by the majority, as many such women would have been unable to pay for a private home. The Criminal Law Amendment Act,

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<sup>91</sup> All statistics taken from Lindsey Earner-Byrne, *Mother and child*, p. 174.

<sup>92</sup> *Report of the royal commission on the poor laws and relief of distress*, p. 563.

although taking progressive steps to allow for those convicted of a sexual crime to be brought to justice, did not necessarily take into account the unlikelihood of the unmarried mother coming forward as a victim of sexual crime. Although the law did need to be changed, the court and legal system also needed to be reformed as it was a long, embarrassing and intimidating process for the unmarried mother.

The relief that unmarried mothers did benefit from was one which the state did not want her to avail of: the county home. These former workhouses provided the unmarried mother with regular, although basic, food and shelter, and she could voluntarily leave the institution if she so wished. However the issue of class and respectability prevailed and the mother and baby home or the Magdalen Asylum became the only state – and church – endorsed methods of relief for the unmarried mother. The Catholic church was deemed to be the best organisation to care for and reform the unmarried mother, and ultimately the Irish state abdicated its responsibility of care to it. These women were regarded as in need of reform and it was believed that if they were not cared for in an austere manner then it was likely that they would fall again. Indeed this was the ultimate aim of the services toward the unmarried mother: the prevention of falling a second time.

Shane Kilcommins argues that:

...this was a period that has become synonymous with the establishment of a narrow moral code, a 'preoccupation with sex (and) the virtual equation of immorality with sexual immorality' among the Catholic hierarchy and an identification of the Irish state with a Catholic system of values.<sup>93</sup>

However, this chapter demonstrates that Ireland was not as 'unique' as some historians have attempted to argue. Much of the Irish legislation was based on British or European legislation, and so the beliefs and attitudes toward sexuality, unmarried motherhood and illegitimacy were held not only by Irish people but by post – war Europeans on an international level. Concern in Ireland was intensified by the coincidence of winning independence at this particular time, and by the need to establish a sense of national identity, in which both church and state played a part. In the majority of cases, if not all, Ireland's legislation was behind that of other countries and indicating that it was slower at realising the needs of the unmarried mother and her child. The next chapter will find that Ireland attempted to progress in line with other European countries in the legislative arena; however whether this

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<sup>93</sup> Shane Kilcommins, et. al., *Crime, punishment and the search for order in Ireland* (Dublin, 2004), pp 81 – 82.

attempt gave the unmarried mother more legal rights and entitlements is questionable.

### **Chapter Three: A welfare state, 1940 – 69, for the unmarried mother?**

The post – war era was defined by a move towards the creation of welfare states in western Europe. After 1945 and the devastation of the Second World War, many European countries began providing welfare for their citizens and promoting this welfare as a ‘right of the people.’ It is most probable that social welfare and social assistance only came to the forefront of European politics in this era because of the destruction caused by the Second World War. However, social welfare was an understood concept, in 1939 the League of Nations defined social welfare as ‘prompted by the desire and need to help the unfortunate. It has its origin in the duty to supply, as far as possible, what is missing in the lives of the weak and poor...’<sup>1</sup> Ireland’s social welfare policies had changed little since independence in 1921. The Catholic church remained the primary authority in the areas of health, education and social welfare, and the government remained content to allow the Catholic church and Catholic voluntary organisations to continue their work in these areas; the state’s primary function was one of funding. ‘In the immediate post-war period the Irish church, more than anywhere else in Western Europe, retained its dominance at all levels of society and Catholic social teaching remained a powerful ideology.’<sup>2</sup> Although this statement has validity, this era can also be viewed as a transition period from one of church authority to a state sponsored, welfare state from the 1960s.

This chapter examines legislation between the years 1940 – 69 in an effort to understand how the transition to a welfare state occurred and how gradual the process was. Although this period does demonstrate an effort on the government’s part, if not to accept, then at least to tolerate unmarried motherhood, the unmarried mother continued to struggle both socially and economically. For most, it was still a financially unfeasible notion for an unmarried mother to keep her child; however the state, through legislation, did make it easier for the unmarried mother to give up her child if she so wished.

The Children’s Allowance Act was passed by the dáil in 1944<sup>3</sup> and it was a necessary and significant piece of legislation which aimed to financially assist

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<sup>1</sup> League of Nations, *Study on the legal position of the illegitimate child* (Geneva, 1939), p. 97.

<sup>2</sup> Eugene McLaughlin, ‘Ireland: from Catholic corporation to social partnership’ in Alan Cochrane et al. (eds.), *Comparing welfare states*, second edition (London, 2001), p. 234.

<sup>3</sup> Children’s Allowances Act, 1944, (1944/2), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1944/en/act/pub/0002/index.html> [18 October 2011].

families who were experiencing poverty. However it quickly became apparent that this financial assistance did not provide financial relief for everybody who needed it.

The first call by a politician for a family allowance scheme in Ireland came in 1940 when James Dillon, Fine Gael T.D., proposed that an enquiry should be made into the feasibility of a scheme of family allowances.<sup>4</sup> However, the government did not address this issue until 1943 when Sean Lemass, minister for industry and commerce, introduced the children's allowance bill into the dáil. It was generally accepted as a sufficient piece of legislation, however it had many drawbacks. The first and most vital disadvantage was that it would only apply to the third child, and any subsequent children, who had to all be under the age of sixteen. Therefore if a family had two children over sixteen years of age and one child less than sixteen years of age then it would not qualify for the allowance. Although it was estimated that 400,000 children would be provided for under this act, many families were excluded from the allowance, including the majority of unmarried mothers. Most unmarried mothers had just one illegitimate child, few had two and even fewer had more than this, therefore the vast majority of unmarried mothers could not avail of this opportunity.

The government justified this provision by arguing that the legislation was drafted to accommodate 'larger than average' families. 150,000 families would benefit from the scheme; however families (including unmarried mothers and her child / children) with just two children were not eligible for relief. The act reasserted the notion of 'the family' as the nuclear family – anything other than this narrow definition was not contemplated. Even the chief advocate of the bill – James Dillon – only had in mind the 'Christian family' of the wife, husband and children. While reasserting this image, the various deputies also reinforced the image of the father as breadwinner and the mother as carer of the home and children. While Patrick Cogan, Fine Gael T.D., declared that 'the mother...instinctively feels that it is her duty and will make provision for her family'<sup>5</sup>, Dillon also believed that the ideal system, 'in a Catholic country, would be to ensure that every person who did an honest day's work would receive for that labour a wage sufficient to enable *him* to rear a Christian

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<sup>4</sup> *Dáil Éireann deb.*, lxxxi, 985 – 6 (11 Dec. 1940), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0081/D.0081.194012110002.html> [09 February 2011].

<sup>5</sup> *Dáil Éireann deb.*, xcii, 88 (23 Nov. 1943) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0092/D.0092.194311230034.html> [09 February 2011].

family’<sup>6</sup> [emphasis added]. Although the bill did not explicitly exclude any person with children from a family allowance, it did make it difficult for anyone who lived outside the social norms of husband and wife. This image of providing for the ‘family’ was reinforced when it was declared that in ninety percent of cases the father would be the claimant of this allowance.<sup>7</sup>

In the case of the unmarried mother with three or more illegitimate children, the mother would be the claimant. Ferriter argues that the Children’s Allowances Act would have made it more likely for women to register the birth of their illegitimate children;<sup>8</sup> however, the stigma and disgrace of a first pregnancy would have deterred many women from ‘falling’ a second time. This was the premise and justification for the treatment of unmarried mothers by the Catholic church, the Irish state and Irish society – to offer an unmarried mother assistance was perceived as signifying that her actions were acceptable.

Although the act did help to support larger than average families, and these families did tend to be the most necessitous class of people, other families which did not stay within the social boundaries were neglected. Unmarried mothers, deserted wives and widows with fewer than three children under the age of sixteen were overlooked when inserting this provision into the act. These other ‘families’ were equally necessitous as the larger than average families; with no state aided crèche or nursery facilities and no husband to provide for the family, many women without husbands found it difficult to financially manage a family. This act is another example of how the state defined the ‘moral institution’ of the family within certain boundaries.

Ireland introduced this legislation at the same time as many other countries, including Canada and Britain, which introduced their legislation in 1945 and 1946 respectively (it is called the Family Allowance Act in Canada). Britain introduced a children’s allowance in response to the *Social insurance and allied services report*, published in 1942 (also known as the Beveridge Report). This report was to be influential not only in Britain but also in Ireland and ultimately in many other European countries.

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<sup>6</sup> Ibid.

<sup>7</sup> *Dáil Éireann deb.*, xcii, 39 (23 Nov. 1943) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0092/D.0092.194311230034.html> [09 February 2011].

<sup>8</sup> Ferriter, *Occasions of sin*, p. 252.

The Beveridge Report...was profoundly influential of post – war Europe. The post – war welfare state represented the extension of state activity into a field previously dominated by the mechanism of collective action: the formal institution of social protection as a social responsibility.<sup>9</sup>

There was a shift away from the belief that it was the responsibility of families to provide for themselves toward a new way of thinking – it was the state’s responsibility to ensure that all of its citizens had enough to ensure a reasonable standard of living. A children’s allowances act was one of the first welfare provisions for families in many post-war western European countries.

The Beveridge Report was conducted to consider ways to abolish ‘want’ in Britain. It contended that ‘want’ could be abolished by the improvement of state insurance, the adjustment of income, the creation of comprehensive health and rehabilitative services and the provision of child allowances, among other things. It surmised that ‘through social insurance and children’s allowances, want, could have been abolished in Britain before the present war.’<sup>10</sup> Indeed children’s allowances formed an integral part of the Beveridge Report’s recommendations and many countries were influenced by this. The importance of children’s allowances was outlined in the report as they ‘can help to restore the birth rate, both by making it possible for parents who desire more children...and as a signal of the national interest in children, setting the tone of public opinion.’<sup>11</sup> This explanation would have certainly influenced Irish political thought, as the Irish government strove to promote procreation within wedlock. This may have been one reason why the Irish government introduced children’s allowances.

Unlike the Irish children’s allowance, the British act provided for every child if their parent was in receipt of insurance benefit or a pension and in every other case every child, except for the first, was entitled to a children’s allowance. Therefore the British legislation was more encompassing and far-reaching than the Irish act. Furthermore, unmarried mothers had a better chance of obtaining a children’s allowance in Britain. It is surprising that Britain could afford this considering that at this time it was spending, on average, twelve million pounds per day on the war effort alone. Although there were many limits to this legislation in the Irish case, on

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<sup>9</sup> Paul Spicker, *The welfare state: a general theory* (London, 2000), pp 144 – 145.

<sup>10</sup> *Report of social insurance and allied services*, 1942, available at the House of Commons Parliamentary Papers, [http://gateway.proquest.com/openurl?url\\_ver=Z39.88-2004&res\\_dat=xri:hcpp&rft\\_dat=xri:hcpp:rec:1942-037464](http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1942-037464) [17 February 2011], p. 8.

<sup>11</sup> *Ibid.*, p. 154.

the whole the Children's Allowances Act was a step towards the state beginning to take greater responsibility for its citizens.

In 1946 the act was amended and this amendment allowed for the mother to be the primary receiver of the allowance if she so wished, however it did not increase the allowance or allow for more than the third child and later children to receive it.<sup>12</sup> In 1952 the Social Welfare (Children's Allowances) Act came into force. The primary importance of this act was that it allowed the second and any other subsequent children in a family to receive child allowance and it increased the allowance to a monthly payment of eleven shillings for the second child and seventeen shillings and sixpence for the third and any other subsequent children.<sup>13</sup> The allowance was increased again in 1957 to thirteen shillings and sixpence for the second child and twenty shillings for the third and any subsequent children.<sup>14</sup> The primary importance of these amendments was of course the provision for the second child. Although the majority of unmarried mothers had only one child this provision certainly included more unmarried mothers than the original 1944 act. While an unmarried mother would have still had to work if she wanted to keep her children, the provision of thirteen shillings would have certainly helped her financial situation and so the government's new social welfare policy did help, albeit marginally, in closing the gap between married and unmarried mothers.

The Ministers and Secretaries (Amendment) Act came into force in 1946.<sup>15</sup> Its purpose was to set up two new government departments: the department of public health and the department of social welfare. Both became an important part of the civil service in this period. Social welfare covered a wide range of provisions including national health insurance, unemployment insurance, widows and orphans' pensions and workmen's compensation. In the period covered by this chapter the government passed seven social welfare acts (the first in 1948) and three social welfare (amendment) acts. These ten acts do not include the aforementioned Social Welfare (Children's Allowances) Act or the numerous social welfare (miscellaneous

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<sup>12</sup> Children's Allowances (Amendment) Act, 1946 (1946/8) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1946/en/act/pub/0008/print.html> [16 June 2011].

<sup>13</sup> Social Welfare (Children's Allowances) Act, 1952 (1952/12) available at the Irish statute book, <http://www.irishstatutebook.ie/1952/en/act/pub/0012/index.html> [14 January 2011].

<sup>14</sup> Social Welfare (Children's Allowances) Act, 1957 (1957/9) available at the Irish statute book, <http://www.irishstatutebook.ie/1957/en/act/pub/0009/index.html> [14 January 2011].

<sup>15</sup> Ministries and Secretaries (Amendment) Act, 1946, (1946/38), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1946/en/act/pub/0038/index.html> [18 October 2011].

provisions) acts, also passed in this period. Under these various social welfare acts, the old age and widows' pensions were increased ten times, and the unemployment assistance rate was increased eight times; the children's allowance was increased a mere four times and in comparison to the other social welfare acts it is clear that the interests of children were not at the forefront of political priorities – even the orphans' pensions act was not increased as many times as the widows' pensions.

The Social Welfare Act of 1952 did, however, include unmarried mothers in part of its provisions. It provided for both maternity grants and maternity allowances for mothers; however unmarried mothers were excluded from the maternity grants because they were not married. The maternity grant was only provided if the wife, husband, or both parents satisfied the contribution conditions. 'Husband' also applied to the late husband of a widow as long as she was pregnant at the time of death. Through these provisions the legislation deliberately excluded anyone who became pregnant out of wedlock.<sup>16</sup>

The maternity allowance on the other hand applied to all classes of mothers. If a woman was confined within a prescribed number of weeks and she did not engage in any other occupation (excluding home duties) and she submitted herself to a medical examination then she was entitled to a maternity allowance.<sup>17</sup> Importantly, this provision explicitly stated that the maternity allowance would not affect an affiliation order if an unmarried mother sought one.<sup>18</sup> Therefore although the unmarried mother was not entitled to a maternity grant, she was in fact entitled to a maternity allowance which meant that if she had to leave her job owing to her pregnancy she would still be provided with a sum of money to keep her financially safe. Indeed this provision seems to be the forerunner of the maternity benefit.

From this brief outline it is clear that the provision of social welfare was provided on a trial and error basis, it is also unfortunate that it did not include or only in part included everyone who was in need of financial assistance, such as unmarried mothers. Paul Spicker has argued that 'The provision of welfare is a moral activity, and the values it enshrines are the values of the society it operates in.'<sup>19</sup> In this period, until at least the 1970s, it is clear that the Irish state did not feel that it had a

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<sup>16</sup> Section 19 of the Social Welfare Act, 1952, (1952/11) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1952/en/act/pub/0011/index.html> [09 February 2011].

<sup>17</sup> Social Welfare Act, 1952, (1952/11) available at the Irish statute book, <http://www.irishstatutebook.ie/1952/en/act/pub/0011/index.html> [09 February 2011].

<sup>18</sup> Ibid., Section 20.

<sup>19</sup> Spicker, *The welfare state*, p. 107.

moral obligation toward the unmarried mother. The values that it enshrined mirrored the nineteenth century provision of the poor laws and the notion of the ‘deserving’ poor.

The trial and error basis evident in social welfare legislation is also apparent in the various health acts. The first health act was in 1947: between 1947 and 1969 there were three health acts, a health authorities act and various health and mental treatment acts. The Health Act, 1953 is particularly important because it did not discriminate against unmarried mothers. All mothers who earned less than £600 per annum, or whose means were derived (or part derived) from farming and / or they could not provide for institutional or specialised care for themselves or their dependents, were entitled to medical care.<sup>20</sup> Medical care was defined as medical, surgical, midwifery, hospital and specialist services. This was the first time that unmarried mothers who were reliant on the state for support could obtain medical services which did not compel them to enter an institution of any type other than a hospital. Although this act provided for those in county homes, homes for people with physical and mental disabilities and maternity homes, the unmarried mother could still claim for this care while residing in a hospital. This act certainly made the medical treatment of mothers in general and unmarried mothers in particular a lot safer, as the unmarried mother may have been more inclined to have her child in hospital rather than on her own or depend on a midwife at home, if she knew that the expenses of her medical care would be paid by the state.

J.H. Whyte credits the need for the two new government departments to the increase in the tuberculosis mortality rate and the infant mortality rate.<sup>21</sup> Before the Second World War Ireland’s infant mortality rate was lower than both Northern Ireland’s and Scotland’s; however, after the war Ireland’s infant mortality rate began to increase, as did the illegitimate infant mortality rate – which remained higher throughout the twentieth century.<sup>22</sup>

Fig. 3.1: Legitimate and illegitimate infant mortality rates, per 1,000 live births, 1935 - 45<sup>23</sup>

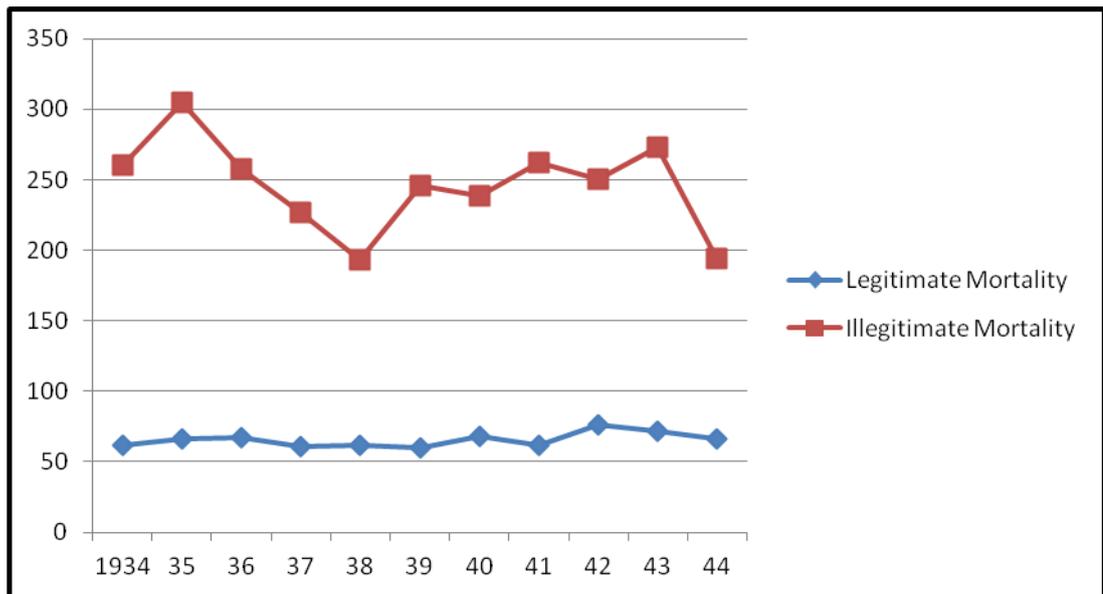
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<sup>20</sup> Health Act 1953. (1953/26) available at the Irish statute book, <http://www.irishstatutebook.ie/1953/en/act/pub/0026/index.html> [09 February 2011].

<sup>21</sup> J.H. Whyte, *Church and state in modern Ireland, 1923 – 1970* (Dublin, 1971), p. 125.

<sup>22</sup> See Fig. 3.1.

<sup>23</sup> Statistics compiled from Earner – Byrne, *Mother and child*, p. 181.



As figure 3.1 demonstrates, the war years experienced a sharp increase in the infant mortality rate, particularly in the illegitimate infant mortality rate. While Whyte concludes that an outbreak of gastro – enteritis was a predominant cause of this increase,<sup>24</sup> it must be asked how, in an era of social welfare where the health and social services were supposed to be improving, the inequality between these mortality rates remained so vast.

The ultimate solution to these health problems probably lay in improved living conditions in the larger towns. But this was necessarily a long term solution; in the meantime improved medical services became a matter of urgency.<sup>25</sup>

While social legislation was clearly important in this period, other matters concerning unmarried mothers also came to the forefront of Irish politics. Infanticide had been a problem for both the government and the Catholic church for most of the twentieth century. It was a practice which had persisted throughout the ages; however it only came to be an ‘official’ problem during the nineteenth and twentieth centuries. The first recorded statistics on infanticide were in 1863 when *The Lancet* recorded that between 1838 and 1840 seventy six children under the age of one had been murdered in England and Wales: this accounted for thirty four percent of all murders.<sup>26</sup> In 1623 it had been enacted that the mother of a dead illegitimate infant must prove her innocence; however in 1803 the British government repealed the

<sup>24</sup> Whyte, *Church and state in modern Ireland*, p. 126.

<sup>25</sup> *Ibid.*, p. 126.

<sup>26</sup> Statistics taken from R. Sauer, ‘Infanticide and abortion in nineteenth century Britain’ in *Population Studies* xxxii no. 1. (1978) available at JSTOR, <http://www.jstor.org/stable/2173842> [14 January 2011], p. 81.

1623 act. The 1803 statute declared that, like any other murder charge, the state had to prove that the mother was guilty. A charge of murder remained mandatory, however, in an attempt to combat the belief that the murder of an unwanted child was in some way less heinous than the murder of an adult, but executions were extremely rare. Sauer notes that the rarity of the punishment was also because most of the women convicted were thought to be ‘temporarily insane and, therefore, not responsible for their acts.’<sup>27</sup> The last execution to take place for the crime of infanticide in both England and Ireland was in 1849, and so the legislation was clearly obsolete.

England passed an infanticide act first in 1922 and again in 1938. The 1922 act was introduced to bring the law up to speed with the practice; a woman had not been sentenced to death in nearly ninety years and an execution for infanticide was, realistically, never going to take place, and so it was believed that it should be written out of the statute book. The 1938 infanticide act repealed the 1922 act; it stated that if a child under twelve months had been murdered and the woman’s mind was found to be disturbed then she ‘shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.’<sup>28</sup> This act extended the age of the child from ‘newly – born’ to twelve months, because the 1922 act did not provide a definition of how old a newly – born child was.

The British parliament also found that some mothers might have been suffering from a disturbance of the mind, not necessarily caused by childbirth. John Jagger, Labour party M.P., wanted the bill ‘to cover mothers who commit acts of this kind under extreme stress arising from other causes than the immediate effects of childbirth.’<sup>29</sup> He gave two examples of unmarried mothers in Britain who had killed their infants (and in one case the woman had also tried to kill herself) because they did not receive any maintenance from the putative fathers and therefore could not support their child. In both cases their death sentences were commuted, however it was believed that the trials of the two women were almost farcical because

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<sup>27</sup> Ibid., p. 83.

<sup>28</sup> Infanticide Act, 1938 (1 & 2 Geo VI, c. 36 [U.K.]) available at [legislation.gov.uk](http://www.legislation.gov.uk), <http://www.legislation.gov.uk/ukpga/Geo6/1-2/36/contents> [14 January 2011].

<sup>29</sup> John Jagger, House of Commons 24 November 1936, vol. 318 available at HANSARD 1803 – 2005, <http://hansard.millbanksystems.com/commons/1936/nov/24/infanticide> [14 January 2011].

everybody, including the judge, knew that their sentences would be commuted almost immediately.<sup>30</sup>

There were attempts in Britain before 1922 to bring in an infanticide bill, which demonstrated a shift in the perception of unmarried mothers. Throughout the parliamentary debates under examination it was recognised that unmarried mothers had more to cope with than just the ‘shame’ of having an illegitimate child – there were financial as well as social obstacles to overcome. This was a view which the Irish state and Catholic church did not – intentionally or otherwise – recognise until much later.

The Irish infanticide bill was introduced to the dáil in 1949 in response to a committee established ten years previously to investigate, ‘consider and report on the law and practice relating to capital punishment.’<sup>31</sup> This committee, therefore, was not set up with the sole intention of investigating the practice of infanticide, albeit it was a part of the report. The committee recommended in 1941 that Ireland should adopt legislation in line with the British Infanticide Act of 1938. The rationale for this recommendation was twofold; firstly, juries nearly always, when finding the woman guilty of murder of her child, made a strong recommendation for mercy, and secondly, a woman had not been hanged (the punishment for murder) in the last one hundred years; the sentence was generally commuted to penal servitude for life. There seems to have been a lot of sympathy for the mother who killed her child as can be seen in both the dáil debates and inter-departmental memoranda. Indeed every speaker in the second reading debate welcomed the introduction of the infanticide bill, and it seems that it had been wanted by many for a number of years. Firstly the popularity of such a bill will be examined and then a study will be made of the act itself.

In the years before the act publications of infanticide cases in newspapers were prevalent on both a regional and a national scale. From the late nineteenth century it appeared that infanticide was not uncommon in urban or rural areas. Regional newspapers published many infanticide cases and some newspapers such as the *Meath Chronicle* published such cases on almost a monthly basis.<sup>32</sup> A surprising

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<sup>30</sup> Ibid.

<sup>31</sup> Memorandum for the government from the department of justice, 10 February 1949, N.A.I. s14493.

<sup>32</sup> Articles on infanticide cases in 1943 were particularly prevalent; 21 August 1943; 23 October 1943; 27 November 1943; 11 December 1943. Other examples of regional newspapers include *Connacht Tribune* 7 June 1930; *Leitrim Observer* 30 May 1936; *Anglo-Celt* 11 March 1939.

feature of some articles is that most did not report on their own county; many regional newspapers tended to report on cases from neighbouring counties. For instance, the *Anglo-Celt*, a predominantly Cavan newspaper, reported many infanticide cases from County Longford. Additionally, the *Meath Chronicle* also tended to cover other neighbouring counties; many of their reported cases were from County Cavan. This may suggest that people did not want to be associated with the local ‘shame’ of infanticide in any way.

When it was indicated how prevalent infanticide was in Ireland, this usually garnered an outraged and shocked response, followed by a rapid assertion that the statement was not true. One such declaration of the prevalence of infanticide was from William Carrigan, K.C. in 1927 – this was the same William Carrigan who was to chair the *Committee on the criminal law amendment acts (1880 – 85) and juvenile prostitution* in 1931. The *Irish Times* reported on 7 December 1927 that he had declared that ‘a great wave of infanticide, in the destruction of illegitimate children, was passing over the country.’<sup>33</sup> The same article agreed with Carrigan’s declaration and blamed not only the prevalence of amusements and the devastating impact of First World War for the loosening of morals, but also the poverty endemic in Ireland. The Dublin slums in particular seemed to be intrinsically linked with unmarried motherhood, illegitimacy and ultimately, infanticide. A week later the *Irish Times* printed another article reporting on the quarterly general meeting of the St. Vincent de Paul Society, where the Very Reverend M.S. Mac Mahon, president of Holy Cross College, Clonliffe, addressed the above statement. He retorted that ‘never in all his time in Mountjoy had a girl who was reared in the slums, been convicted of the crime of infanticide.’<sup>34</sup> This was another attempt by people to disassociate themselves and their local area from infanticide – ‘a deplorable and shameful crime.’<sup>35</sup>

This disassociation from the practice of infanticide can also be seen in government documentation. In 1954 the department of justice received a minute from a Mr MacHugo, the private secretary to the Taoiseach, asking the department to compile statistics on the number of infanticide cases because the Taoiseach had been informed that ‘there had been an increase in later years in the number of cases of

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<sup>33</sup> *Irish Times*, 7 December 1927.

<sup>34</sup> *Irish Times*, 14 December 1927.

<sup>35</sup> *Ibid.*

infanticide in this country.’<sup>36</sup> The government went to great lengths to deny this claim and it was declared that the statistics showed that infanticide was not as prevalent as it was believed to be: between the years 1949 (when the act came into operation) and 1953 there were just thirteen recorded cases. There had been no cases of manslaughter since 1949.<sup>37</sup> However, these figures only show the number of women charged with the crime and so it can be argued that while the *convictions* for infanticide were not high, the practice itself is not well documented – it is unknown how many women committed infanticide and were never found out. However the fact remains that the crime was still the same – it was the charge that had changed.

Ireland’s Infanticide Act, 1949,<sup>38</sup> followed that of the British parliament; it reduced the crime of murder to a crime of infanticide on the grounds that the child was less than twelve months old. It was found that a woman who gave birth could be understood to suffer from a mental condition called puerperal insanity, which would temporarily incapacitate any form of reasonable thought and so render the sufferer incapable of making a rational decision. Although such a condition existed it was in fact quite uncommon.

In official *dáil* and *seanad* debates there seems to have been some sympathy for the unmarried mother who committed infanticide. The infanticide bill was *officially* welcomed within both the *dáil* and the *seanad* by all deputies and senators – it seemed to be regarded as a sufficient and somewhat overdue piece of legislation. Indeed Michael Moran, Fianna Fáil T.D., agreed with ‘the principle of this bill’<sup>39</sup> and although this may have been the official line taken by the government, unofficially many politicians were uncomfortable with lessening the charge of murder to a charge of concealment of birth – the mother would be charged with failing to report the birth – and death – of the child to the relevant authorities rather than in fact murdering it. In one government memorandum Sean Mac Entee, minister for local government and public health, was particularly fierce in his objection to the bill. He stated:

...the mental condition of the mother who is not suffering from puerperal insanity, but, who finds herself with an unwanted baby, can scarcely be held

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<sup>36</sup> Minute from Mac Hugo to the department of justice, 20 October 1954 (N.A.I. s14493).

<sup>37</sup> Memo from the department of justice to the Taoiseach, 25 October 1954 (N.A.I. s14493).

<sup>38</sup> Infanticide Act, 1949 (1949/16) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1949/en/act/pub/0016/index.html> [19 May 2011].

<sup>39</sup> *Dáil Éireann deb.*, cxv, 269 (28 April 1949) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0115/D.0115.194904280042.html> [19 May 2011].

to be so very different from that of other types of criminals who at the time of committing the crime are suffering from intense emotional disturbance.<sup>40</sup>

Later in the same memo he added:

I do not think that the baby slayer ought to be given any special consideration. In making this submission I am mindful of the fact that the mother of an unwanted baby is sometimes a hardened sinner who appears to kill with full deliberation.<sup>41</sup>

Although not as fierce as Mac Entee in their attitudes toward the infanticide bill, there were many deputies in the dáil who were uncomfortable with its apparent lack of respect for human life. Major de Valera, son of the former Taoiseach and president, was particularly mindful of the fact that the infanticide bill followed the exact same lines as the British Infanticide Act of 1938. He viewed the legislation as too liberal in its objectives; murder, he thought, should not be regarded as a lesser charge because the victim was a baby. ‘I would not be too happy blindly to subscribe to anything resulting from the traditions of English liberal thought on this matter.’<sup>42</sup>

In view of the Catholic ethos of the country the government had to be careful about how to introduce this bill into the dáil without demonstrating a lack of respect for human life. Indeed Major de Valera wanted the charge left to the discretion of the court: ‘in cutting away from the following line taken in another country we will be showing that we in this country still recognise the dignity and the importance of human life from the moment of conception to the grave.’<sup>43</sup> This statement is particularly important in signifying the importance of the Catholic ethos in Ireland at the time. Moira Maguire has observed:

The challenge that lawmakers faced in drafting legislation that embraced modern criminal justice principles while preserving a distinct moral tone reflected a more general conflict between societal concern for ‘innocent’ illegitimate children, and the economic and social conditions in which the majority of people lived that effectively sacrificed illegitimate children to apparently more pressing social, economic, religious and political priorities.<sup>44</sup>

The infanticide act, and the debates surrounding it, reflected tensions between the reality of life in Ireland and the reputation and image which the Irish state and the Catholic church strove to promote and protect. The image of the family living a

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<sup>40</sup> Memorandum from the department of local government and public health, 2 February 1944 (N.A.I. s14493).

<sup>41</sup> Ibid.

<sup>42</sup> *Dáil Éireann deb.*, cxv, 276 (28 April 1949) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0115/D.0115.194904280042.html> [09 February 2011].

<sup>43</sup> *Dáil Éireann deb.*, cxv, 282 (28 April 1949) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0115/D.0115.194904280042.html> [09 February 2011].

<sup>44</sup> Maguire, *Precarious childhood in post-independence Ireland*, p. 185.

frugal but happy life in rural Ireland was simply not realistic. The act of infanticide particularly fractured this illusion as mothers were believed to be the homemakers and carers of the family. The thought of a mother murdering her child was not something which the Irish government wanted to encourage and so this may have been one reason why the infanticide act passed into law with no obvious opposition. ‘In this instance, illegitimate children were sacrificed in the name of the gendered status quo.’<sup>45</sup>

Ireland was particularly behind other countries in introducing an infanticide act, however due to the strong Catholic ethos of the country it is hardly surprising that the government refrained from introducing a bill of this kind until 1949. It is especially surprising that the government promoted a bill which the Catholic church was against. Archbishop McQuaid expressed his indignation at the proposal of an infanticide bill in a note written by him in March 1949. He expressed the view that if the government reduced the sentence of murder to infanticide then it might give the impression that not only would mothers not be convicted of killing their children, but it might also increase the number of infanticides throughout the country. ‘It is not what the lawyers or deputies think that matters to the community: It is the attitude of the public. The present law is not perfect, but its terminology has a very clear connotation.’<sup>46</sup> McQuaid, rather like Major De Valera, wanted the law to remain as it was because a sentence of murder would act as a deterrent, even if the punishment may not have been implemented.

Although this may have been the church’s official view toward the act, it was not necessarily the general view. Many felt that as a woman had not been put to death for the crime in Ireland or England since 1849 then the law had become outdated. By changing the law the government was attempting to modernise the country: ‘...it is desirable that the law should be altered so as to eliminate all the terrible ritual of the black cap and the solemn words of the judge pronouncing sentence of death...’<sup>47</sup> In a note written on High Court of Justice paper, held in the Dublin Diocesan Archives, the view is expressed that the law had needed to be changed for the previous one hundred years, as the verdict and the punishment had

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<sup>45</sup> Ibid., p. 187.

<sup>46</sup> Note by McQuaid on the proposed Infanticide Bill, 1949, 2 March 1949 (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B).

<sup>47</sup> *Seanad Éireann deb.*, xxxvi, 1471 – 2 (7 July 1949) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0036/S.0036.194907070006.html> [09 February 2011].

become obsolete in the law. The note ends by expressing the view that ‘the passage into law of the Infanticide Bill, 1949, would not be likely to result, in an increase either in sexual immorality or of infant killing, provided that juries conscientiously perform their duties and judges impose sentences consistent with justice and humanity.’<sup>48</sup> Although the author is unknown, owing to the type of paper the note is written on it can be assumed that these were the views of a High Court judge.

The infanticide act divided many people’s views and opinions. On the one hand, it is clear that the law was outdated. For the first time in legislation pertaining to the unmarried mother, the government disregarded the views of the Catholic church and proceeded in pushing through a law which the general populace agreed with. Was the infanticide act a turning point in the church – state relationship?

Although the government may have ignored the church’s view in regard to the infanticide act, in other laws it seems that the government could not progress without the express permission of the Catholic church. It is surprising that the Catholic church was so vocal about other laws, particularly the Adoption Act, 1952, yet regarding the Infanticide Act – the murder of an innocent child – it barely passed any remark.

We now turn to the subject of adoption and begin by examining the state and the church’s views of adoption, and what was known before the 1952 act as ‘de facto’<sup>49</sup> adoptions. We will then progress to the Adoption Act itself. Informal, or de facto, adoptions had been a common practice throughout much of the twentieth century in respect of illegitimate children. Adoption was widely perceived to be the most practical option for every party involved; the illegitimate child would become part of a family, the adopted parents would have a child to love and care for, and the unmarried mother could go back to her ‘normal’ life. Indeed from the late 1930s there were calls to introduce an adoption act in Ireland. Additionally, in the second reading of the adoption bill, minister for justice, Gerard Boland declared that there had been considerable calls for legislation on adoption:

Numerous suggestions for legislation have been made ... and resolutions calling for legislation have been passed by the Corporations of the Cities of

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<sup>48</sup> Notes on the Infanticide Bill, 1949. Handwritten on High Court of Justice Paper, author unknown, undated, p. 9 (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B).

<sup>49</sup> This is a term used by many historians, such as Paul Michael Garrett in *Social work and Irish people in Britain: historical and contemporary responses to Irish children and families* (Bristol, 2004).

Dublin, Cork, Limerick and Waterford, by county councils and other local authorities, by trade unions and by various other organisations.<sup>50</sup>

However, there were many boundaries and obstacles to consider before this could be achieved.

One of the biggest fears of the Catholic church and some government officials was that illegitimate children would be adopted by couples of a different religion and would be ‘lost to the faith’ forever. Proselytism in this era remained an important problem on the Catholic church’s agenda; at least until the 1950s. In an attempt to combat this fear of proselytism, the Catholic church set up de facto adoption societies and agencies and would only allow Catholic couples to ‘adopt’ Catholic babies.

This fear of proselytism was a considerable problem which the government had to attempt to overcome when drafting an adoption bill. Indeed neither the Catholic church, nor the Catholic adoption agencies, would support a bill which did not safeguard the adopted child’s religion. Correspondence between various ministers for justice and the archbishop of Dublin throughout the 1940s demonstrate an endeavour on the part of the government – both Fianna Fáil and Fine Gael – to reach accommodation with the Catholic church. Stephen Roche, the secretary of the department of justice, and Archbishop McQuaid frequently corresponded with each other discussing the issue of adoption. One of the first communications was in January 1944 when Roche admitted that he was not an advocate of a proposed adoption bill:

Personally I am rather lukewarm about the whole proposal [of an adoption bill], but there is no doubt that many estimable people, with the highest motives, are in favour of it, and I don’t like to keep giving them the answer that there are grave objections from the Catholic point of view without making sure that that is in fact the position.<sup>51</sup>

From this statement it is clear that Roche and the department of justice in fact used the Catholic church as an excuse, at least up until 1944, as to why they had not introduced an adoption bill before this. It is quite clear that the department was not entirely sure what the Catholic church’s stand was on an adoption act.

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<sup>50</sup> *Dáil Éireann deb.*, cxxxii, 1104 (11 June 1952) available at Parliamentary Debates <http://historical-debates.oireachtas.ie/D/0132/D.0132.195206110055.html> [4 October 2011].

<sup>51</sup> Stephen Roche to Archbishop McQuaid, 12 January 1944 (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B).

The Catholic church, and Catholic adoption agencies such as the Catholic Protection and Rescue Society of Ireland (C.P.R.S.I.), were in fact against official, legal, adoption unless the faith of the child could be protected, and the de facto adoptions which had already taken place could be safeguarded. This was a strong argument amongst many people, as in the case of the de facto adoptions there was no legal safeguard against the unmarried mother reclaiming her child. Many adoptive parents in fact wanted an adoption bill to be introduced so that they would have a legal entitlement to their adopted child.

During the dáil debates every T.D. welcomed the bill as a sufficient and overdue piece of legislation. Surprisingly, there was very little debate on the question of religion. General Seán Mac Eoin introduced the issue of religion in the second reading of the adoption bill and he was particularly adamant that many unmarried mothers would have been willing to give up their children to any charitable organisation – whatever its religion – to avoid the scandal of having a child out of wedlock.

The difficulty about the illegitimate child is that a large number of unmarried mothers try to avoid scandal when they get into trouble. They go to Dublin or they go to some city or town in the country to avoid the publicity ... they are willing and ready at that stage ... to sign any undertaking to give away their right to that child.<sup>52</sup>

General MacEoin was, however, concerned that the charitable organisations which took these children were not necessarily Catholic. ‘It is true that a number of charitable organisations, not of the Catholic Faith, are prepared to take these children.’<sup>53</sup>

However, it was the importance of the constitution and parents’ constitutional rights which were more hotly debated. Irish politicians, on both sides of the oireachtas, did not want to interfere with the rights of the family, thus Ireland was particularly late in introducing such an act.

It was admitted in Dáil Éireann that many people felt that all children should be entitled to adoption. Gerard Boland declared that such an entitlement would be unconstitutional; he made a counter argument however, by declaring that the primary

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<sup>52</sup> *Dáil Éireann deb.*, cxxxii, 1108 (11 June 1952), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0132/D.0132.195206110055.html> [04 October 2011].

<sup>53</sup> *Ibid.*

need for adoption was among illegitimate and orphan children.<sup>54</sup> Although this may have been correct, this argument could also have been used to encourage illegitimate children to be adopted, and because there was such a demand for illegitimate children to be adopted it would have been impractical for any adoption measure to exclude them. Indeed the Adoption Act, 1952, certainly infringed upon the rights of the unmarried mother and her child as a family unit.

The 1952 Adoption Act provided for illegitimate and orphan children to be adopted. It established an adoption board, An Bord Uchtála, to ensure that the adoption of the child met the legal requirements set up by the act, and established the Adoption Societies Register: all adoption societies that wanted to handle adoptions had to be registered. The act required the legal, written consent of the unmarried mother to give up her rights to her child forever. It also stated that the adoptive parents must be of the same religion as the child, married, and over the age of thirty. It stipulated that the adopting parents must reside in the state or that the husband must be an Irish citizen who had resided in the state five years preceding the date of the adoption order. The act also stated that the child must be illegitimate or an orphan, must reside in the state and be more than six months but less than seven years old when the application was made. It explicitly stated that the child could not be removed from the state without the approval of the mother unless he or she were over one year of age. Importantly for those involved in de facto adoptions, the adoption act allowed them to re – apply to adopt their child as long as they could prove that the adoption had taken place before the passing of the act, the child had been living with the adoptive parents for at least three years, and the mother had given consent.<sup>55</sup> The adoption act was explicit in its provisions, indeed in most cases it was extremely straight-forward. Additionally it complied with the Catholic church’s wishes to safeguard the child’s faith. In a letter to Sean Mac Eoin, former minister for justice, Archbishop McQuaid expressed the view that ‘the bill is as good as we can secure it in the existing state of the law and under the present constitution.’<sup>56</sup>

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<sup>54</sup> *Dáil Éireann deb.*, cxxxii, 1105, (11 June 1952), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0132/D.0132.195206110055.html> [04 October 2011].

<sup>55</sup> Adoption Act, 1952 (1952/ 25) available at the Irish statute book, <http://www.irishstatutebook.ie/1952/en/act/pub/0025/print.html> [04 January 2010].

<sup>56</sup> Mc Quaid to Mac Eoin, 7 May 1952 (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B).

Ireland was particularly late in introducing an adoption act; after 1952 Portugal and the Netherlands were the only two European countries not to have one.<sup>57</sup> Britain introduced an adoption act in 1926 – twenty six years before Ireland. The British act, the Adoption of Children Act, 1926, was introduced owing to the recommendation of two child adoption committees, the first set up in 1921 and the second in 1924, both created ‘to examine the problem of child adoption.’<sup>58</sup> The first committee released a report in 1921, the second released three reports between 1924 and 1926. As early as 1921 it was found that an adoption bill was desirable. The second report contained a draft adoption bill which had many of the same restrictions that the 1952 Irish adoption act would contain. There was a restriction on foreign adopters, adopters had to be at least twenty five years of age, and it established an adopted children’s register. However, the British adoption act did *not* restrict adoptions to illegitimate and orphan children only – it provided for *all* children on an equal basis.<sup>59</sup>

It was declared by Gerald Boland, minister for justice, who introduced the Irish adoption bill, that under the constitution the adoption act could not provide adoption for legitimate children whose parents were still alive: ‘The Constitution declares the rights and duties of parents towards their children to be inalienable, and any provision for the permanent transfer of those rights and duties, even with the consent of the parents, might be unconstitutional.’<sup>60</sup> Under *Bunreacht na hÉireann* the state promised to ‘protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.’<sup>61</sup> As already stated, the constitution did not define the family; however it was inferred that the family was husband, wife and children born in wedlock. This is another example of the unmarried mother and her illegitimate child not being regarded as a family. If they were regarded as such then it would also be unconstitutional for the state to allow illegitimate children to be adopted.

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<sup>57</sup> Vivienne Darling, *Adoption in Ireland* (Dublin, 1974), p. 6.

<sup>58</sup> *Child adoption committee, first report* (London, 1925), available at House of Commons parliamentary papers, [http://gateway.proquest.com/openurl?url\\_ver=Z39.88-2004&res\\_dat=xri:hcpp&rft\\_dat=xri:hcpp:rec:1924-027390](http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1924-027390) [18 February 2011].

<sup>59</sup> *Child adoption committee, second report* (London, 1925), available at House of Commons parliamentary papers [http://gateway.proquest.com/openurl?url\\_ver=Z39.88-2004&res\\_dat=xri:hcpp&rft\\_dat=xri:hcpp:rec:1924-027579](http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1924-027579) [18 February 2011].

<sup>60</sup> *Dáil Éireann deb.*, cxxxii, 1106 (11 June 1952) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0132/D.0132.195206110006.html> [09 February 2011].

<sup>61</sup> Article 41.1.2, *Bunreacht na hÉireann*, available at Department of the Taoiseach, <http://www.taoiseach.gov.ie/upload/static/256.htm> [17 January 2011].

This narrow definition of the family also seeped into internal memos and correspondence between the state and the Catholic church. The argument that the illegitimate child would be more advantaged if he / she were adopted was stressed by the government on a number of occasions. In a proposed bill to provide for the making of an adoption bill, the question of legitimising de facto adoptions was addressed. It was acknowledged that many adoptive parents were anxious for an adoption act; however their argument was deemed unimportant because it was not believed that a situation could arise where the authorities would return a child to its mother – even though before 1952 she was legally entitled to claim her child back : ‘the big majority of “adopted” children are illegitimate and it would *clearly* be against the welfare of those children to take them away from the adopting parents and return them to their mother’ [emphasis added].<sup>62</sup> Although the government was wary of introducing an adoption bill because of anxiety about the Catholic church’s reaction to it, and the removal of the parents’ / mothers’ natural rights, it might be considered that an adoption bill would work in the unmarried mother’s best interests also.

The Irish adoption act, although it was not introduced with this intention, could have been considered as a way of lowering infanticide statistics, as well as the number of abandoned babies. Indeed it would have provided a way for an unmarried mother to give her child a better upbringing than she could give it; additionally adoption would allow for her to rid herself of the ‘shame’ she had brought on herself and her family. This was certainly the case for some unmarried mothers, and unfortunately the government also perceived this idea as a reason for not introducing an adoption act. It was believed that if an unmarried mother could avoid responsibility for her child more easily then she would not feel the responsibility and the sense of shame that she should have, and so was more likely to ‘fall’ a second or even a third time. ‘It must always be the concern of the moral welfare worker to ensure as far as possible that the unmarried mother will have learned through her sad experience to avoid in future the occasion of sin.’<sup>63</sup> It was believed that such a measure would have also persuaded other unmarried girls to have sex before

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<sup>62</sup> Anonymous memo titled ‘Proposed bill to provide for the making of adoption orders’, undated (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B, p. 1).

<sup>63</sup> Catholic Protection and Rescue Society of Ireland Report and statement of accounts for the year 31<sup>st</sup> December 1950, p. 2.

marriage because they would not have to pay for the consequences: ‘It is probable that the act would lead to more need for adoptions in that it would make it easier for unmarried mothers to get rid of their children.’<sup>64</sup> Again the stereotypical view of the uncaring, selfish, unmarried mother prevailed and the government did not consider the unmarried mother who wanted an adoption act so that it would protect her own constitutional rights.

Evidence suggests that before 1952, many children were taken from their mothers without their consent. Many illegitimate children, born in institutions, it seems, were taken by the people who ran these institutions (usually nuns) and placed out for ‘adoption’ without their mothers ever realising what was happening. Mike Milotte has formed the view that it was the nuns

...that arranged to have the children of these single mothers placed elsewhere. And in most cases, it seems, they not only arranged, they decided too, assuming control in the belief that they knew best. So convinced were they of their right to decide that they frequently disposed of children without consulting or informing the mother beforehand.<sup>65</sup>

This view is certainly confirmed by June Goulding’s memoir of the year she spent in the Sacred Heart Home, Bessboro, County Cork. June Goulding was a midwife there between 1951 and 1952 and she recalled the day that the mother of a little girl called Assumpta had to give her up for adoption. The mother, though she probably realised that her child would have to leave at some stage, was not prepared by the nuns or anyone else for giving up her child. Goulding recounts: ‘Suddenly there was a shriek from the distraught mother when she saw her beautiful daughter ready to go to God knows where.’<sup>66</sup> No consolation or sympathy was given to the mother: ‘The distraught young mother never slept or ate for the following week.’<sup>67</sup> This was the first time that June had witnessed a child being taken from its mother and put up for adoption; however, she soon realised that this was a regular occurrence: ‘I had witnessed the horrific ritual that would be repeated for each and every mother and baby in this hell-hole.’<sup>68</sup> An adoption act could have been expected to ensure the unmarried mother’s rights towards her child and that no one would legally be able to force her to give up her child. However this was not to be the case.

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<sup>64</sup> Memorandum on Legal Adoption, 15 November 1950 (D.D.A. Mc Quaid Papers, Government Box 3, Ref no. AB8/B, p. 3).

<sup>65</sup> Milotte, *Banished babies*, p. 20.

<sup>66</sup> June Goulding, *The light in the window* (Dublin, 1998), p. 39.

<sup>67</sup> *Ibid.*, p. 40.

<sup>68</sup> *Ibid.*, p. 40.

Anecdotal evidence suggests that such de facto adoptions actually continued after the introduction of the adoption act. However, the unmarried mother, after 1952, had to sign forms which relinquished her right to her child forever. It has been suggested that many unmarried mothers did not know or were not allowed to read what they were signing. At least one narrative recalls that one form was not even signed by the unmarried mother – her signature was forged. One unmarried mother recalls:

I was told to sit at one end of this long table and at the other end was a man I imagine was a solicitor. In between us were two nuns. I was given a piece of paper and told to sign. I wasn't told what it was I was signing. Nothing was explained to me. And you daren't ask, you just did what you were told and got on with it.<sup>69</sup>

It is impossible to ascertain how many women were treated in this way and how many women gave up their children against their will. Some women, of course, wanted to give up their child for adoption as they wanted to go back to their lives before they had the child. However, it is the case that both the state and the church colluded in making it difficult for the unmarried mother to keep her child. The church attempted to force unmarried mothers to give up their children for adoption – with success – and the state made it financially unviable for the unmarried mother to keep her child. The state also facilitated de facto adoptions in another, indirect way.

Many people wishing to adopt, before and after the adoption act, were American childless couples who could not obtain American children. America had a strict policy concerning adoption and additionally did not have enough children for the number of couples who wished to adopt. Ireland on the other hand, although its illegitimate birth rate was lower than average, had a seemingly constant supply of illegitimate children and no obvious stringent guidelines for adoption. As argued throughout this thesis, Ireland had a 'constant supply' of illegitimate children because many unmarried mothers either did not want to keep their children or were forced to give them up. Before 1952 it seems, children were 'adopted' at any age, however, after 1952, in accordance with the adoption act, the child had to be over one year old to be taken out of the state without the consent of his / her mother. Therefore, after 1952, adoption agencies began the adoption applications before the child's first birthday so that when the process was complete the child would be just over one year old.

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<sup>69</sup> Milotte, *Banished babies*, p. 143.

The practice of Americans adopting Irish children had become extremely common throughout the first half of the twentieth century, so much so that it received media attention across the globe. Maguire has concluded that this media attention, particularly from some high profile cases, was the cause of the Irish adoption bill being introduced. The Jane Russell case of 1951, in which the movie star took a legitimate child from Ireland back to America and informally adopted him, received particular media attention in Ireland, England and America. Maguire notes that ‘a series of embarrassing and highly critical reports in the foreign press about Ireland’s overseas adoption practices, brought to light by the Jane Russell incident, forced church and state to compromise in order to avoid further embarrassment.’<sup>70</sup> Archival sources certainly suggest that the overseas adoption practice was well known among politicians and so Maguire may be correct in her observations – it was the fear of criticism rather than the practice itself which caused the adoption act to be enacted.

Before 1952 there was no adoption policy as such – American couples and unofficial adoption societies seem to have had their own particular rules and regulations. Evidence also suggests that such couples were facilitated by the Irish government in the practice of sending illegitimate children away. In a letter dated November 1952 from the secretary of the department of justice to a civil servant in the department of foreign affairs, Peter Berry noted that Sister Hildegarde of Sean Ross Abbey had obtained passports for three or four children under one year of age. ‘We told her she could make her usual arrangements...as the bill will not be law by then.’<sup>71</sup> This is clear evidence that officials not only knew about the practice of sending illegitimate children abroad but were facilitating the practice. Even after 1952 however, mother and baby homes, prospective adopters, and the unmarried mothers themselves, were able to bypass the adoption act’s provisions.

The sending of illegitimate children to America for adoption has been highly documented in the past decade,<sup>72</sup> and it has become clear that even after 1952 American adoptive parents were continuing to take Irish illegitimate children; mother and baby homes and nursing homes were continuing to facilitate this

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<sup>70</sup> Maguire, *Precarious children in post-independence Ireland*, p. 135.

<sup>71</sup> Peter Berry, secretary of dept. of justice to Commins, 6 November 1952 (N.A.I. 345 / 164).

<sup>72</sup> Moira J. Maguire, ‘Foreign adoptions and the evolution of Irish adoption policy, 1945 – 52’ in *Journal of Social History* xxxvi, no. 2, (2002), pp 387 – 404; Mike Millotte, *Banished babies: the secret history of Ireland’s baby export business* (Dublin, 1997).

practice, though the act, as noted above, had in fact made foreign adoptions illegal unless they had the mother's consent. The supervision of adoption orders between government departments was somewhat haphazard and confused, so much so that the lack of communication between departments culminated in an attempt to take eight illegitimate children out of the country between 1954 and 1955 to England without meeting the legal requirements. Apparently, this passed unnoticed until passport applications were presented. Indeed at least four of the children were illegally registered under their adoptive parent's names, and it seems that the adoptive parents were both divorcees and not Catholic. The adoptive parents knew that what they were doing was illegal because in an anonymous memo dated 19 October 1954 it was declared that 'They [the adopters] were under the impression that approached through proper channels to obtain children for adoption would, at the worst [sic], be unsuccessful and, at best, involve long delays.'<sup>73</sup> The applicants would have indeed been unsuccessful given their religion and their marital status. Consequently the passport applications for these children were denied.

Owing to the apparent contravention of the adoption act an enquiry was established to investigate the attempted removal of the eight illegitimate children from the state, particularly since the U.S. embassy in London waived the passport rights of at least one illegitimate child, and so the attempt amounted to kidnapping.<sup>74</sup> However, these enquiries were later dropped: 'The department of justice have, however, decided not to prosecute because of the manner in which the offences came [sic] to notice and having regard to all the circumstances of the cases.'<sup>75</sup> Although the department did not think that the adoptive parents were suitable to adopt Irish illegitimate children, it was decided that the children would remain with their adoptive parents: '...from the temporal viewpoint it cannot be denied that the children have now the opportunity of growing up in a good home.'<sup>76</sup> By allowing the children to stay with their adoptive parents the Irish state would not have to bear the expenses of bringing them back to Ireland and at the same time they were able to dispose of seemingly dispensable children.

It is unknown how many children were sent to America; however it is clear that this was a common practice at least up to the mid – 1960s. Not only was it a

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<sup>73</sup> Memo, 19 October 1954 (N.A.I. DFA/345/96/545).

<sup>74</sup> Irish children alleged to be illegally registered as American citizens (N.A.I. 345/96/545).

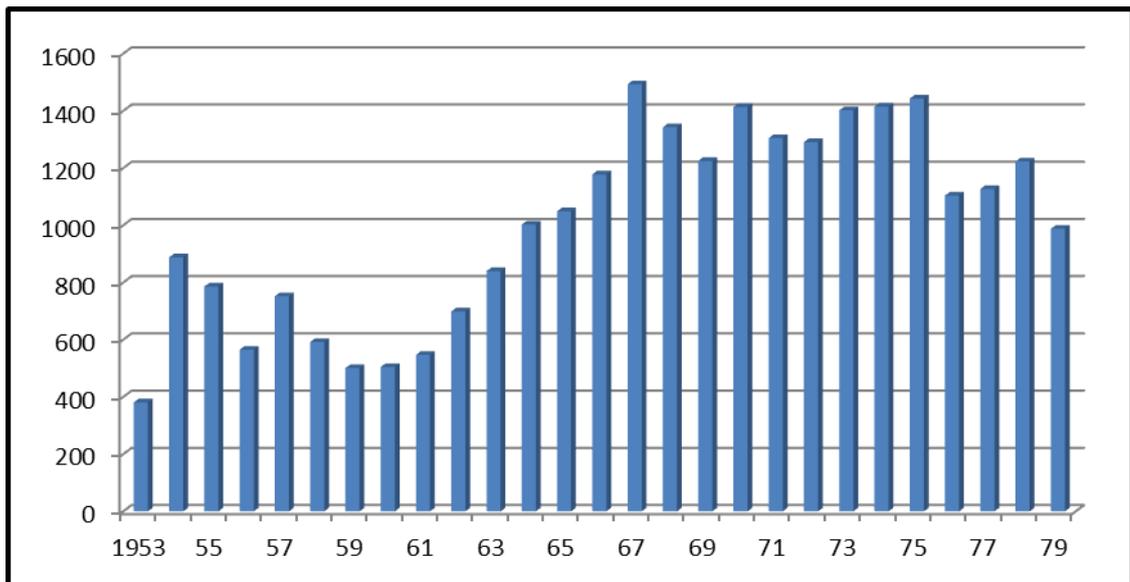
<sup>75</sup> Ibid.

<sup>76</sup> Letter to Dr. Rynne, 20 January 1955 (N.A.I. DFA/345/96/545).

common practice but also a recognised one on the part of the Irish state and the Catholic church. Unfortunately adoption records only start in 1949 and so there is no way of assessing how many children were sent before this. Furthermore, there is no way of calculating how many children, like the aforementioned examples, were sent illegally, as there would be no record for these children. A memo in 1957 declared that ‘Mr. Eammons [a civil servant] spoke about the power to waive [passports] and indicated that it was frequently employed where passport facilities could not be obtained.’<sup>77</sup> So even when the department of foreign affairs was trying to control adoption orders and passport applications, it was continuously being undermined by the British and American authorities.

Although there are no official records before 1949, it has been found from the annual reports of An Bord Uchtála that between 1953 and 1979, 28,174 children were legally adopted.<sup>78</sup>

Fig. 3.2: Adoption orders accepted by An Bord Uchtála, 1953 – 79.<sup>79</sup>



Additionally, the various mother and baby homes throughout the country kept records from the 1950s into the 1970s on how many unmarried mothers and illegitimate children were in the homes. These records recorded how many mothers and children were discharged throughout the year. Sean Ross Abbey home in Roscrea, County Tipperary is the only home however to have recorded *where* the adopted children actually went. However, these records only begin in 1961 and end

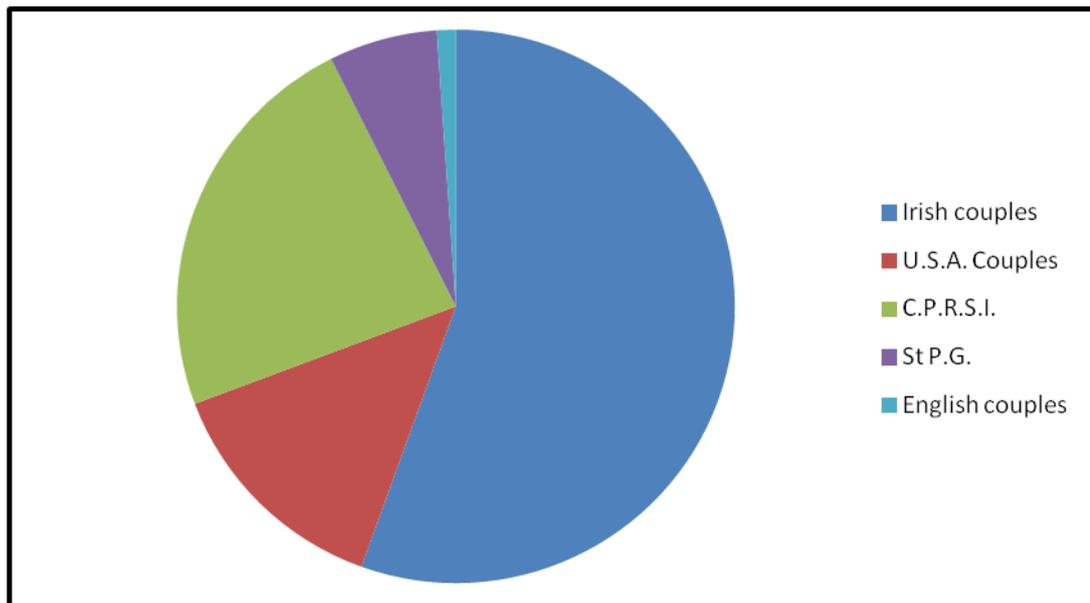
<sup>77</sup> Memo, 29 July 1957 (N.A.I. DFA/345/96/545).

<sup>78</sup> See Fig. 3.2 for yearly adoption orders.

<sup>79</sup> *An Bord Uchtála, annual reports 1953 – 1980* (N.L.I. OPIE J / 64).

in 1968. During these years 1,096 children were adopted from Sean Ross Abbey. In total 504 adoptions were to Irish couples, 125 adoptions were to the U.S.A., 212 children went to the Catholic Protection and Rescue Society, fifty seven went to St. Patrick's Guild, and ten children were sent to England.<sup>80</sup> The children who went to the C.P.R.S.I. and St. Patrick's Guild were later adopted by couples who sought assistance from the adoption agencies.

Fig. 3.3: Destinations of children adopted from Sean Ross Abbey, 1961 - 68<sup>81</sup>



It is unknown, however, whether all of these adoptions were legal. The adoption act explicitly stated that ‘A person who makes arrangements for the adoption of a child shall not receive, make or give any payment or other reward in consideration of the making of the arrangements or agree to do so.’<sup>82</sup> Between 1961 and 1968 Sean Ross Abbey received fees for ninety three adoptions. This was not the only home to accept fees, Bessboro accepted fees for three adoptions in 1964,<sup>83</sup> and Mike Milotte has recorded an account of an American couple who adopted a child from St. Clare's in Stamullen, County Meath, who gave £50 to St. Clare's in receipt for ‘expenses’. However as Milotte has observed:

<sup>80</sup> See Fig. 3.3.

<sup>81</sup> Statistics for Sean Ross Abbey, Roscrea, County Tipperary, 1961 – 1968 (Department of health files, A124 / 34).

<sup>82</sup> Section 41 (3)(a) of the Adoption Act, 1952 (1952/25) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1952/en/act/pub/0025/print.html> [04 January 2010].

<sup>83</sup> Statistics for Sacred Heart Home, Bessboro, County Cork, year ending 31<sup>st</sup> December 1963 (department of health files, A124 / 34).

The bill – for £2,000 in today’s money – was not itemised and it is difficult to imagine what it might have related to since the only expenses incurred by the nuns at this point in their dealings with the Rowses were for postage on three airmail letters and a photograph...<sup>84</sup>

Another adoption act was passed in 1964<sup>85</sup> and this act amended a number of sections in the 1952 act. Firstly it provided for children who were legitimated under the Legitimacy Act, 1931, to be adopted, providing that the child had not been re-registered. This provision was significant. An illegitimate child did not have a father’s name on his/her birth certificate. Under Schedule 1 of the Legitimacy Act, 1931 the child could be re-registered with his/her father’s name on the birth certificate, thereby making that child legitimate. However, if the child had not been re-registered then he/she was still *officially* illegitimate and so could be adopted – though the father had to give consent to the adoption, which implied that the biological father was recognised as such. By allowing only illegitimate, legitimated and orphan children to be adopted indicated that legitimated children remained in a separate category. The adoption of an *official* legitimate child remained unconstitutional in 1964 and so the 1964 Adoption Act did not implement equal rights for all children. The state had once more confirmed that illegitimate (and legitimated) children were unequal to their legitimate counterpart within the law.

Under the 1964 act the prospective adopters no longer had to be Irish citizens or resident in the state for the previous five years. Rather they had to be ordinarily resident in the state (the act did not specify for how many years) and had to be resident for a full year when making the application for an adoption order. The amendment of section eleven meant that the law was more lenient as to who the prospective adopters could be. Although it could be speculated that this was because of the prevalence of Irish – American adoptions, minister for justice, Charles Haughey, justified the provision by claiming that Ireland was the only country with legal adoption which placed restrictions on prospective adopters: ‘it turned out that no country in the Council [Council of Europe Conference], apart from ourselves, prohibited resident foreigners from adopting a child.’<sup>86</sup> Many senators were anxious

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<sup>84</sup> Milotte, *Banished babies*, pp 130 – 1.

<sup>85</sup> Adoption Act, 1964, (1964/2) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1964/en/act/pub/0002/index.html> [18 October 2011].

<sup>86</sup> *Seanad Éireann deb.*, lvii, 261 (18 Dec 1963) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0057/S.0057.196312180009.html> [09 February 2011].

about introducing this provision as it was unknown whether foreign people could be suitably supervised. Mary Frances Davidson, Labour T.D., stated:

I feel this is a dangerous change in that it could leave the door wide open for Irish children to be taken to any country in the world by persons whose backgrounds could not really be properly investigated...I would ask the minister if any difficulties arose from the subsection now proposed to be deleted during the time the adoption bill of 1952 has been in order [sic].<sup>87</sup>

This statement is curious considering the number of children who left the country both before and after 1952, both legally and illegally. Significantly, Haughey did not answer this question and once more the reputation of the state and the practice of ‘keeping up appearances’ remained more important than the welfare of the illegitimate child – the provision only entered law so that Ireland would be brought into line with the rest of Europe.

Overall from 1953 to 1979, 30,836 adoption orders were made<sup>88</sup> Indeed there were 2,662 more adoption orders than legal adoptions for these years. The reasons for this are many. Some applications were rejected, withdrawn, or simply not ready to be processed each year. In fact, between 1953 and 1979 a little under 5,000 adoption application forms were issued, however only 3,217 application forms were returned. For a number of years, particularly between 1953 and 1958, there were more adoptions than returned application forms, the reason for this anomaly can be attributed to forms not being returned in the year that they were issued. *Report of An Bord Uchtála for year ended 31<sup>st</sup> December 1955* stated that 507 ‘application forms issued in 1953 and 1954...were returned to the Board for determination during 1955.’<sup>89</sup>

The merits of the Adoption Act, 1952 and the various adoption acts that followed should not be underestimated. It is clear that adoption was a very common choice for many unmarried mothers. The adoption act allowed for the prospect of providing the unmarried mother’s child with a good home while at the same time affording her relief from her parental duties. It was a step toward relieving the unmarried mother of an impossible situation without necessarily punishing her for her actions. However, as noted, irregular adoptions continued to occur. The effect of such adoptions on these adopted children is not known. All records of their previous

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<sup>87</sup> *Seanad Éireann deb.*, lvii, 269 (18 Dec 1963) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0057/S.0057.196312180009.html> [09 February 2011].

<sup>88</sup> *Report of An Bord Uchtála for year ended 31<sup>st</sup> December 1979* (Dublin, 1980), p. 3.

<sup>89</sup> *Report of An Bord Uchtála for year ended 31<sup>st</sup> December 1955*(Dublin, 1956), p. 3.

life before adoption were wiped out – the children obtained new parents, new names and new addresses, and even if there were records, nobody was allowed to access them – therefore all trace of their previous life would have vanished.

...many grew to adulthood under assumed names and this “created serious issues of confused identity when the truth was revealed or found out, as did the fact that the real mother’s name was in some cases deleted from the record.”<sup>90</sup>

The Catholic church has received particular attention in the area of child abuse in the twentieth century. Studies such as Mike Milotte’s *Banished babies* and Mary Raftery and Eoin O’Sullivan’s *Suffer the little children* as well as television documentaries such as *States of fear* and *Sex in a cold climate* have all focused particular attention on the Catholic church, therefore it is sometimes easy to forget that there were other religious denominations which treated unmarried motherhood and illegitimacy in similar ways. In *Hannah’s shame: a true life story*, Derek Leinster recalls his childhood spent in the Protestant Bethany Home in Rathgar, Dublin and subsequently the many foster families with whom he was sent to live. His memories of the Bethany Home are comparable to June Goulding’s account of the Bessboro Home. He remembers:

The conditions in the Bethany Home are something that could best be described as hellish...Food was basic...They [babies and toddlers] were left for hour after miserable hour with nothing to eat or drink, unchanged nappies, unwiped noses and, of course, the mental stimulation was nonexistent.<sup>91</sup>

The language used in both Goulding’s and Leinster’s memories are markedly similar – they both refer to their respective homes as hell holes or hellish. Derek Leinster’s account suggests that no matter what religion illegitimate children belonged to, they were treated just the same, and so their lives followed similar patterns.

Religion did not make a difference in the amount of suffering imposed on the children in this situation – it just meant that one religion acknowledged the problem and the other ignored it even when it was in front of their eyes on a daily basis.<sup>92</sup>

From the creation of the Irish Free State until the 1940s, the Irish state and Catholic church attempted to decrease illegitimacy by offering minimal help – or at least no practical assistance – to the unmarried mother. So what changed in this era?

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<sup>90</sup> Ferriter, *Occasions of sin*, p. 331.

<sup>91</sup> Derek Leinster, *Hannah’s shame: a true life story* (n.p., 2005), p. 20.

<sup>92</sup> *Ibid.*, p. 14.

Why was the Irish state, for the first time, offering some realistic help and providing the unmarried mother with an official way of relieving herself of her parental responsibility? Why was the Catholic church, to a degree, content to allow the Irish state to proceed with these policies?

The answer to these questions may lie in the impact of the Second World War. Between 1939 and 1945 the illegitimacy rate in Ireland increased, probably as a result of the prevalence of soldiers in the country and more importantly, the travelling restrictions put in place between England and Ireland. Irish unmarried mothers could no longer travel to England to have their babies, which ultimately pushed up Ireland's illegitimacy rate. Between 1939 and 1945 the number of illegitimate births in Ireland increased by 2,000 in comparison to the preceding seven years in Ireland,<sup>93</sup> which of course put extra pressure on the government to do something about this perceived 'problem'.

Furthermore, the issues of sex and pregnancy outside of wedlock were not as taboo as they were previously perceived. As chapter one has demonstrated, sex and women's rights issues were becoming more frequent topics on the national stage and so people were more inclined to talk about unmarried motherhood and illegitimacy. Michael Viney's newspaper articles on the subject also helped to challenge this notion of illegitimacy as 'taboo'. The articles, later published as a pamphlet, *No birthright* in 1964, analysed the reality of unmarried motherhood in Ireland; the prevalence of emigration and ultimate adoption, the 'loss of reputation' a family endured, and the mother and baby homes some of unmarried mothers entered. The articles viewed unmarried motherhood from a humanitarian angle and demonstrated an understanding toward the unmarried mother and her child. Viney asked the question: 'But what kind of family love is this, which cannot stand the ultimate tests of loyalty and forgiveness, and which seems so ruthlessly conditioned by fears of what the neighbours will say?'<sup>94</sup> Traditional concerns about the reputation of the family were being challenged by Viney questioning those parents who were more concerned with 'what the neighbours might say' than with their daughters' welfare. A more humane approach toward unmarried mothers was beginning to be asked of Irish society.

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<sup>93</sup> Statistics compiled from Earner – Byrne, *Mother and child*, p. 184.

<sup>94</sup> Michael Viney, *No birthright: A study of the Irish unmarried mother and her child* (Dublin, 1964), p. 20.

In a report by the Catholic Protection and Rescue Society of Ireland (undated) it was claimed that ‘Faced with what appears to be a progressive increase in ex-nuptial births the suggestion recurs that state assistance should be forthcoming.’<sup>95</sup> The Irish state had 2,000 extra illegitimate children to care for between 1939 and 1945 and so it was forced to do something about the issue. Adoption and fostering were the obvious alternatives to providing state assistance, as ‘legitimate’ families were created and the unmarried mother was spared the humiliation of having an illegitimate child. However, the Irish state also had to accommodate those mothers who wished to keep their children. The social welfare provisions provided by the government were minimal at best; however this was a step which the government had refused to take in the 1920s and 1930s.

Overall, did the Irish government create a welfare state for the unmarried mother? In most cases it did not. The gap between unmarried mothers and married mothers remained, and married mothers continued to be favoured by the state, demonstrated in such policies as the maternity grant. However, both financial and social circumstances did improve for the unmarried mother in the 1960s and so it did become if not easier, then slightly more acceptable for an unmarried mother to care for her illegitimate child. The next chapter will demonstrate a remarkable change in both government policy and the Catholic church in the 1970s. This chapter has shown that ideologies and perceived views about the unmarried mother were slowly being challenged, and policies were beginning to change. It can be argued that the culmination of this gradual process is evident in the 1970s and the subsequent decades.

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<sup>95</sup> Report / note from C.P.R.S.I. written because of the ‘impending appointment of a Vice-Chairman’ p. 5, undated (D.D.A. lay organisations – C.P.R.S.I., box AB8/b/xxi).

## **Chapter Four: The turning tide: Ireland in the 1970s**

In the first half of the 1970s it became quite clear that the previous social assistance and care provided for unmarried mothers and illegitimate children were inadequate to say the least. Although improvements had been made during the latter half of the 1960s, the unmarried mother remained on the periphery of Irish society. Throughout the 1970s however, a number of changes took place which began to put unmarried mothers on more of an equal footing with deserted wives and widows. This chapter will explore the various changes which took place and how this affected the unmarried mother.

The 1970s experienced a radical shift in the relations between men and women. The definition of ‘the family’ was becoming increasingly confused, firstly owing to the different relationships which entered the public sphere, and secondly because women were experiencing more freedom away from the domestic field. These attitudes, ideologies and ultimate experiences of women and the different emerging relationships between people had a direct impact on unmarried mothers. Husbands and fathers were no longer unquestionably the traditional head of the family as in the earlier part of the twentieth century, and wives, mothers and daughters gained more freedom and experience in the public sphere.

Additionally, marriage began to lose its traditional value in Ireland during the 1970s. Cohabitation became a new phenomenon in Irish society. By cohabitating rather than marrying, women experienced better freedom in the work-place without feeling obligated to leave their careers to care for their partner and home. Alternatively, separated or deserted wives were becoming more visible in the public sphere. The Irish government introduced a deserted wives allowance in 1970 in accordance with the widows and orphans pensions, thereby making the deserted wife a visible and equal citizen of the state.<sup>1</sup>

The family started to be redefined, as various forms of the family began to emerge in Irish society. In addition to the traditional family, widows, deserted wives, cohabitating couples, and to a lesser extent, lesbian and gay couples became more noticeable within the public setting.

Two issues completely dominated public debate throughout the 1970s and into the 1980s: abortion and contraception. After the 1967 British Abortion Act and

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<sup>1</sup> Social Welfare Act 1970 (1970/12) available at the Irish statute book, <http://www.irishstatutebook.ie/1970/en/act/pub/0012/index.html> [14 April 2011].

with the rise in the number of Irish women travelling to Britain to procure an abortion, the two issues became intrinsically linked. Both issues were perceived as indicators of public morality and sexual permissiveness in society. The protection of young people in particular again became a cause for concern, particularly among the anti-contraceptive groups. It was believed that the availability of contraceptives would cause more young people to become sexually active. Furthermore it was believed that young people were impulsive and this, combined with the lack of information on the use of contraceptives, would result in pregnancy – thereby raising the rate of abortion. Indeed after an illegal contraceptive vending machine was installed in University College, Dublin in the late 1970s it was thought that:

Legislation of this kind in other countries, which inevitably became more permissive with time, has led to the erosion of the stability of marriage, family life and sexual morality, and has ultimately proved the way to abortion.<sup>2</sup>

The modernisation of laws in other western countries, such as the British Abortion Act, 1967, was always going to have an effect on Irish society. People now wanted more control and freedom over their lives, particularly in their private lives, which the Catholic church and Irish state had previously attempted to control. Contraception had remained an underlying and somewhat contentious issue in Ireland since the passing of the Criminal Law Amendment Act, 1935. It had never completely disappeared, as the Criminal Law Amendment Act only made it illegal to import *and* sell contraceptives – it was not illegal to import them for personal use. Additionally, in 1969 it was declared by the U.N. General Assembly's Declaration on Social Progress and Development that family planning was a human right, and 'that parents have the right to necessary information and means to plan their families.'<sup>3</sup> Views and perceptions of sex and sexual permissiveness were changing and neither the Irish government nor the Catholic church could prevent this from occurring.

The British Abortion Act, 1967, caused some controversy in both Britain and Ireland. However the House of Commons debates surrounding the measure offered startling evidence supporting the *need* for abortion facilities in Britain. Renée Short,

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<sup>2</sup> W. Ivo O'Sullivan, department of chemistry U.C.D., Belfield, to Taoiseach, 6 February 1979 (N.A.I., 2009/135/194).

<sup>3</sup> James T. Loughran, chairman of family planning association to Taoiseach, 23 November 1973 (N.A.I. 2005/7/344).

advocate of the then bill, declared that ‘almost 90 per cent of women having abortions are married.’<sup>4</sup> These women, she proclaimed, had four or more children and so they could not financially afford any more children. Although she did not mention Irish women specifically, this dilemma reflected the problem for Irish families also. The Abortion Law Reform Association in Britain carried out a number of studies and surveys in the 1960s, one of which was to investigate medical practitioners’ views of abortion. Indeed 57 per cent of doctors ‘thought that to compel a woman to bear a child against her will causes more psychological harm than hospital termination.’<sup>5</sup> Another study revealed that ‘60 per cent of Catholics were all in favour [of abortion].’<sup>6</sup>

Britain seemed to have taken a more humanitarian approach toward abortion than Ireland’s staunch Catholic attitude. Britain took into consideration the religious outlook of its population, the medical practitioner’s views whose job it would be to carry out these procedures, and most importantly the woman’s physical and mental health. As Tom Heskith has argued: ‘In both the United States and Britain the issue [of abortion] became salient as a result of the activities of pro-abortion groups who were campaigning to liberalise restrictive abortion legislation.’<sup>7</sup> The Abortion Act, 1967, did not advocate abortion as a form of contraception, indeed it had very strict provisions and it is clear that it was introduced with the sole purpose of protecting the mother’s health while pregnant.

The British Abortion Act, 1967, provided for the termination of pregnancy under certain provisions. Firstly, the termination had to be carried out by a medical practitioner and in a hospital. However, this could only be done if two registered medical practitioners formed the opinion that the continuation of the pregnancy would risk the woman’s or her family’s physical or mental health, or if it was possible that the foetus would suffer physical or mental defects to cause it to be severely handicapped.<sup>8</sup> A provision was submitted that in assessing the risks to the continuation of pregnancy the woman’s actual, or foreseeable environment, could be

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<sup>4</sup> Renée Short, House of Commons, 15 June 1965, vol. 714, c. 257, available at HANSARD 1803 – 2005, <http://hansard.millbanksystems.com/commons/1965/jun/15/abortion> [28 April 2011].

<sup>5</sup> Ibid., c. 256.

<sup>6</sup> Ibid., c. 257.

<sup>7</sup> Tom Heskith, *The second partitioning of Ireland: the abortion referendum of 1983* (Dublin, 1990), p. 1.

<sup>8</sup> Section one, subsection one, Abortion Act, 1967 (1967 c.87) [U.K.] (27 Oct. 1967) available at legislation.gov.uk, [http://www.legislation.gov.uk/ukpga/1967/87/pdfs/ukpga\\_19670087\\_en.pdf](http://www.legislation.gov.uk/ukpga/1967/87/pdfs/ukpga_19670087_en.pdf) [28 April 2011].

taken into consideration.<sup>9</sup> This provision, of course, would have allowed a number of women to obtain abortions without in fact having any risk to their own, their family's or their unborn child's physical and mental health. Indeed Ferriter has noted that:

In 1975, Dr Dermot Walsh reported that 88 per cent of the Irish women getting an abortion in Britain in 1971-2 had invoked the ground of "mental or psychiatric troubles" in order to obtain the go-ahead that two doctors had to give before the operation could take place.<sup>10</sup>

During the 1970s there was much debate surrounding the number of Irish women going to Britain to procure an abortion. Attention was given to organisations which were allegedly giving women advice on how to procure an abortion and organising travel arrangements.<sup>11</sup> Under the Censorship of Publications Act, 1929, it was unlawful to advocate the procurement of abortion,<sup>12</sup> and under section 58 of the Offences Against the Persons Act, 1861, it was unlawful to procure a miscarriage of a woman (this law was still in force in Ireland).<sup>13</sup> Therefore it was illegal to either induce an abortion or advertise ways in which to obtain one.

However it is evident that abortion agencies did exist in Ireland, although discreetly. In Aileen O'Hare's *Directory of services for the unmarried mother and her child* the author reveals that the organisation ALLY provided a number of services for the unmarried mother. Family placement schemes were common during the 1960s and 1970s. These schemes referred single pregnant girls to families before their confinement and they were allowed to stay for up to two weeks after their confinement. Not only did this allow the unmarried mother some comfort during her pregnancy, it also provided her with a way of keeping her pregnancy secret. Alternatively, 'ALLY will also refer girls to agencies offering a *different kind* of service if the girl so chooses.' [emphasis added]<sup>14</sup> Although abortion clinics were not explicitly mentioned, the language would suggest that this was what was being referring to.

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<sup>9</sup> Ibid., Section one, subsection 2.

<sup>10</sup> Ferriter, *Occasions of sin*, p. 466.

<sup>11</sup> *Dáil Éireann deb.*, cclxiii, 1962 – 3 (16 Nov. 1972), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0263/D.0263.197211160090.html> [26 April 2011].

<sup>12</sup> Section 16, Censorship of Publications Act, 1929 (1929/21) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1929/en/act/pub/0021/print.html#sec16> [17 May 2011].

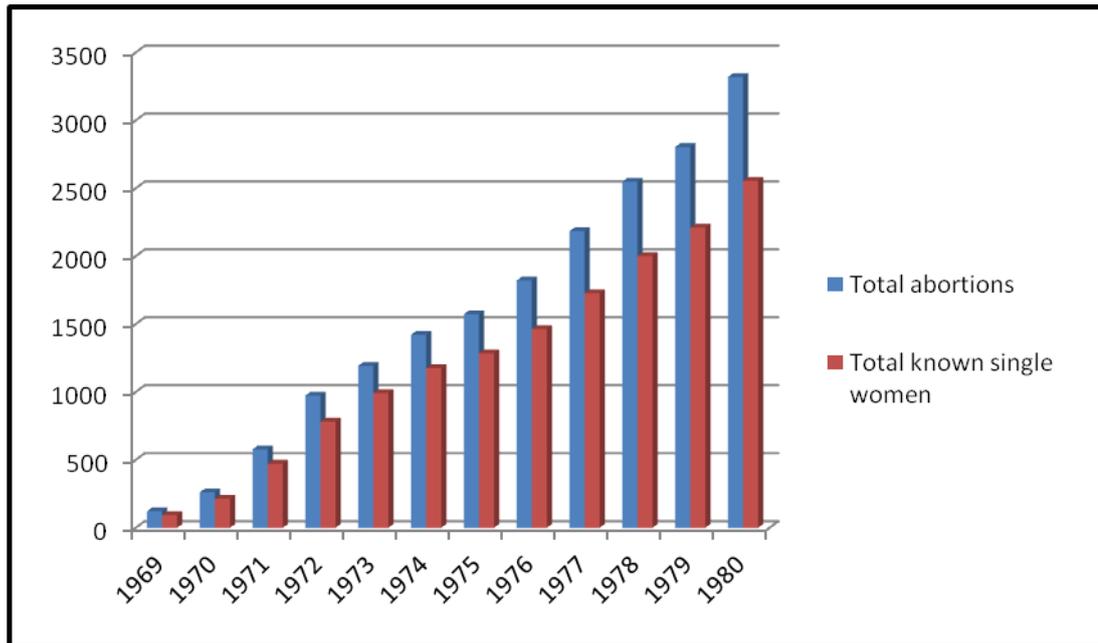
<sup>13</sup> Section 58, Offences Against the Person Act, 1861, (24 & 25 Vic. I c. 100) available at legislation.gov.uk, [http://www.legislation.gov.uk/ukpga/1861/100/pdfs/ukpga\\_18610100\\_en.pdf](http://www.legislation.gov.uk/ukpga/1861/100/pdfs/ukpga_18610100_en.pdf) [17 May 2011].

<sup>14</sup> Aileen O'Hare, *Directory of services for the unmarried mother and her child* (1973), p. 7.

Because of the supposed assistance given to unmarried mothers seeking an abortion, and the general tendency and tradition of Irish pregnant women to travel to Britain, questions were occasionally asked in the dáil for figures on the number of Irish women procuring abortions in Britain.

Figure 4.1 shows the number of Irish women who obtained abortions in Britain between 1969 and 1980, and the number who were known to be single.<sup>15</sup>

Fig. 4.1. Irish women obtaining abortions in Britain and the number known to be single, 1969 – 1980.<sup>16</sup>



In 1969 just 121 Irish women sought abortions, however as figure 4.1 demonstrates, this number rose steadily thereafter. In 1980, 3,320 Irish women sought abortions, of whom 2,556 women were known to be single. This rise in abortions has been titled the ‘abortion trail’.<sup>17</sup>

Members of the opposition in government during the 1970s blamed the inadequacy and lack of services available to unmarried mothers in Ireland for the continuing rise in abortions. Dr. John O’Connell, of the Labour party, was a particularly fierce critic of the ‘abortion trail’, and on a number of occasions he attempted to persuade the minister for health, Charles Haughey, to discourage

<sup>15</sup> This figure could be inaccurate owing to the number of women who obtained abortions without giving their marital status.

<sup>16</sup> Statistics supplied by the abortion statistics unit, department of health, London. Author had to e mail the Department of Health in London to obtain this information.

<sup>17</sup> This term has been used by a number of scholars, including, Diarmaid Ferriter, *Occasions of sin* (London, 2009), p. 253, and Ann Rossiter, *Ireland’s hidden diaspora: the ‘abortion trail’ and the making of a London – Irish underground, 1980 – 2000* (London, 2009).

women from seeking abortions in Britain. Dr. O’Connell proposed that a number of ‘discreet’ services should be put in place for the unmarried mother because Ireland was a ‘small closed community.’<sup>18</sup> It is not clear what Dr. O’Connell meant by ‘discreet services’, however it was clear that by the 1970s the ‘discreet’ services that Ireland was currently providing – that of mother and baby homes – were no longer suitable to meet the unmarried mother’s needs. Dr O’Connell continued: ‘Is the minister aware that the back-up service provided by his department and the health boards is inadequate and that this is responsible for the outflow of these girls to Britain—lack of proper services here?’<sup>19</sup> Although the lack of services in Ireland may have been a factor it was not the only reason why so many Irish girls were seeking abortions in Britain. The lack of assistance within the community and the ‘shame’ and ‘disgrace’ an illegitimate child was perceived to bring on a family was still prevalent in the 1970s. Before attempting to prevent Irish girls going to Britain, a number of issues had to be resolved within society itself.

Concern in Ireland around the abortion issue was reflected in the conservative nature of Ireland’s legislation. Tom Heskith has found that ‘abortion legislation in Britain and the United States exhibits a movement from restrictive to permissive...In Ireland, restrictive abortion legislation remained intact and virtually unchallenged...’<sup>20</sup> The law that criminalised and prohibited abortion – Offences Against the Persons Act, 1861 – had never been opposed, threatened or challenged, and so before anything remotely resembling a movement toward reforming the law occurred, it would need to be contested in some way.

Pro – choice campaigners, though limited in the support they garnered, came to the forefront of Irish politics in the late 1970s and early 1980s. Two pro – choice groups which were particularly successful were the Dublin Well Woman Centre, founded in 1978, and the Woman’s Right to Choose group, established in 1980. Such efforts prompted hostility in some quarters. Throughout the 1970s and into the early 1980s the pro life amendment campaign – campaigning to recognise the right to life of the unborn child – was particularly successful. However, from 1982 opposition toward the campaign began to emerge. At the forefront of this opposition campaign was Senator Mary Robinson:

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<sup>18</sup> *Dáil Éireann deb.*, cccvi, 218 – 9 (6 Apr. 1978), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0263/D.0263.197211160090.html> [27 April 2011].

<sup>19</sup> *Ibid.*

<sup>20</sup> Heskith, *The second partitioning of Ireland*, p. 1.

She adopted what might be referred to as a causalist approach to the problem of abortion in Ireland...The [need for] reform of the illegitimacy laws, provision for sex education within Ireland's schools, and more widely available contraceptive services than those provided for in the 1979 Health and Family Planning Act were commonly cited.<sup>21</sup>

By 1983 there was a clear need for reforming the law in relation to abortion. The 1861 act was too old to hold any sway within the country and so the Irish government had to clarify its position on abortion.

Fianna Fáil in 1982 proposed a pro-life amendment to the constitution, however by the time the eighth amendment of the constitution bill was introduced in the dáil, Fine Gael had come to power. This bill aimed to amend article forty of the constitution by stating: 'The state acknowledges the right to life of the unborn child and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.'<sup>22</sup> By placing this text within the constitution, Ireland would protect the rights of the unborn child as well as those of the mother. Prior to the amendment, the unborn child was not regarded as a citizen and so was not protected by the constitution. The text was ambiguous to say the least and this reflected the turmoil which Ireland was experiencing in this era with regard to abortion. The amendment did not put a case for or against abortion, rather it acknowledged both the mother's and the child's rights, thereby outlawing abortion while still allowing mothers to travel to procure abortions.

The confusion and emotional stress which the abortion referendum provoked in Ireland is reflected within the dáil debates. However the most comprehensive and balanced speech came from Nuala Fennell, minister of state at the department of the Taoiseach. Though she was against abortion she did attempt to provide a level of understanding for those women who had abortions. She declared:

My contribution here should not be interpreted as advocating or making a case for, abortion here. I do not want abortion in Ireland. I appeal for an understanding and recognition of the risks which could be involved in this constitutional amendment.<sup>23</sup>

Those risks which she referred to were the wording of the amendment which raised both legal and medical issues, and most importantly, the fact that those

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<sup>21</sup> Heskith, *The second partitioning of Ireland*, p. 71.

<sup>22</sup> *Dáil Éireann deb.*, cccxxxix, 1353 (09 Feb. 1983), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0339/D.0339.198302090003.html> [15 May 2011].

<sup>23</sup> *Dáil Éireann deb.*, ccclx1, 490 (17 Feb. 1983) available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0340/D.0340.198302170003.html> [15 May 2011].

women who did decide to have an abortion did not make this decision lightly: ‘these are the women for whom an unwanted or unplanned pregnancy can be an unremitting nightmare and who are faced with the agonising decision about abortion.’<sup>24</sup>

After lengthy and heated debates on the eighth amendment of the constitution bill, 1982, the bill was passed and a referendum set for September 1983. The referendum was declared carried with 66.45% voting in favour. The Referendum (Amendment) Act, 1983, became law.<sup>25</sup>

The abortion debate and referendum was to become a defining moment in Irish social history. It truly did divide the nation – everyone had an opinion on it. It divided the nation so much so that the *Irish Times* declared that the period became ‘the second partitioning of Ireland’. This article declared: ‘It may be a new beginning, but it is, among other things, the burial of an ideal that set the nation alight in the last decades of the eighteenth century.’<sup>26</sup>

The abortion referendum, although probably one of the most heated debates throughout the 1970s and into the 1980s, was not the only factor in the changing Ireland. As previously discussed, contraception was also an important issue in this era and dominated debates even more than the abortion issue.

Section seventeen of the Criminal Law Amendment Act, 1935, made it illegal to import and sell contraceptives in the Republic of Ireland; it did not, however, make it illegal to import contraceptives for personal use.<sup>27</sup> In 1972, Mary McGee, a young married mother of four children took her case to the Irish High Court when the spermicide jelly which she had ordered from Britain was confiscated by customs. Her three pregnancies (she had two children and a set of twins), had been hampered by health problems, thus Mrs McGee was advised by doctors not to have any more children. When a number of ‘natural’ birth control methods and the pill failed she was finally given the cap (I.U.D.), which needs spermicide jelly to work effectively. When Customs confiscated the product Mrs McGee took her case to the High Court stating that the confiscation of the package would harm her life if she fell pregnant for a fourth time:

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<sup>24</sup> *Ibid.*, c. 486.

<sup>25</sup> For more details on the abortion campaign and the referendum see Tom Heskith, *The second partitioning of Ireland* (Dublin, 1990).

<sup>26</sup> *Irish Times*, 30 August 1983.

<sup>27</sup> The Criminal Law Amendment Act, 1935 (1935/6), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1935/en/act/pub/0006/print.html> [14 May 2011].

Mrs McGee's lawyers (Mary Robinson as junior counsel) contended that section 17.3 of the law was incompatible with the Constitution articles on the citizens' personal rights (40.3.1.), and on the authority of the family (41.1.2).<sup>28</sup>

Mrs McGee's case failed in the High Court. However, she took her case to the Supreme Court where four out of five judges ruled in her favour.<sup>29</sup> Judge Walsh of the Supreme Court declared:

The sexual life of a husband and wife is of necessity and by its nature an area of particular privacy. If the husband and wife decide to limit their family, or to avoid having children by the use of contraceptives, it is a matter particularly within the joint decision of the husband and wife, and one into which the State cannot intrude, unless the intrusion can be justified by the exigencies of the common good.<sup>30</sup>

The government and indeed the law were beginning to learn that people had private lives which the state could no longer intrude upon.

The McGee case has become a watershed in Irish legal history. It highlighted the importance of the need for a legislative measure and, more importantly, it changed the way Ireland thought of and viewed contraceptives. It became clear that there was a need to modify the law in relation to contraceptives in a way that would be practical in 1970s Ireland. Indeed since 1962 the pill had been available in Ireland because it was advertised as a 'cycle regulator', rather than a method of contraception. It was becoming clearer that more people were using contraceptives and that the 'Catholic ethos' of the country was having little or no effect on the growing practice. Through the availability of the pill and the practice of family planning clinics to provide contraceptives for free, it was obvious that the law would at least need to be modified if not completely changed.

From the early 1970s a number of family planning bills were introduced into the Seanad. Senator Robinson attempted to introduce a family planning bill seven times, however only two bills received second readings and were therefore published.

The first family planning bill was introduced in 1973 and the second in 1974, both by Senator Mary Robinson. However, though both bills were extensively

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<sup>28</sup> Chrystel Hug, *The politics of sexual morality* (New York, 1999), p. 97.

<sup>29</sup> Article 34 of *Bunreacht na hÉireann* gives the Supreme Court the power to overturn decisions made by the High Court.

<sup>30</sup> Memo on the Health (Family Planning) Bill, 1978, in relation to the McGee case, 26 January 1979 (N.A.I., 2009/135/194).

debated, both failed to become law. The 1973 family planning bill was defeated by a thirty two to ten majority,<sup>31</sup> the second by a majority of twenty three to twenty.<sup>32</sup>

The debates surrounding the first family planning bill of 1973 reveal much about both the support for and opposition to the bill. The majority of supporters were advocates of the availability of contraceptives. They believed that if contraceptives were permitted within the state then they could be controlled to a better extent than they had been previously. The dangers of contraception and abortions could be lessened if the public could be informed and educated on their use, and so the censorship acts needed to be amended and reformed also. Senator Robinson made reference, in the first reading of the bill, to the fact that the world, and indeed the country, was changing in its views toward sex and contraceptives. She announced that ‘for the last three years there has been a very widespread discussion of this topic in every forum of the land – newspapers, television, private meetings and various discussion groups.’<sup>33</sup> The control, use and distribution of contraceptives was now viewed as a fundamental right in the international sphere, and by Ireland endorsing this position, it would reduce the danger Irish citizens were currently exposed to because of the lack of information they received.

Opponents of the bill, on the other hand, feared a number of things through the introduction of contraceptives. The debates reveal that these issues lay outside the scope of contraception and sex. The possibility of a decrease in population and losing Ireland’s heritage and tradition were equally feared: ‘Their [pro-choice groups] goal is the anglicisation of our Irish way of life and the removal from Irish life of everything that distinguishes it from life in England.’<sup>34</sup> Additionally, opponents of the bill found it difficult to separate contraceptives from abortifacients, because ‘pills’ prevented conception and sometimes after sex had taken place. Professor Patrick Michael Quinlan categorised them as abortifacients:

Many of the pills at present have certain abortifacient characteristics...Anyone, however, should be in no doubt but that future

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<sup>31</sup> *Seanad Éireann deb.*, lxxvii, 662 (27 Mar. 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0077/S.0077.197403270004.html> [05 May 2011].

<sup>32</sup> *Seanad Éireann deb.*, lxxxvi, 802 (05 May 1977), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0086/S.0086.197705050005.html> [05 May 2011].

<sup>33</sup> *Seanad Éireann deb.*, lxxvi, 4 (14 Nov. 1973), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0076/S.0076.197311140006.html> [09 May 2011].

<sup>34</sup> Prof. Quinlan, *Seanad Éireann deb.*, lxxvii, 261 (21 Feb. 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0077/S.0077.197402210003.html> [09 May 2011].

research on those pills will be directed towards producing a morning-after pill, the one that will work by producing an early abortion.<sup>35</sup>

Contraceptives were also intrinsically linked to the moral argument and the ‘virtue’ of Irish citizens. Senator Michael O’Higgins quoted a number of newspaper articles to demonstrate the perceived connection between the availability of contraceptives and the growing permissiveness in British society. He quoted articles from the *Irish Independent* about the widespread use of pornography, the *Evening Herald* about the supply of contraceptives to teenagers, and the *Belfast News Letter* about the growing permissiveness in Ulster society.<sup>36</sup> By quoting from these various newspapers it appears that Senator O’Higgins was rather more afraid of the consequences of the supply of contraceptives than the use of contraceptives themselves.

The moral issue of course led into the question of religion and the Catholic church’s position with regard to the bill. In 1968 Pope Paul VI had issued an encyclical entitled *Humanae vitae*, which clarified the Catholic church’s position on contraception. Throughout the seanad debates, Senator O’Higgins extensively quoted from this encyclical. The issuing a papal encyclical on birth control reveals that by 1968 the spread of information about the regulation of birth and artificial methods of preventing it was known to the Catholic church. Indeed Pope Paul VI began the encyclical by declaring that ‘the recent course of human society and concomitant changes have provoked new questions.’<sup>37</sup> The encyclical gave a sermon on marriage and the procreation which marriage was designed to ensure. It repeated the Catholic church’s condemnation of abortion and sterilization, and of course contraception. It revealed:

it is never lawful, even for the gravest reasons, to do evil that good may come of it...to intend directly something which of its very nature contradicts the moral order, and which must therefore be judged unworthy of man, even though the intention is to protect or promote the welfare of an individual, of a family or of society in general.<sup>38</sup>

And so the introduction of a family planning bill was in direct contravention of the Catholic church’s code.

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<sup>35</sup> Ibid, c. 274.

<sup>36</sup> Ibid., O’Higgins, c. 255 – 257.

<sup>37</sup> *Humanae vitae*, 25 July 1968, available at the Vatican Archives, [http://www.vatican.va/holy\\_father/paul\\_vi/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae\\_en.html](http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html) [09 May 2011].

<sup>38</sup> Ibid.

This was not the first time that the Catholic church had expressed its views on contraception while the issue was ripe in Ireland. In 1930, five years prior to the Criminal Law Amendment Act, Pope Pius XI issued the *Casti connubii*. Discussed in chapter two, this papal encyclical propagated the sanctity of marriage and prohibited the use of artificial contraceptives.<sup>39</sup> Although it may be a coincidence that these papal encyclicals reflected social issues which were occurring in Ireland, it is more probable that these social issues were also taking place elsewhere in the world – as has been shown through the comparisons between Britain and Ireland and other European countries in earlier chapters. Thus the issuing of papal encyclicals at certain times seems to suggest an attempt to influence official policy at government level in different countries.

The family planning bill of 1973 was defeated on 27 March 1974. On 17 December 1974 Senator Mary Robinson introduced another family planning bill into the seanad. Although this bill again advocated liberalising the law with regard to family planning, Senator Robinson described this bill as a compromise:

It tries to provide a balance ... on the one hand the liberalising of the law in order to promote the right to family planning, the right to information, a right recognised and endorsed by the Supreme Court in the McGee case, and at the same time to provide control in the public interest, a control which does not exist in present circumstances and which can be argued to be necessary.<sup>40</sup>

Possibly owing to the defeat of the first bill in 1974, the second bill moved very slowly through the seanad. Although it was introduced in 1974, the second reading of the bill did not take place until 1976 and it was not defeated until 1977. Senator Robinson viewed the debate on the 1973 family planning bill as ‘a serious and thoughtful attempt to view the complexities of the whole problem.’<sup>41</sup> Akin to the 1973 bill, the family planning bill, 1974, was very concerned with the need to inform and educate Irish society so that the risks concerning contraceptives could be reduced. At that time people could, to a limited extent, access contraceptives and use them; however the information pertaining to them remained restricted. The Irish Family Planning Association published a number of booklets on the use of

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<sup>39</sup> Pope Pius XI, *Casti connubii*, 31 December 1930, available at the Vatican Archives, [http://www.vatican.va/holy\\_father/pius\\_xi/encyclicals/documents/hf\\_p-xi\\_enc\\_31121930\\_casti-connubii\\_en.html](http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_31121930_casti-connubii_en.html) [18 May 2011].

<sup>40</sup> *Seanad Éireann deb.*, lxxxv, 1070 (16 Dec. 1976), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0085/S.0085.197612160003.html> [18 October 2011].

<sup>41</sup> *Ibid.*

contraceptives, however they were banned by the Censorship of Publications Board on the grounds of indecency – even though they had been used as reputable sources of information in schools in England.

In 1974 the government introduced its own family planning bill – control of importation, sale and manufacture of contraceptives bill. From the title it is obvious that the emphasis of this bill, akin to the former family planning bills, was on the control of contraceptives rather than their use. This bill was again introduced because of the circumstances arising from the Mc Gee case. Minister for justice, Patrick Cooney, justified the introduction of such a bill:

As a result of the Supreme Court decision the position now is that any person may purchase abroad and import contraceptives into this country for his own use or may freely distribute them but they may not be sold in the State. We now have a rather anomalous situation that there is no restriction whatever on the importation of contraceptives but there is an absolute prohibition on their sale.<sup>42</sup>

The law was clearly nonsensical, however there remained fierce opposition to the legalisation of the sale of contraceptives. The age-old argument about the protection of young people prevailed in the dáil during this debate. The issue of protecting young people and young couples in particular was fiercely defended. It was still believed that the availability of contraceptives would mean that more young couples would begin to have sexual relations in an irresponsible fashion – though the fact that the illegitimacy rate continued to rise throughout this era meant that people were having sexual relations regardless, without the issue of contraceptives. Additionally, contraceptives were still deemed by some to be a method of ‘race suicide’ – to be able to control fertility meant that the population could be intentionally lowered: ‘in the areas where lower-paid workers live, you may certainly have more children, but you have much less emotional disturbance, a much happier community...’<sup>43</sup> This bill’s progress through the dáil however, became particularly farcical when Taoiseach Liam Cosgrave, voted against his own party’s bill.<sup>44</sup> After a lengthy debate throughout the course of July 1974, when the bill was voted on, it failed with 61 voting in favour and 75 against.

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<sup>42</sup> *Dáil Éireann deb.*, cclxxiv, 285 – 6 (04 July 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0274/D.0274.197407040003.html> [14 May 2011].

<sup>43</sup> Séan Moore, *Dáil Éireann deb.*, cclxxiv, 997 (11 July 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0274/D.0274.197407110003.html> [14 May 2011].

<sup>44</sup> *Dáil Éireann deb.*, cclxxiv, 1267 – 70 (16 July 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0274/D.0274.197407160030.html> [18 May 2011].

By 1976 it was clear that there was a very real and practical need for contraceptives and for information on them. Senator Robinson, in the debate on family planning, listed a number of family planning clinics which had opened up in Ireland; in Dublin alone 29,902 patients had visited family planning clinics for the year 1976 – all were women.<sup>45</sup> By the late 1970s the Catholic church was losing the authority it once held in Irish society and so the moral argument was no longer as persuasive as it might have once been. More people now wanted control over their own bodies and they wanted choices which were freely available in other countries such as Britain. People were now becoming more aware of the Catholic church and the Irish state as separate entities. In the past the two institutions had seemed inseparable, as attempts were made to legislate for morality; by the 1970s it was clear that the state no longer had the support of the public to do this. It had tried and failed and it was becoming more obvious that the state had to stay within the boundaries of civil and criminal law, while the church attempted to impose a doctrine of morality. As Senator Robinson explained:

There is no question that people of strong religious convictions and a deep sense of Catholic moral values, can nevertheless accept the separation of church and state, can accept the proper role of the legislature in the matter and can support this bill.<sup>46</sup>

The final and ultimately successful family planning bill was introduced into the seanad on 8 November 1978. Again introduced by Senator Robinson, this bill produced an equally extensive debate as previous bills, but from its introduction the attitude toward the bill was very different. This was the first family planning bill which was not opposed on a first reading.

By 1978 there was a clear need for a comprehensive family planning measure. The previous measures, though they were heatedly debated, were primarily concerned with the control of contraceptives. The 1978 measure however, was more extensive in its provisions. Minister for health, Charles Haughey, explained: ‘Its emphasis is primarily on the provision of family planning services and it deals with the control of contraceptives as something which... must be dealt with in the context of a comprehensive family planning service.’<sup>47</sup>

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<sup>45</sup> *Ibid.*, c. 1075.

<sup>46</sup> *Seanad Éireann deb.*, lxxxvi, 786 (05 May 1977), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0086/S.0086.197705050005.html> [18 May 2011].

<sup>47</sup> *Dáil Éireann deb.*, cccxii, 321 (28 Feb 1979), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0312/D.0312.197902280003.html> [12 May 2011].

As well as the provisions becoming more extensive, politicians within Dáil Éireann were far more liberal in their outlook. John Boland, Fine Gael, declared:

We cannot close our eyes to what is happening around us. We cannot ignore the legitimate demands of many young couples that they be allowed to plan their lives and their families in the manner best suited to their personal needs; nor can we afford to deny their claim that they be allowed to order their sexual affairs as they see fit and as a matter between themselves and their God.<sup>48</sup>

The politicians were finally beginning to recognise that there were limits to the extent in which they could control the sexual lives of Irish citizens.

The debates surrounding this bill lasted until 1979, and on 29 July 1979 the Health (Family Planning) Act passed into law. The long title explained that it was:

An act to make provision for family planning services and, with a view to ensuring that contraceptives are available only for the purpose, *bona fide*, of family planning or for adequate medical reasons, to regulate and control the sale, importation, manufacture, advertisement and display of contraceptives and to provide for certain other matters.

Therefore, although it did make provision for family planning services, an aim of the act was to control contraceptives so that they were advertised and distributed in such a way which would not harm or offend the Irish public – contraceptives were still, to a certain degree, regarded as ‘dangerous’.

Indeed, the ‘natural’ family planning services established by this act were limited in their duties. They were authorized to give ‘information, instruction, advice and consultation in relation to methods of family planning that *do not* involve the use of contraceptives.’<sup>49</sup> Information on the use of contraceptives remained with medical practitioners. This could prove to be a problem for women who wanted to speak to someone anonymous or whose doctor was staunchly Catholic and indeed refused to give information or provide a prescription for contraceptives. A medical practitioner could certainly refuse to provide a prescription, because section eleven of the act provided for conscientious objections, a stipulation that ‘Nothing in this act shall be construed as obliging any person to take part in the provision of family planning, the giving of prescriptions, or authorisations for the purposes of this act...’<sup>50</sup>

The act clearly stated that the government would allow for the provision of contraceptives and would provide information and consultation on them; however

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<sup>48</sup> Ibid., c. 345.

<sup>49</sup> Section 2 (b) of the Health (Family Planning) Act, 1979 (1979/20) available at the Irish statute book, <http://www.irishstatutebook.ie/1979/en/act/pub/0020/print.html> [12 May 2011].

<sup>50</sup> Ibid., section 11.

certain stipulations made it difficult for people to obtain such information. The government was clearly not comfortable with the idea of the provision of contraceptives for the Irish people and would rather ‘natural’ methods of contraception were used instead. This was clearly the case when inserting section nine into the act, which provided for a grant, from the oireachtas, for research into areas of ‘natural’ family planning.<sup>51</sup>

The introduction of the Health (Family Planning) Act, 1979, was radical for a country most of whose politicians and decision makers were so clearly staunchly Catholic and traditional in their values. Were it not for the ‘new’ generation of politicians such as Mary Robinson, John Horgan and Trevor West, who were all steadfast in their support of each family planning bill, this act would never have come to fruition. This act, even with the restrictions, was hugely important for the Irish public, and more particularly for Irish women. They would now have a certain control over their own sexual lives which they did not have in the past.

The issues of abortion and contraception may have dominated both official and public debate throughout the 1970s, however it was not the only social issue which the government faced in this era. Pressure groups and organisations with the addition of the women’s liberation movement seemed to provide women with a voice and a platform from which to air their views – indeed they were quite influential as pressure groups throughout the decade. Voluntary organisations such as CHERISH, ALLY, CARE and Women’s Aid all had a role in advancing women’s concerns. CHERISH was most probably the most established and successful of the organisations. Founded in 1972, by a group of unmarried mothers who had kept their children, the aim of the organisation was to:

...reach out to offer information, advice and support to single parents and to single women during and after pregnancy. This is because many single parent families are forced to battle against acute prejudice, pressures and problems. Cherish believes we have a role to educate the public around these issues, to influence public policy and to promote a positive image of single parent families.<sup>52</sup>

The first aim of the organisation was to obtain state support for the unmarried mother. Furthermore, CHERISH wanted to raise the status of the illegitimate child. It

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<sup>51</sup> Ibid., section 9.

<sup>52</sup> Grainne Farren, *From condemnation to celebration: the story of CHERISH 1972 – 1997* (Dublin, 1997), p. 3.

wanted illegitimate children to have an equal legal status to the legitimate child and most importantly, that the status 'illegitimate' should be abolished.

CHERISH challenged the stereotypes about unmarried mothers and their children. The women who founded CHERISH were not raised in poverty and they were not uneducated as unmarried mothers were previously believed to be. Indeed it was found that: 'the facts are that single mothers are to be found in all sections of society and in all professions and occupations.'<sup>53</sup> Volunteers were provided to give both practical and emotional support to unmarried mothers who contacted CHERISH for help. Mary Robinson was president of CHERISH until 1990, when she became the first female president of Ireland.

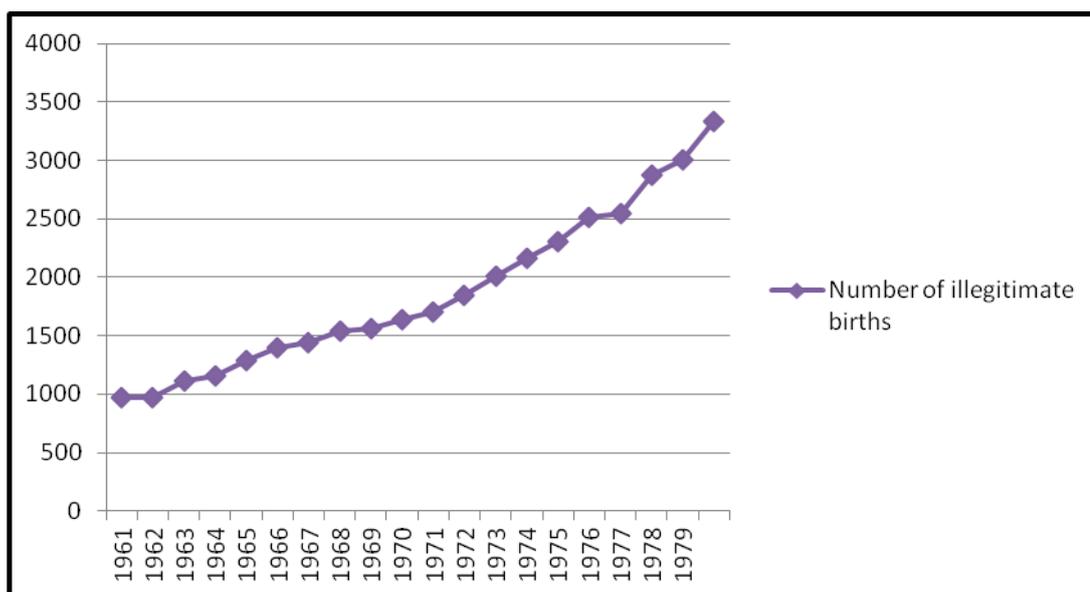
Social reform and social equality became high on the government's agenda during the 1970s, possibly owing to the combined efforts of various pressure groups, an effort to keep up with other European countries in the area of social reform, and through a deliberate attempt on the part of the Irish government to make every citizen equal, regardless of their social status.

Unmarried mothers and more particularly illegitimate children became targets for social reform in this period. The illegitimate birth rate in Ireland was increasing, and at quite a rapid pace as fig. 4.2 demonstrates. Between 1961 and 1971 the number of illegitimate birth nearly doubled from 975 in 1961 to 1,842 in 1971. Clearly, the statistics demonstrate that the traditional methods of secrecy and exclusion from the community were not working. Indeed, they never had done.

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<sup>53</sup> Ibid., p. 9.

Fig. 4.2. Number of recorded illegitimate births between 1961 and 1979 in the Republic of Ireland<sup>54</sup>



Reform concerning children's rights in particular, became a priority for a number of countries throughout the 1960s and 1970s. The U.K. passed the Family Law Reform Act in 1969. This act amended the law relating to children and more particularly, it amended the property rights regarding illegitimate children. The act aimed to:

amend the law relating to the property rights of illegitimate children and of other persons whose relationship is traced through an illegitimate link; to make provision for the use of blood tests for the purpose of determining the paternity of any person in civil proceedings; to make provision with respect to the evidence required to rebut a presumption of legitimacy and illegitimacy; to make further provision, in connection with the registration of the birth of an illegitimate child, for entering the name of the father; and for connected purposes.<sup>55</sup>

The law was extensive in its scope. Most importantly it attempted to put legitimate and illegitimate children on an equal footing with regard to property and paternity testing. In Britain, unmarried mothers could now, through the use of blood testing, try to prove who the father of her child was and thereby obtain maintenance from him. Illegitimate children, and their subsequent heirs, now also had certain inheritance rights, if the mother or father had not made a will before their death, their illegitimate children had the same rights as their legitimate children to their property.

<sup>54</sup> Statistics provided by the vital statistics department, Central Statistics Office, see Central Statistics Website,

[http://www.cso.ie/px/pxeirestat/database/eirestat/Births/births\\_statbank.asp?SP=Births&Planguage=0](http://www.cso.ie/px/pxeirestat/database/eirestat/Births/births_statbank.asp?SP=Births&Planguage=0)

<sup>55</sup> Family Law Reform Act, 1969, (1969 c. 8) [U.K.] (25 July 1969) available at legislation.gov.uk <http://www.legislation.gov.uk/ukpga/1969/46> [13 April 2011].

British law, prior to 1969, declared that illegitimate children only had property rights in respect of their mother's property, and only if she had no legitimate children.

Social reform became a major part of the Irish government's policies and agenda. The world was changing swiftly through the use of television and, in Ireland's case, through membership of the European Economic Community (E.E.C.). Many countries became more aware of the need for social reform on a large scale. This began with the expansion of welfare states in the 1960s and continued into the 1970s with the introduction of a commitment to 'equality' and the abolition of 'discrimination'.

The Council of Europe in particular had an important effect on equality between children during the 1970s. Ireland was one of ten countries that founded the Council of Europe on 5 May 1949. The council's fundamental values were: human rights, democracy and the rule of law – all based on the European convention on human rights.<sup>56</sup> The Council wanted greater unity between member states, particularly in relation to the law regarding equality. On 15 October 1975 the Council of Europe established a European convention on the legal status of children born out of wedlock. The reason for introducing such a principle was twofold: firstly, in 1970 the legal status of illegitimate children was included in the intergovernmental work programme of the Council of Europe. And secondly, the 'present legislation in various European states is tending to improve the situation of children born out of wedlock.'<sup>57</sup>

The convention met in Strasbourg on 15 October 1975 and established a number of articles in relation to the legal status of the illegitimate child. All member states had to conform to these provisions; however they had a five year time frame in which to introduce them into their country. Some of the most important provisions included: 'The father and mother of a child born out of wedlock shall have the same obligation to maintain the child as if it were born in wedlock,<sup>58</sup> and 'A child born out of wedlock shall have the same right of succession in the estate of its father and its mother and of a member of its father's or mother's family, as if it had been born in

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<sup>56</sup> Mission of the Council of Europe, available at Council of Europe, <http://www.coe.int/aboutCoe/index.asp?page=nosObjectifs&l=en> [18 May 2011].

<sup>57</sup> Explanatory Report, Convention on the legal status of children born out of wedlock, (ETS no. 085), <http://conventions.coe.int/treaty/en/Reports/html/085.htm> [21 April 2011].

<sup>58</sup> *Ibid.*, Article 6.

wedlock.’<sup>59</sup> Many of the articles also focused on the importance of affiliation proceedings, and article five did include a provision that scientific evidence to establish paternity would be admissible in court.<sup>60</sup> This was certainly important in relation to the mother obtaining maintenance for her child, as she could now more easily prove who the father of her child was through the use of D.N.A.

Before the convention however, Ireland had already begun proceedings to introduce better maintenance for illegitimate children. Since the Illegitimate Children’s (Affiliation Orders) Act was introduced in 1930, the act had not been amended in any way. Considering that the amount of five shillings seemed inadequate for this purpose in the 1930s, it was clearly completely unrealistic in the 1970s. In 1971 the Irish government introduced the Courts Act to ‘amend and extend the Courts of Justice Acts, 1924 to 1961, and the Courts (Supplementary Provisions) Acts, 1961 to 1968’.<sup>61</sup> The Courts Act was extensive in its scope of reforming the laws in relation to the courts system. The most important section for this study is section nineteen, reforming the payments under the Illegitimate Children’s (Affiliation Orders) Act, 1930. If the child died, under the 1930 act the father was liable to pay a sum ‘not exceeding’ five pounds to the mother for funeral costs. Under the 1971 Courts Act, he was liable to pay a sum ‘not exceeding’ fifty pounds.<sup>62</sup> The maintenance and education of the child was also to be reformed, as the Courts Act deleted the phrase ‘not exceeding twenty shillings’, therefore there was no limit to payments to be made by the father.<sup>63</sup> The Courts Act reformed the law in relation to maintenance acts to make the payments for children more realistic.

Although the amendment of maintenance orders was of course important, the essential provision in the Courts Act was that affiliation orders could now be taken to the High Court – which could not put a limit on the amount the putative father was liable to pay.<sup>64</sup> Therefore, as Aileen O’Hara noted at the time: ‘Now for the first time, it is possible for a mother to be awarded a substantial sum for maintenance of a child where the means of the father so permit.’<sup>65</sup> This would put the mother and child

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<sup>59</sup> Ibid., Article 9.

<sup>60</sup> Ibid., Article 5.

<sup>61</sup> Courts Act, 1971 (1971/36) available at the Irish statute book, <http://www.irishstatutebook.ie/1971/en/act/pub/0036/index.html> [28 April 2011].

<sup>62</sup> Ibid., section 19, subsection 1(a).

<sup>63</sup> Ibid., section 19, subsection 1(b).

<sup>64</sup> Ibid, section 19, subsection 2.

<sup>65</sup> Aileen O’Hara, *Directory of services for the unmarried mother* (1973), p. 45.

on a more equal footing with the putative father in terms of financial means. It would further provide for a better education for the child which would give him or her a better start in life. Illegitimate children would no longer have to be second class citizens.

In 1972, a conference was held in Kilkenny, entitled, 'The unmarried mother in the Irish community'. From this conference, commonly known as the Kilkenny conference, papers were published, all of which noted the lack of services available to unmarried mothers. The two basic needs which the government did not provide for unmarried mothers and their children were firstly housing, and secondly, day nurseries or crèches. Housing was particularly difficult to acquire owing to the discrimination unmarried mothers received from landlords. Vivienne Darling, in a study made in 1977 noted:

Twenty [unmarried mothers] had difficulty [finding accommodation] because of the reluctance of private sector landlords to let accommodation to anyone with children...Five complained that landlords discriminated against single mothers – one supposedly because he was fearful that the rent would not be paid.<sup>66</sup>

Indeed this was a very serious problem for the unmarried mothers whose parents failed to support them. The lack of care facilities for the children of unmarried mothers of course exacerbated the problem further. Without obtaining employment, it would be difficult to pay the rent. However this was a problem which was widespread in Ireland. In 1973 there were just two day-care nurseries which were located outside of Dublin – one in Tullamore and one in Sligo. The remainder were all located in Dublin or in the suburbs. Within Dublin, all day nurseries and crèches charged a fee ranging from 65d to £2 per week. Those charging the cheapest rate, however, only cared for children between the hours of 9:30 and 12:30 and 12:30 to 3:30 – these hours were not suitable for working mothers. The more expensive crèches, however, sometimes catered for breakfast, lunch and tea. Three nurseries had waiting lists.<sup>67</sup>

If unmarried mothers could not get their children into day-care or child-minding facilities, they could not find employment; if they could not get a job then they could not afford accommodation – it was a vicious circle. The Kilkenny conference highlighted these issues on the public stage and it became very clear that

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<sup>66</sup> Vivienne Darling, *And baby makes two* (Dublin, 1984), p. 91.

<sup>67</sup> Aileen O'Hare, *Directory of services for the unmarried mother and her child* (1973), pp 36 – 38.

the facilities and services available to unmarried mothers and their children were completely inadequate. It was noted:

These [deficiencies] are particularly evident in the lack of social legislation deriving from absence of a philosophy of concern and care, the non-participation of the father, the faulty public attitudes or prejudice and condemnation leading to ostracism and accompanying reluctance to seek social and medical care...and the absence of sound principles of delivery of service to the unmarried mother.<sup>68</sup>

The Kilkenny conference did bring unmarried mothers into the public debate forum, and people began to realise the absolute lack of opportunities available to them. In 1973, a year after the Kilkenny conference, a directory of services for the unmarried mother was established and Aileen O'Hara wrote a pamphlet which listed all the services available to unmarried mothers in Ireland. This forty – eight page booklet recorded everything that the unmarried mother might need, from a list of adoption agencies, to the number of day nurseries and crèches available. Despite such information, adoptions and abortions remained high during this period.

Figure 4.3 shows the number of unmarried mothers seeking adoptions in Britain from 1960 to 1980. Adoption, though falling, was still very much availed of in the 1970s. It was estimated that 90% of illegitimate children were adopted<sup>69</sup> and although this figure was slightly exaggerated, adoption remained extremely high.

Fig 4.3 Registered illegitimate births to Irish mothers and adoptions of illegitimate children, 1960 – 1980.<sup>70</sup>

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<sup>68</sup> *The unmarried mother in the Irish community: a report of the National Conference on community services for the unmarried parent* (1972), p. 51.

<sup>69</sup> *Ibid.*, p. 13.

<sup>70</sup> The Adoption Board Annual Report, 2008, available at the Adoption Authority of Ireland, [http://www.aai.gov.ie/attachments/article/32/Annual\\_Report\\_2008.pdf](http://www.aai.gov.ie/attachments/article/32/Annual_Report_2008.pdf) [05 May 2011], p. 39.

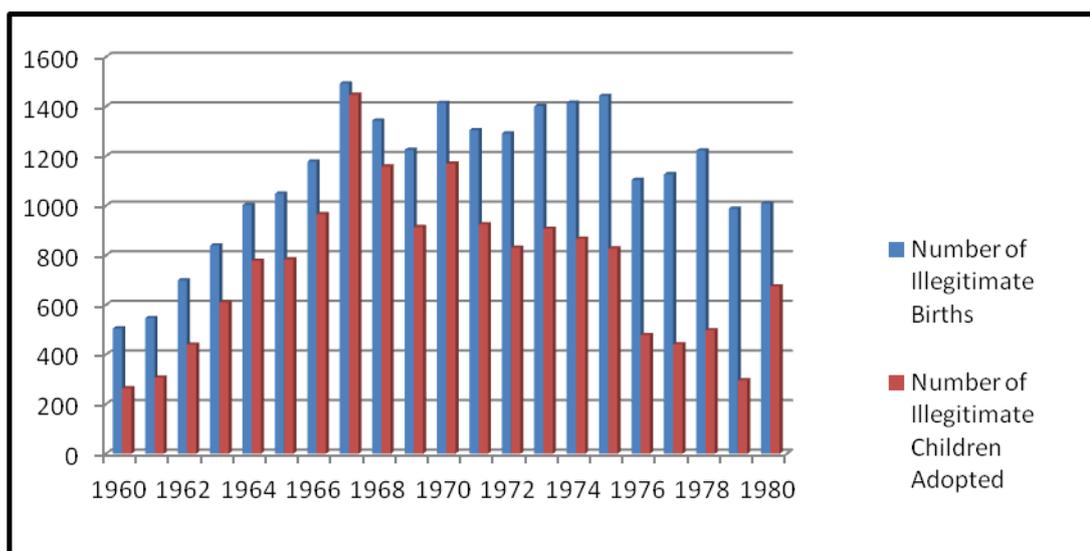


Figure 4.3 shows the number of illegitimate children adopted compared to the number of illegitimate births, and it is clear that until 1975, over half of illegitimate children were in fact adopted. In fact, in 1967 nearly all illegitimate children were adopted – ninety seven per cent. In the late 1970s adoptions did slow down – it seems that more unmarried mothers were keeping their children – however the number began to rise again by 1980. By the early 1970s it seems there was a clear need for the government to provide real and practical social assistance to the unmarried mother.

Throughout 1972 a number of articles appeared in the *Irish Times* arguing that nothing was being done for the unmarried mother, even though the Kilkenny conference in 1972 was seen as a radical step toward publicising and making the public aware of the problems of unmarried mothers. In one article entitled ‘Too much talk and still too little action’, Frank Kilfeather reported on the failure to establish a national council for the unmarried mother, which was one of the primary recommendations of the conference.<sup>71</sup> The importance of a national council, it seemed, would have been its establishment as a pressure group, along the lines of the one in Britain which aimed ‘to present memoranda about legal and social reform to government and local authorities, to help agencies in the field to develop forward – looking policies and to new situations so that they may provide services...’<sup>72</sup>

<sup>71</sup> *Irish Times*, 16 February 1972.

<sup>72</sup> *Irish Times*, 16 February 1972.

In 1973 the Social Welfare Act<sup>73</sup> was introduced, which provided for an unmarried mother's allowance – it was undoubtedly one of the most far reaching legislative measures for unmarried mothers in Ireland in the twentieth century. Indeed as Finola Kennedy has succinctly summarised: 'In ideological terms the provision of a State allowance for the unmarried mother was like stepping on to a new planet.'<sup>74</sup> The 1973 act provided extensively, not only for unmarried mothers, but for a number of other needy groups, including deserted wives, widows and orphans. The commission on the status of women had reported on and recommended a number of issues which needed to be changed to enhance the status of women. The Social Welfare Act legislated for four of these recommendations, one of which was an unmarried mothers' allowance:

We recommend, accordingly, that an unmarried mother who keeps her child should be entitled to a social welfare allowance at the same rate and on the same conditions that apply to a deserted wife, for a period of not less than one year after the birth of the child.<sup>75</sup>

In addition to the commission on the status of women, from 1972 CHERISH also campaigned and lobbied for an unmarried mothers' allowance. By 1974 the organisation claimed the introduction of the unmarried mothers' allowance as its biggest achievement to date.

The chaplain of the C.P.R.S.I. also supported a state allowance for the unmarried mother, claiming that the society's favoured point of view was 'getting unmarried mothers to consider keeping their child rather than in having it adopted.'<sup>76</sup> However in order to do this the unmarried mother would need some sort of state aid, otherwise she was at a 'considerable disadvantage.'<sup>77</sup>

It seems that the combined efforts of the various pressure groups forced the government's hand, and it had to provide state aid so that it would be possible for the unmarried mother to support her child.

The unmarried mothers' allowance was provided on the basis of a means-tested, non – contributory social assistance scheme. The child had to be living with his/her mother, or the mother must have provided for her child if he or she was

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<sup>73</sup> Social Welfare Act, 1973, (1973/10), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1973/en/act/pub/0010/index.html> [18 October 2011].

<sup>74</sup> Finola Kennedy, *From cottage to crèche: family change in Ireland* (Dublin, 2001), p. 219.

<sup>75</sup> *Commission on the status of women: Report to minister for finance* (Dublin, 1972), p. 153.

<sup>76</sup> *Irish Times*, 30 March 1972.

<sup>77</sup> *Ibid.*

resident in an institution – this complied with the 1946 Children’s Allowances (Amendment) Act – and she also had to satisfy the conditions of the means test. If she complied with these provisions the unmarried mother would receive the same allowance as widows under the widows (non-contributory) pensions scheme.<sup>78</sup> The Social Welfare Act, 1973, also provided that decisions on means tests could be reviewed and revised if there was new evidence, facts, or a change in circumstance – the social assistance could also be withdrawn. The justification for this was put forward by the parliamentary secretary for the minister of social welfare, Frank Cluskey:

We are, however, entering into rather unexplored territory in this matter in so far as my department are concerned and, accordingly, while the basic conditions are being laid down statutorily there will be power to prescribe detailed conditions by regulation.<sup>79</sup>

That is, the department was offering this assistance, like every other new social assistance, on a trial and error basis. The unmarried mothers’ allowance entered into law on 5 July 1973.

Other sections included in the act were an increase in the qualifying age limit for children’s allowance up to eighteen years; deserted wives were brought into line with the widows and orphans contributory scheme,<sup>80</sup> and the restriction on entitlement to unemployment benefit for female domestic and agricultural workers was lifted.<sup>81</sup>

Surprisingly, no debate or discussion ensued concerning the introduction of the unmarried mothers’ allowance. Various drafts and re drafts of the social welfare bill of 1973 survive in government records, however none of the records contain viewpoints of any of the politicians. For such a fundamental shift in the perceptions of unmarried mothers this is quite unexpected – perhaps the government did not want to draw attention to the fact that 1973 was the first time that the Irish government was offering unmarried mothers financial assistance.

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<sup>78</sup> Social Welfare Act, 1973, section 8, (1973/10) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1973/en/act/pub/0010/index.html> [23 March 2011].

<sup>79</sup> *Dáil Éireann deb.*, cclxvi, 513 (14 June 1973) available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0266/D.0266.197306140008.html> [2 May 2011].

<sup>80</sup> In the Social Welfare Act, 1970, deserted wives were for the first time provided with a social insurance scheme however it was a non-contributory social service scheme. The 1973 act provided for a contributory social assistance scheme, the same as the widows and orphans contributory pensions scheme.

<sup>81</sup> Social Welfare Act, 1973, section 9, (1973/10) available at the Irish Statute Book, <http://www.irishstatutebook.ie/1973/en/act/pub/0010/index.html> [23 March 2011].

The unmarried mothers' allowance remained until 1990 when a lone parents allowance was introduced.<sup>82</sup> This allowance unified the unmarried mothers' allowance, deserted wives' / husbands allowance, widow/ers' non contributory pension, and prisoners wives' allowance. In 1997 this changed again to a one parent family payment. The dynamics within the family were continually changing throughout the 1980s and 1990s. Unifying all the payment schemes not only reduced administrative costs for the government but the new terminology made the payment more equal in respect of single fathers, which was becoming a more regular occurrence.

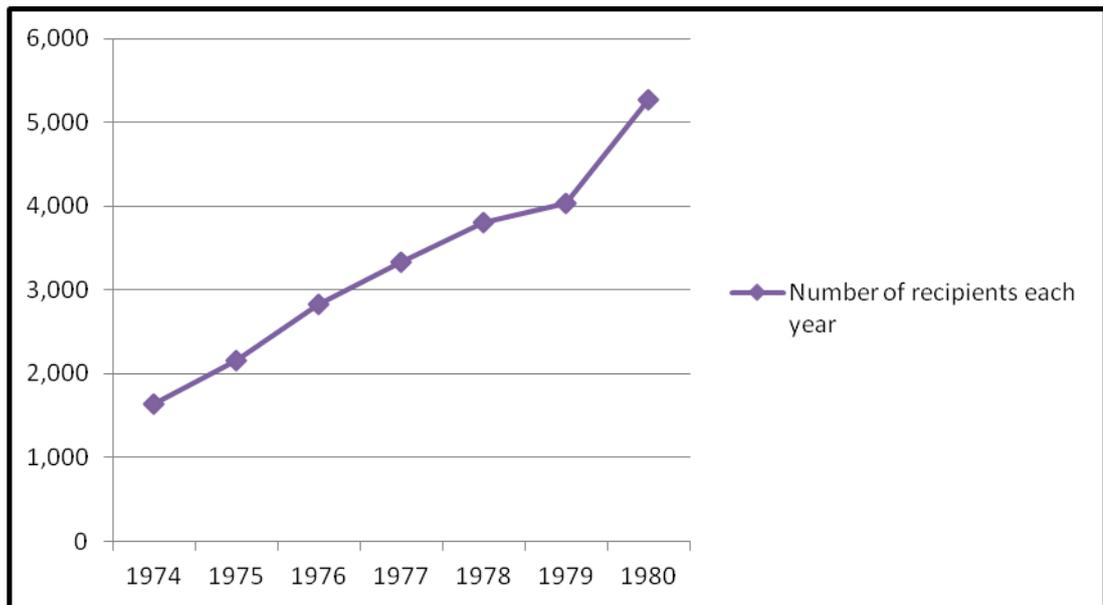
It has been shown in previous chapters that the Irish government tended to follow a trend of duplicating British legislation. Therefore it is surprising that Britain did not have a specific unmarried mothers' allowance. Rather, Britain had a supplementary allowance, which was provided for anyone who had a lower than average income. Not surprisingly, many unmarried mothers in Britain availed of this, as those who kept their children found it difficult to maintain a full time job without the provision of child care. Indeed, sometimes child care was so expensive that unmarried mothers benefitted financially if they did not work and claimed benefits. Although unmarried mothers were provided for under the supplementary benefit, it was not specifically introduced for them – every person who earned lower than the average wage could avail of this benefit.

In the previous chapter it was noted that Diarmaid Ferriter has argued that the Children's Allowances Act, 1944, would have persuaded more unmarried mothers to register their illegitimate children so that they could avail of this welfare payment. However it is this thesis's argument that the unmarried mothers' allowance was the single most defining factor in the unmarried mother deciding to register her illegitimate child. The children's allowance did not provide for every child, whereas the unmarried mothers' allowance was provided to every unmarried mother whose child was registered. The unmarried mothers' allowance officially recognised the unmarried mother as a citizen of the state and in doing so made her visible within public life. As statistics from the department of social protection demonstrate, from its introduction in 1973, more and more unmarried mothers began to apply and become recipients of the allowance.

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<sup>82</sup> Social Welfare Act, 1990, (1990/5), available at the Irish Statute Book, <http://www.irishstatutebook.ie/1990/en/act/pub/0005/index.html> [18 October 2011].

Fig 4.4 Recipients of the unmarried mothers' allowance, 1974 - 1980<sup>83</sup>



By December 1973 it was reported that 1,400 women were claiming the unmarried mothers' allowance.<sup>84</sup> As this graph demonstrates, in 1974, the first year for which official statistics are available, that number had risen to 1,633. Every year this number increased, and by 1980 it had more than tripled, as 5,267 unmarried mothers applied for relief. It is clear from these statistics that not only did the unmarried mothers' allowance allow for more mothers to keep their children, but as Ferriter has argued, 'the introduction of a state allowance for unmarried mothers in 1973 was important in reducing the stigma' of unmarried motherhood and illegitimacy.<sup>85</sup>

Throughout the century, the government maintained that any assistance or legislation which affected the unmarried mother was always for the benefit of the 'innocent' child. Indeed the unmarried mother's allowance was also provided with the intention of helping, if not maintaining, the unmarried mother's child. As figure 4.5 suggests, the allowance indeed helped a number of unmarried mothers keep their children.

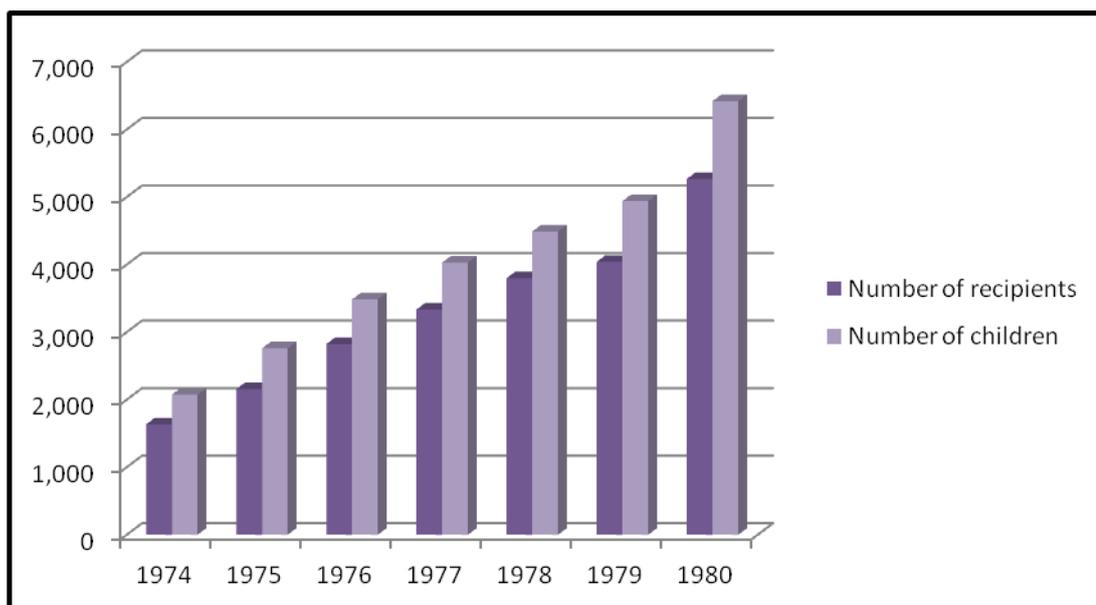
Fig. 4.5 Number of recipients of the unmarried mothers' allowance and children, 1974 - 80<sup>86</sup>

<sup>83</sup> Information provided by the statistics unit in the Department of Social Protection, author had to e mail the department to obtain this information.

<sup>84</sup> *Irish Times*, 16 February 1974.

<sup>85</sup> Ferriter, *Occasions of sin*, p. 437.

<sup>86</sup> Information provided by the statistics unit in the Department of Social Protection, see footnote 83.



In the 1970s illegitimate children were still more likely to be adopted than kept by their biological mothers, indeed this was so likely that history has forgotten those women who kept their children. From this data is clear that a substantial number of women did in fact keep their children. In 1974, 2,074 children were helped by the unmarried mothers' allowance, by 1980 6,419 children were in receipt of it.

One recipient of the unmarried mothers' allowance who was interviewed for this thesis, and who wishes to remain anonymous, was the mother of twins. When asked if the unmarried mothers' allowance was a sufficient amount to live on she recalled:

I had to get that. It was, it was just er, it was just one weekly payment, it wasn't anything, you didn't get money for shoes or clothes...It was ok, yes. It was ok because I was a dressmaker and I was able to make all their clothes and knit their jumpers and stuff like that.<sup>87</sup>

When the unmarried mothers' allowance became law, the weekly allowance was £8.15 for a mother with one child and £2 extra for every subsequent child.<sup>88</sup> Although the interviewee relied on her dressmaking skills to clothe her children, it is clear that the allowance did go some way in helping her care for them. The allowance was brought in after the interviewee had her children and she highlighted how important the allowance was to her family. She remembers availing of the allowance:

<sup>87</sup> Interview with unmarried mother (who wishes to remain anonymous), Naas, Co. Kildare (3 Sept. 2010), see appendix D.

<sup>88</sup> *Irish Times*, 16 Feb. 1974.

Oh I did yes. I can't remember the year that came. Yes, because the year they were born there was nothing. And that was another reason why my father was worried about them coming home.<sup>89</sup>

From this statement it is clear that the allowance certainly helped the interviewee to keep and care for her children.

The unmarried mothers' allowance was important on a number of levels. Firstly, in practical terms, it helped financially with the care and maintenance of illegitimate children. Secondly, it may, on varying levels, have persuaded unmarried mothers to keep their children rather than giving them up for adoption or fostering. And thirdly, it made the unmarried mother visible in a society which had been not only hostile toward her and her child but also fearful of her. Through the unmarried mothers' allowance, unmarried mothers and their children became recognised citizens of the state.

In addition to the social welfare legislation passed in 1973, the Maintenance Orders Act was passed in 1974. Akin to the Courts Act, 1971, the Maintenance Orders Act amended the Illegitimate Children's (Affiliation Orders) Act, 1930. It amended all maintenance orders and affiliation orders so that they would be recognised and enforced within Ireland, Britain and Northern Ireland. Importantly for this study, this meant that if the putative father left the state and went to live in Northern Ireland or Britain, the affiliation or maintenance orders would still apply. Or vice versa, as section six declares: 'a maintenance order made in a reciprocating jurisdiction and enforceable therein shall be recognised and enforceable in the state.'<sup>90</sup> The master of the high court could request an enforcement order which would force the defendant to pay any maintenance or affiliation orders he had incurred. Of course the defendant could appeal against the enforcement order; however if the order was found to be valid, he was legally obliged to pay it. For unmarried mothers with affiliation orders (not to mention deserted wives), this of course meant that if the father of their children left the country, he was still liable to pay, which was one of the principal omissions of the 1930 act.

By the mid-1970s, social welfare benefit had been introduced for the unmarried mother, and affiliation orders had been amended to come more in line with contemporary measures. However there did seem to be a distinct lack of

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<sup>89</sup> Interview with unmarried mother, see appendix D.

<sup>90</sup> Section 6, Maintenance Orders Act, 1974, (1974/16) available at the Irish statute book, <http://www.irishstatutebook.ie/1974/en/act/pub/0016/index.html> [02 May 2011].

legislation pertaining to unmarried mothers. Rather, dáil and seanad debates reveal far more about the changing status of the unmarried mother. While public discussions about unmarried motherhood and illegitimacy had been kept to a bare minimum in the past, in the late 1960s and 1970s questions and debates revolved around social issues, and particularly unmarried mothers.

One bill in particular, which ultimately did not become law, provided a real insight into the circumstances of unmarried mothers and their children. The illegitimate children (maintenance and succession) bill, 1974, aimed to change the status of illegitimate children by providing them with rights to their fathers' property. The bill wanted to improve their status in the law while placing them on an equal footing with their legitimate counterparts. Introduced by Senator Mary Robinson and supported by Senators John Horgan and Michael Higgins, this bill highlighted many social issues which illegitimate children, and ultimately unmarried mothers, faced. Mary Robinson, when introducing the bill, recognised that 'We must compensate for past failure by taking positive measures to help the single mother who is coping with the financial and social burdens felt by any single parent bringing up children in society.'<sup>91</sup> The senator recognised that the state had previously failed the unmarried mother both legally and socially.

This bill was most important owing to the fact that just nine years previously, the law had again discriminated against the illegitimate child with regard to property rights. Section 110 of the Succession Act, 1965, declared that the Legitimacy Act and section twenty six of the Adoption Act, 1952 would remain in force.<sup>92</sup> Both acts declared that if any person died intestate, his/her estate would devolve to the legitimate or adopted child as if he or she were born in lawful wedlock.<sup>93</sup> Of course, this provision only affected the adopted or legitimated child, and not the illegitimate child who was not recognised by his or her father. The 1974 bill attempted to right this wrong.

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<sup>91</sup> *Seanad Éireann deb.*, lxxix, 57, (4 Dec. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0079/S.0079.197412040009.html> [02 May 2011].

<sup>92</sup> Section 110 Succession Act, 1965 (1965/27) available at the Irish statute book, <http://www.irishstatutebook.ie/1965/en/act/pub/0027/index.html> [18 April 2011].

<sup>93</sup> Section 3 of Legitimacy Act, 1931 (1931/13) available at the Irish statute book, <http://www.irishstatutebook.ie/1931/en/act/pub/0013/index.html> and Section 26 of Adoption Act, 1952 (1952/ 25) available at the Irish statute book, <http://www.irishstatutebook.ie/1952/en/act/pub/0025/index.html> [18 April 2011].

It is clear that Senator Robinson, through her analysis of illegitimacy, was attempting to abolish the disadvantages in relation to illegitimacy – one of the aims of CHERISH. Illegitimacy was going to be a continuing issue for the Irish state, and one that could not be prevented or diminished. Behind this aim lay the sense that all of the government and the church’s attempts throughout the first part of the twentieth century to eradicate illegitimacy had proved fruitless, and so the only other option was to provide illegitimate children and unmarried mothers with as much support as possible. The debate on the bill proved to be extensive and in her concluding remarks Senator Robinson hoped that:

the proposals in this bill, and the wide ranging and constructive debate which we have had on it, will contribute to the informing of public opinion and will also hasten the time when the minister introduces his government measure and encourage him to know that he will receive a welcome when he does choose to introduce a bill to change the law in this area.<sup>94</sup>

Although the bill was withdrawn, the debate on it brought attention to the inadequacy of financial and moral support for unmarried mothers and the inequality between legitimate and illegitimate children in respect of inheritance rights.

Senator Robinson also, most importantly, highlighted the difference between what was deemed ‘criminal’ and what was deemed ‘immoral’, something which the government in the past had failed to do. Rather, in the past, every immoral action – sexual or otherwise – was deemed to be criminal on varying levels, and in an effort to legislate for morality, the government had made such immoral actions punishable by law. ‘Immoral’ crimes – such as illegitimacy – were punishable by lack of state support or services, in a belief that helping unmarried mothers would condone pre-marital sex. Senator Robinson drew attention to the fact that this had not in fact deterred people from having pre-marital sex, as the illegitimacy rate demonstrated: ‘The illegitimacy rate has increased, and it is increasing more sharply in this country, despite the disabilities, so there is no deterrent value in the concept of illegitimacy. It does not have this effect.’<sup>95</sup>

A motion for family law reform was also tabled in Dáil Éireann in 1974. Moved by Deputy David Andrews, Fianna Fáil, the proposal for family law reform provided for the establishment of family courts, an adequate standard of living for all

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<sup>94</sup> *Seanad Éireann deb.*, lxxix, 649 – 650 (13 Feb. 1975) available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/S/0079/S.0079.197502130003.html> [02 May 2011].

<sup>95</sup> *Seanad Éireann deb.*, lxxix, 61, (4 Dec. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/S/0079/S.0079.197412040009.html> [02 May 2011].

those who had children, and for updating the Children's Act, 1908.<sup>96</sup> The debate surrounding this motion, akin to the aforementioned debate on the illegitimate children's (maintenance and succession) bill, provided a public platform for the lack of services for needy classes to be aired. Unmarried mothers, illegitimate children and deserted wives in particular were fiercely defended by a number of politicians. The lack of free legal aid became a contentious issue during the debate as this seemed to be a particular difficulty for these groups. The lack of legal services for unmarried mothers and deserted wives meant that they did not know what they were legally entitled to and additionally, it became more difficult to obtain maintenance for their children. Indeed it seemed that even when these mothers could afford legal aid, many solicitors did not want to deal with family issues. Charles Haughey, Fianna Fáil, stated that 'from my own personal knowledge in the city of Dublin there are only one or two solicitors who are prepared to undertake this type of work.'<sup>97</sup> An illustration of the problem was provided by the aforementioned interviewee, who declared that she also found it difficult to obtain legal aid, even when she was willing to pay for it:

I went to a solicitor in Newbridge and he told me at that time the law was if the baby was over six months old you could claim. So I went very early, and I didn't realise this, he kept making another appointment and another appointment...And I was in Newbridge one day and I saw their father coming out of the solicitor's office...the next time I went in I was told, it's too late now you can't claim.<sup>98</sup>

The Illegitimate Children (Affiliation Orders) Act, 1930, explicitly declared that the mother of an illegitimate child must apply for maintenance either before the birth of her child or within six months of the child's birth, unless she received maintenance from the putative father within that time or if he was not resident in Ireland. Therefore it is clear that the interviewee was given the wrong information by her solicitor – most probably on purpose. The interviewee's statement also reveals how even in the 1970s the stigma associated with illegitimacy and unmarried motherhood had not been fully eradicated. It may also reveal that solicitors were more willing to work for the putative fathers who were more often in a better financial situation than the unmarried mother.

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<sup>96</sup> *Dáil Éireann deb.*, cclxxvi, 356, (27 Nov. 1974), available at Parliamentary Debates, <http://historical-debates.oireachtas.ie/D/0276/D.0276.197411270028.html> [18 April 2011].

<sup>97</sup> *Dáil Éireann deb.*, cclxxvi, 697 (03 Dec. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0276/D.0276.197412030038.html> [02 May 2011].

<sup>98</sup> Interview with an unmarried mother, see appendix D.

In relation to illegitimacy, the debate revealed much about the hardships unmarried mothers still faced in the 1970s. Even as late as 1974, seventy per cent of illegitimate births ended in adoption.<sup>99</sup> One of the main causes of this high rate of adoption was the lack of facilities and services available to the unmarried mother. There were no child care facilities available to the unmarried mother and so it was difficult to maintain any type of employment for any length of time, which became a major cause of poverty and sometimes homelessness. Deputy Andrews, the proposer of this motion, claimed: ‘There is a clear indication that the state has a function and a duty to make proper provision for the unmarried mother.’<sup>100</sup>

In 1976 the Family Law (Maintenance of Spouses and Children) Act became law. This act made provision for a better payment process for spouses and dependent children. The minister for justice who introduced the bill, Patrick Cooney, described the bill as ‘eagerly awaited’<sup>101</sup> and hoped that it would have ‘fundamental and possibly far reaching changes’ with regard to family law.<sup>102</sup> Prior to this act a wife had no legal entitlements to maintenance from her husband if he deserted her. This act rectified this problem by making provision for either spouse to claim maintenance from each other for themselves and any dependent children they had. The act also provided for illegitimate children. Section 28 of the act amended both the Illegitimate Children (Affiliation Orders) Act, 1930 and the Courts Act, 1971, to financially accommodate illegitimate children. The act amended the 1930 act by including mentally and physically handicapped children, and children who were in full time education until the age of twenty-one years. It also increased the time limit so that the mother could seek an affiliation order from six months to within three years of the child’s birth. Importantly, the act declared that if the putative father died, the payments would be turned into a civil debt and thus would be recoverable. The act also amended section 3(1)(a) of the 1930 act, which had been amended by section 19(1)(a) of the Courts Act, 1971, to increase the funeral expenses for

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<sup>99</sup> David Andrews, *Dáil Éireann deb.*, cclxxvi, 364 (27 Nov. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0276/D.0276.197411270028.html> [18 April 2011].

<sup>100</sup> *Dáil Éireann deb.*, cclxxvi, 366 (27 Nov. 1974), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0276/D.0276.197411270028.html> [18 April 2011].

<sup>101</sup> *Dáil Éireann deb.*, cclxxxiii, 2078 (17 July 1975), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0283/D.0283.197507170003.html> [14 July 2011].

<sup>102</sup> *Dáil Éireann deb.*, cclxxxvi, 55 (22 July 1975), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0284/D.0284.197507220057.html> [14 July 2011].

illegitimate children from fifty pounds to two hundred pounds.<sup>103</sup> Although the act did financially provide for illegitimate children it did not improve the social situation of illegitimate children. This did not go unnoticed by Gerard Collins, Fianna Fáil T.D., who declared:

Many have stressed the need for the removing of the stigma of illegitimacy from innocent children, of doing away completely...with the distinction between legitimate and illegitimate children...there is no excuse for failing to undertake the challenge these problems offer. The need for genetic test [sic] to establish paternity and the reform of the laws of evidence in these cases has also been urged in many quarters. Nothing appears in this bill in relation to these and allied problems.<sup>104</sup>

These provisions and facilities would not be practically or realistically available to the unmarried mother until at least the 1980s.

Despite these difficulties, it is clear that Ireland had changed beyond recognition by the 1970s. Not everything had been achieved by this stage, but progress was certainly being made and in the right direction. The 1970s introduced legislation which gave women more control over their lives. The importance of the legislation lay not in what it did or did not do but in the fact that it was recognising women as separate from their fathers, husbands, and partners. Unmarried mothers now had better opportunities of keeping their children, with the help of the unmarried mothers' allowance and the changing views and beliefs about unmarried mothers. They were now more likely than ever to be understood and if not accepted, then perhaps tolerated in Irish society.

Of course if the unmarried mother did not want to keep her child then she could seek an adoption, a practice which was still common in Ireland. Alternatively, Britain had certainly made it easier for her to procure an abortion – a decision which would have been shameful and disgraceful to many people in Irish society. Irish women, by 1967, could seek abortions in Britain in an environment which would be clean, safe and understanding. Of course Ireland could do more in its endeavour to help Irish unmarried mothers: however steady progress was being made.

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<sup>103</sup> Family Law (Maintenance of Spouses and Children) Act, 1976 (1976/11) available at Irish Statute Book, <http://www.irishstatutebook.ie/1976/en/act/pub/0011/print.html> [27 June 2011].

<sup>104</sup> *Dáil Éireann deb.*, cclxxxvi, 85 (22 July 1975), available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0284/D.0284.197507220057.html> [14 July 2011].

## **Conclusion**

This thesis set out to analyse and examine various legislative and official responses to issues surrounding unmarried mothers between 1921 and 1979. As has been demonstrated, the legal treatment of the unmarried mother in twentieth-century Ireland was an ever changing process. Bound up with ideas of respectability, morality, sexuality and religion, unmarried motherhood was and remains a complex issue. The law and the legal system are continually developing and this has been reflected throughout the course of this thesis. Many historians have argued that the state's treatment of unmarried mothers was unique in its harshness and severity. However, this thesis has shown the need for this treatment to be set in context. Much of Ireland's legislation was modelled on legislation from the U.K. and so the state was not unique in its treatment of unmarried mothers. Rather, Ireland's uniqueness lay in its vision of the 'ideal' Ireland and support for long-established ideologies and social attitudes toward unmarried mothers.

The 1920s and 1930s experienced a growing sense of awareness of what 'Irishness' was supposed to both reflect and signify. It was deemed by both the Irish state and the Catholic church that the Irish people were to embody pure, wholesome, Catholic moral virtues. However, there was a significant difference between reality and perception. For much of the period under consideration, the Irish government attempted to ignore the complex causes of births outside of marriage and this is reflective of the government's practice of ignoring problems that could ruin the facade of Ireland as a wholesome and pure country. Rather than attempting to grapple with the complexity of the matter, the Irish government, particularly in the late 1930s, attempted to combat illegitimacy by prescribing particular 'moral codes'.

Illegitimacy had been highlighted by both clergy and lay people as a significant and growing 'problem' in both the late nineteenth century and the early twentieth century. Additionally, the *Report of the commission on the relief of the sick and destitute poor, including the insane poor*, published in 1927, emphasised the growing trend in illegitimate births – yet nothing substantive was done to tackle it until the late 1930s – this was a failure that was to become expected of the somewhat complacent Irish government. The *Report of the committee on the criminal law amendment acts (1880 – 85) and juvenile prostitution*, 1931 and the resultant Criminal Law Amendment Act, 1935, attempted to combat the 'problem' of

illegitimacy by legislatively controlling sexuality. This was done by making the importation and sale of contraceptives illegal, increasing the age of consent to seventeen, and increasing the punishments against crimes committed against minors. The Carrigan report connected sexual crime with the illegitimacy rate and this was an assumption which was to last well into the twentieth century.

The Legitimacy Act of 1931 also attempted to control illegitimacy by allowing for the legitimation of the child if his/her parents got married. Rather than helping the unmarried mother financially and emotionally cope with her child, the Irish government, with the assistance of the Catholic church, attempted to force Irish citizens to conform to the desired norms. The Criminal Law Amendment Act ensured that sex outside or before marriage could bear serious consequences for the parties involved, while the Legitimacy Act enabled the parents of an illegitimate child to become a respected married couple and family – both acts embodied the dominant ideology of the Irish Free State at this time.

The Illegitimate Children (Affiliation Orders) Act, 1930, was probably the most important piece of legislation for unmarried mothers introduced between 1920 and 1939. This was the first time that the unmarried mother herself was given the chance to take legal action against the putative father of her child. By seeking an affiliation order the unmarried mother could obtain financial help in order to keep her child. However, owing to the dominant ideology of the state, the perception of unmarried mothers as blackmailers and liars resulted in debilitating provisions which made it particularly difficult to succeed in obtaining financial assistance. The records of the Dublin district court, examined in chapter two, demonstrate the difficulty the unmarried mother faced in proving her case and thereby obtaining enough financial assistance to raise her child.

This thesis has shown that between 1940 and 1969, legally, the unmarried mothers' situation began to improve slightly. The Children's Allowances Act, 1944, meant that any unmarried mother with three or more children all under the age of sixteen was eligible for children's allowance. The subsequent amendment acts concerning the children's allowance also would have included more unmarried mothers, as families with two or more children under sixteen qualified for the allowance. This was the beginning of state intervention and the state's acknowledgement that it had a duty of care toward *all* of its citizens.

However, the most important and significant piece of legislation to be introduced in this period was the Adoption Act, 1952, which provided for any illegitimate or orphan child to be adopted, subject to certain conditions. This was a particularly controversial piece of legislation considering that *Bunreacht na hÉireann* had declared that nothing, including the state, could interfere with the rights of the family. Although the Adoption Act did give unmarried mothers the chance of relieving themselves of their responsibility if they so wished, it also highlighted even more so than previously, the inequality between legitimate and illegitimate children. It was declared unconstitutional for a legitimate child to be adopted because it would interfere with the family, therefore it is clear that the unmarried mother and her child were not deemed to be a family within the terms of the 1937 constitution.

Many unmarried mothers did give their children up for adoption both before and after 1952; however, it has become clear that some unmarried mothers were coerced into doing so, particularly those unmarried mothers who resided in religious institutions. This remains a somewhat hidden practice in Irish history, and one which needs to be equally addressed by both the Irish state and the relevant religious orders.

The 1949 Infanticide Act demonstrated a growing awareness on the part of the government that unmarried motherhood was a multifaceted issue. It was clearly more complicated than the old assumption that unmarried mothers were social transgressors who should be ostracised from the community. Rather, because of the perception of society toward unmarried mothers, and the resultant debilitating legislation the government introduced, unmarried mothers had very few choices and this sometimes resulted in infanticide, particularly in the 1920s and 1930s. The Infanticide Act, 1949, accepted that unmarried mothers might experience severe emotional strain and that if this stress did result in the murder of the child then the woman would not be condemned to death. Both the Infanticide Act, 1949, and the Adoption Act, 1952, demonstrated a growing awareness on the part of the Irish government of the harsh treatment which the unmarried mother and her child had previously suffered.

The 1970s witnessed a revolution in the views and perceptions of and toward unmarried mothers and illegitimate children. In 1973 the unmarried mother, for the first time, was recognised as a visible and active citizen of the state, when the

unmarried mothers' allowance was provided in the Social Welfare Act, 1973. This act assisted the mother in her attempt to keep and care for her child. Additionally, a number of acts were introduced to make women more secure in the workplace, thus ensuring that women could not be dismissed because of their gender or if they became pregnant. This also offered the unmarried mother more security in providing financially for her child. In tandem with this progressive legislation was the establishment of a number of services for unmarried mothers, such as nurseries and day centres, where their children could stay while they were at work. Organisations such as CHERISH and Ally, along with new ways of thinking about unmarried motherhood, as documented by Michael Viney's *No birthright* series, resulted in a gradual change in the perception of unmarried motherhood, which was reflected in the legislation passed during the 1970s, particularly the Social Welfare Act, 1973.

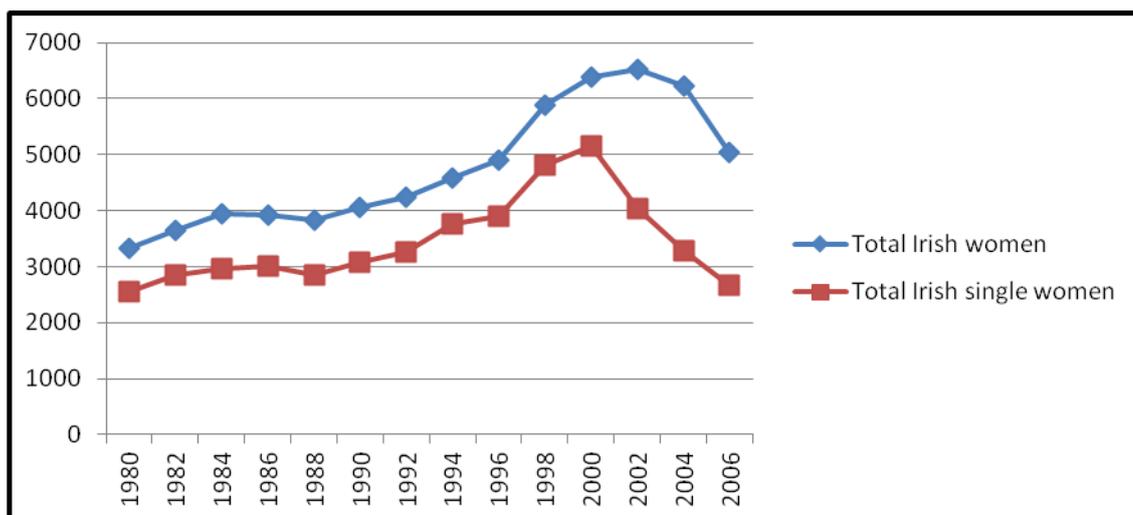
Services which the Irish government did not want unmarried mothers to obtain, however, were becoming more available. The U.K. Abortion Act in 1967 meant that Irish women could travel to Britain to procure an abortion. It was and remains a controversial practice in Ireland because, although the Catholic church has lost its monopoly in Irish society, and elsewhere, its ideas in relation to child murder and abortion still hold sway among pro-life campaigners – not always because of their religious value but rather their social ones. There is also significant debate about the effect of travelling to Britain to procure an abortion has on Irish women. Abortion remains a controversial issue, even in the U.K: its safety is still being debated in the House of Commons. In 2007 the House of Commons science and technology committee published a report debating both the safety and the risks involved in having an abortion.<sup>1</sup> However, the pro-life campaigners did not slow down the abortion trail to England, which reached its peak in 2001 with 6,673 Irish women procuring abortions.

Fig. 5.1. Number of Irish women and single Irish women who procured an abortion, 1980 – 2006<sup>2</sup>

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<sup>1</sup> House of Commons science and technology committee, *Scientific developments relating to the Abortion Act, 1967*, H.C. 1045 – 1, (London, 2007), available at [www.parliament.uk](http://www.parliament.uk), <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsstech/1045/1045i.pdf> [30 September 2011].

<sup>2</sup> Statistics compiled by the Department of Health, London, the author had to e mail the department to obtain this information.



By 1979 Ireland had come far in providing legislatively, socially and economically for the unmarried mother; yet, much remained to be done. In all areas of life, illegitimate children were still regarded as unequal when compared with their legitimate counterparts. One unmarried mother recounted that her twin children were picked on by the teachers in school and she viewed this as arising from their illegitimate status:

...they [teachers] would always be calling me in, your children did this wrong or that wrong. They didn't do these things, they used to call in other single parents as well and I knew they were picking on single parents.<sup>3</sup>

This demonstrates that social attitudes lagged behind the law.

In 1987 the Status of Children Act was introduced. This act was extensive in its provisions, and its aim was to eliminate the legal discrimination between children. The act equalised the rights of children, amended the law relating to illegitimacy and maintenance orders, and provided for the use of blood tests in determining the parentage of a child.<sup>4</sup> Most importantly, it abolished the terms 'legitimate' and 'illegitimate'; thus for the first time in the state's history, legitimate and illegitimate children were equal before the law.<sup>5</sup>

The act declared that the marital status of parents did not have any effect on their relationship with their children, thus legitimate and illegitimate children had the same rights to succession and property.<sup>6</sup> It also amended the Family Law (Maintenance of Spouses and Children) Act, 1976, to provide for children whose

<sup>3</sup> Interview with unmarried mother, see appendix D.

<sup>4</sup> Status of Children Act, 1987 (1987/26) available at the Irish statute book, <http://www.irishstatutebook.ie/1987/en/act/pub/0026/print.html> [16 June 2011].

<sup>5</sup> Ibid., section 44.

<sup>6</sup> Ibid., section 29.

parents were not married, and repealed the Illegitimate Children (Affiliation Orders) Act, 1930.<sup>7</sup> By repealing the 1930 act, the mother was no longer required to give evidence, or have it corroborated, and the time limits to apply for such maintenance were abolished. Therefore, illegitimate children were equal to their legitimate counterparts in rights to succession, property and maintenance, which had never before been the case in the Republic of Ireland.

The act was introduced to bring Ireland into line with international standards – a trend that had been taking place for nearly one hundred years. However, this act was even more important when it was found that Ireland was in breach of the European Convention on Human Rights in respect of children born out of wedlock. Minister for justice, Gerard Collins declared: ‘The court held that the absence in this country of an appropriate legal regime reflecting the natural family ties between parents who have not married each other and their child amounted to a failure to respect the family life of the parents and child.’<sup>8</sup> This act was clearly long overdue and the above statement highlights the importance of this act within Irish law. Additionally, the Status of Children Act, 1987, ratified the European Convention on the legal status of children born out of wedlock. As discussed in the previous chapter, the European convention on the legal status of children born out of wedlock was passed in Strasbourg in 1975, therefore it took the Irish government over ten years to bring Ireland into line with international standards regarding illegitimate children.

Women’s history has come to the forefront of academia in the last twenty years and the treatment of unmarried mothers has attracted attention. Furthermore, in recent years, the findings of the *Report of the commission to inquire into child abuse* – more commonly known as the Ryan report – have put some religious orders under the spotlight, and Irish society does seem to be changing in its views toward the past. There is now a willingness to address the past, including the wrongs done to unmarried mothers and illegitimate children. Though it is an important topic in the academic field, the state and the relevant religious orders have, however, been slow to officially address the issue of unmarried motherhood. Files of religious orders remain closed to the public and there has been no official apology or redress from

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<sup>7</sup> Part IV of the Status of Children Act, 1987.

<sup>8</sup> *Dáil Éireann deb.*, ccclxxii, 2507 (20 May 1987) available at Parliamentary Debates, <http://www.oireachtas-debates.gov.ie/D/0372/D.0372.198705200078.html> [28 June 2011].

either the Irish government or religious orders over their treatment of unmarried mothers and their children. The justification for this lack of acknowledgment from the government lies in the fact that the state did not intervene in the running of the religious institutions.

Broadcasts, memoirs and other studies such as June Goulding's *Light in the window*<sup>9</sup> and Martin Sixsmith's *The lost child of Philomena Lee*<sup>10</sup> have put a spotlight on the past treatment of unmarried mothers. Additionally, previous unmarried mothers and the children of unmarried mothers are beginning to investigate their past. Staff at the Regina Coeli Hostel recount that a woman recently visited the hostel because, as a baby, she spent a week in the hostel with her mother before she was given up for adoption.<sup>11</sup> Indeed, times now seem to be changing. The child sex abuse scandal has opened a floodgate for these people, including institutional survivors, such as those women who resided in Magdalen laundries. In November 2010 the Irish Human Rights Commission recommended 'a statutory mechanism be established to investigate the matters advanced by JFM [Justice for Magdalenes] and in appropriate cases to grant redress where warranted', and in June 2011 the United Nations Committee Against Torture recommended 'that the state carry out a statutory investigation of allegations of torture and inhumane treatment of women in the laundries...'<sup>12</sup> International conventions are now recognising the Irish state's duty toward the care and redress of victims of Irish institutions. Although the vast majority of unmarried mothers were not resident in Magdalen laundries, these recommendations are putting the Irish state and the religious authorities under the spotlight, and it is now more acceptable to come forward and to tell one's story, thus helping to eradicate the stigma of unmarried motherhood that still remains under the layers of Irish society. However, until all files pertaining to these institutions are open, the topic of unmarried motherhood and illegitimacy will remain a partly hidden history.

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<sup>9</sup> June Goulding, *Light in the window* (Dublin, 1998).

<sup>10</sup> Martin Sixsmith, *The lost child of Philomena Lee* (Oxford, 2009).

<sup>11</sup> Interview with Moira Hayden and Mary Murphy, see appendix C.

<sup>12</sup> *Irish Times*, 7 June 2011.

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### **Unpublished Theses**

Fitzpatrick, Niamh, 'The effects on women and agriculture in Irish society from Ireland's membership of the E.E.C. in the years 1973 – 1986' (M.A. Thesis, St. Patrick's College, Maynooth, 1999).

Maguire, Moira Jean, 'The myth of Catholic Ireland: unmarried motherhood, infanticide and illegitimacy in the twentieth century; (Ph.D. thesis, Washington University, 2000).

Wallace, Jennifer, 'Unmarried mothers in Ireland in the middle decades of the twentieth century' (M. Phil. thesis, Trinity College Dublin, 1996).

### **Appendix A: Sample letter sent to regional newspapers**

Dear sir - I am currently an M. Litt. History student at NUI Maynooth and my research area is the legal treatment of unmarried mothers in Ireland between the years 1921 – 79.

I would be delighted if anyone would like to speak to me who has any experience in this area within the time period I am researching. I realise that because of the sensitivity of the topic all personal details need to be kept confidential.

It cannot be stressed enough that no personal information such as names and addresses will be used throughout the course of my research if the person does not wish. Needless to say, every letter shall be answered and if people would be more comfortable with filling out a questionnaire then they would be accommodated.

I would be delighted to hear from anyone wishing to partake in this research.

Yours,

Ann-Marie Graham

**Appendix B: Sample copy of information sheet and participant consent form**

**Project information sheet and participant consent form**

**Name, degree programme and institutional affiliation of researcher:**

Ann – Marie Graham, M. Litt. in history, NUI Maynooth

**Aim of this study:**

The title of this study is ‘Unmarried mothers: the legislative context in twentieth century Ireland, 1921 – 79’ and its aim is to obtain information about how certain legislation, passed by the Irish state, affected unmarried mothers. It is an impartial study and it primarily attempts to understand why unmarried mothers were treated in a specific way and if this treatment changed over the time period under consideration.

**Purpose of this interview:**

The purpose of this interview is to obtain specific information the interviewee may have about unmarried mothers between 1921 – 79.

**How long will the interview take?**

The interview will take between one and one and a half hours

**Will notes/recordings be made of the interview?**

The interview will be recorded via a Dictaphone

**Will the interviewee be allowed access to any notes, recording after the interview, with a possibility of correcting any errors of fact?**

Yes transcripts will be sent to the interviewee via post and they can correct any errors of fact, names and/or personal information

\_\_\_\_\_  
Name of participant

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Researcher

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Consent form for participant in research conducted by Ann – Marie Graham for a Thesis for M. Litt. Degree, Department of History, NUI Maynooth.**

*Please tick the appropriate boxes:*

I have read and understood the project information sheet

I have been given the opportunity to ask questions about the project

I agree to take part in the project. Taking part in the project will include being interviewed and recorded

I understand that my taking part is voluntary; I can withdraw from the study at any time and I will not be asked any questions about why I no longer want to take part

I understand that my personal details such as phone number, email and postal address will not be revealed to people outside the project

I understand that my words may be quoted in publications, reports, web pages, and other research outputs, but my name will not be used unless I have given specific permission for it to be used

I agree to allow data I provided to be used in research for a thesis in NUI Maynooth. I understand that if the degree is awarded, the thesis will become available to be consulted in the NUIM library, and may be borrowed by readers to consult in other libraries

I understand that other researchers will have access to this data only with my express permission

I agree to assign copyright I hold in any materials related to this project to the Department of History, NUI Maynooth

\_\_\_\_\_  
Name of Participant

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Researcher

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Contact details for further information:

**Appendix C: Interview with Moira Hayden and Mary Murphy, voluntary workers at the Regina Coeli Hostel, Morning Star Ave, off North Brunswick Street, Dublin 7, (7 June 2010).**

**Did Frank Duff begin his work with the Morning Star Hostel?**

Moira Hayden: No he first started with the Sancta Maria which was for street girls and that was in nineteen...When did that start up?

Mary: It was in 1920 something.

Moira: 1921, the Legion started in '21 so it must have been probably '23, '24?

Mary: It would be in *Miracles on tap*.<sup>1</sup>

Moira: Yes, ok, well we'll get the book for you anyway, and it would give you more information about that. So that was the first hostel and er, it started with a retreat you know? The priests in that area was very anxious that something should be done, so we started off with a retreat and with some places that had them, where these people were staying. And it was a huge success, there were twenty-nine girls in it and twenty-three went on a retreat to Baldoyle. They were there for the weekend, they had been wonderful people but then they had to be sent back to where they came from. So over the weekend really they went to the government and the government gave them the Sancta Maria Hostel in Harcourt Street, they were taken back, their beds and everything were put in over the weekend. And er...the Morning Star set up by Frank Duff and I suppose he continued to visit all these places.

Mary: The lodging houses. There was a great deal of poverty and an awful lot of tenement houses in poor conditions and very overcrowded. There was an awful lot of unemployment.

[Phone rings, interview is interrupted]

So it was a question getting somewhere where the men could have a bit of dignity and er, he got the Morning Star.

Moira: I was looking it up last week, and really, a lot of it was by chance, but Frank Duff would say it was by providence, you know, because he could see a pattern showing in everything. He was visiting with the St. Vincent de Paul and to all these places and er, the Legion of Mary had started but he wanted to do something and it was just a chance meeting with Mr. O'Dwyer who was the head of Dublin Corporation, I suppose, at the time. And he was obviously very interested in the plight of the down and out as well so he said that he would give him the Morning Star. It was opened in 1927 and this hostel [Regina Coeli] was opened three years later, in 1930. This hostel was where the Black and Tans were after the war so it was actually here where Kevin Barry was taken, when he was arrested in Church Street so it's a very historic building! It's falling apart at the seams at the moment but next year we'll be grand! So er...I don't know how many turned up the first night; it could have been six or something that turned up the first night?

Mary: six or seven.

Moira: yes, not very many. But it was very shortly afterwards that this unmarried mother came who wanted to keep her child. So, it was first a night shelter, women would come in at night time, get washed I suppose, and it started with that. With the arrival of the unmarried mother and children he said that these can't be put out during the day, so they opened the dormitories upstairs. Soon there were three or four. You see, mothers weren't encouraged to keep their children then.

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<sup>1</sup> This book details the life of Frank Duff and his work with the Legion of Mary, particularly the establishment of the Sancta Maria Hostel and Bentley Place.

Mary: There was no unmarried mothers' allowance, there was nothing for them really, and, you know, the culture that was there at the time, sometimes families would have nothing to do with girls who had babies outside of wedlock because of the shame it brought on the whole family. They literally had nowhere to go, nobody to do anything for them, and they could go into the mother and baby home but if they did that they had to give up their baby for adoption so em...

Moira: It first became a place, you know I think that dormitory I don't know how long it was there, you know they used to have a little cot, I think they were actually orange boxes, as far as I know, they were covered in blankets. In the beginning there was the mother and a bed. But very shortly after there was a big building in the back, it's gone now since the 1960s. It was really very akin to Grangegorm at the back, it was a big grey building and it basically stretched from one end here to the other, it was in a field out the back, and they er, divided that up then into kind of little flats or apartments for the mothers. Now they divided them in such a way that there was a common room which would have been about the size of this room with a big open fire and then there would be six bedrooms off it. So what happened then was that they encouraged the mothers to go out to work and it was very easy back then, because they could just be normal people, and er, there was Richmond hospital across the road, Jervis Street hospital, there were several restaurants...

Mary: And they could get like domestic work or like waitressing work, a lot of them were maids in the hospitals and some of them were servants in big houses and stuff like that. One of the mothers, they would arrange between them you know between the five or six mothers, that one of the mothers would stay at home and look after the children of all the mothers and all those mothers would pay that mother and that's how they all made their contribution, they were all equal.

Moira: They were all equal, and they were very fine...

Mary: They weren't going to be housed by the corporation, you know, and children grew up here, now this is before our time, this is what we know from old records. So, em, the boys used to go to school down in Brunswick Street and the girls used to go to George's Hill.

Moira: George's Hill mostly, at that time, yes.

Mary: A few of them went to Stanhope Street, but I think mostly the girls went to George's Hill.

Moira: They would have been here at that stage, we don't keep boys now over 10, but at that stage they could have been here until they were 13 or 14.

**And the girls would be the same age?**

Moira: Ah the girls, the girls you could keep forever! But actually, looking forward, I can't remember what year, I probably should look it up but they found that the boys were getting a bit too big for here, you know, so they got three derelict houses on North Great George's Street, four I think it was, and they made apartments for them because these people were not going to get housed by the corporation, you know.

**Were these boys and their mothers?**

Mary: Oh yes. We always wanted to keep the mothers and children together; we didn't want to separate them.

**Were there many expectant mothers that came or did they always come with their children?**

Mary: No, to begin with they always arrived with their children and then by degrees they would come when they were expecting their children. But usually if they came when they were expecting their children, they would just have a talk with us and they would come back then when they could no longer work, when they were very close to giving birth.

**And what would happen to them then?**

Mary: Well, then they would stay with us until they went in to have their babies.

**What hospital did they go to?**

Mary: Usually St Kevin's

Moira: St James's Hospital as it is known now.

Mary: Or sometimes, they were in the Rotunda

**And the hospitals had no problem taking unmarried mothers?**

Moira: No the hospitals were always very good to us

Mary: And some of our ladies used to go to what they called the union.

Moira: I don't know what the union was!

Mary: But sometimes they didn't come back to us from there. They seemed to have encouraged them to maybe get their children settled.

**What were the services available here? Did you have doctors and nurses come in?**

Mary: Not at all.

Moira: There was, a doctor and a nurse came in every Wednesday. But I suppose that was later, in the beginning I don't know.

Mary: That was when the Eastern Health Board got established.

Moira: I'd say it was before that.

Mary: We used to have a doctor that came, you know the doctors that practised in Manor Street. Those doctors used to come in and see anybody who needed seeing.

Moira: When I was here, I started in about 1962 or 1963 in the beginning and em, there was always, it was actually Dr. Hampston, a doctor and a nurse came every Wednesday morning to look after the children. Now I don't know when that started.

Mary: My feeling, and it is only a feeling, that that would have been in the 1950s, you know. I think before that we just managed with doctors around the area, but I don't think we had formal help.

Moira: Children with problems such as measles, a lot of them went into the hospitals. The hospital service was wonderful back then.

Mary: Anything contagious they used to be taken into, er, there was a hospital, St Ultan's, and er, what was the other one? The other one, in Cherry Orchard. So anything contagious and they were taken off. A lot of children died of measles and you know? An awful lot of our ladies in the early days, you know you were asking about did they come before the babies were born...

[Woman enters the room, interview is interrupted, Moira leaves the interview]

...a lot of them lost their babies because a) their nutrition wouldn't have been good, so they would have maybe had a higher mortality rate than the general public. But the general population at the time had a higher mortality rate where babies...anyway, mortality was much higher than it is now. But with our girls it was higher because, you know, they would have been...they just didn't get very well fed for most of their pregnancy.

**I know you said that with a lot of them their families did not want anything to do with them, but was there a support network available to any of them? I mean, externally, outside of the hostel?**

Mary: Mostly, no. Some of them did become reconciled to their family when the children got bigger, some of them if they got the children settled, you know if they gave them up, they would go back to their families. And then some families, when they discovered that their daughter had a baby or were in trouble, they came and took them and looked after them. But mostly, the girls were here. Certainly into the '70s, from the '30s to the '70s maybe up to the mid '70s, they didn't have much of a family support. Some were the exception, but mostly they didn't have much of a support at all.

**So, if there were women who wanted to give up their children, did the hostel try and accommodate them? Or was it completely against their policy?**

Mary: well, em, the criteria to stay here really was a) you were homeless and were not able or provide for yourself, or, that you were an unmarried mother with a child, you were an unmarried mother imminently expecting a child. So if you were an unmarried mother and you gave up a child, you could get a job, you know, maybe a live in job, then we didn't keep you any longer, it wasn't that we wouldn't keep you but it just wasn't necessary to keep you. So, mostly if they got their children, they used to call it getting them settled, if they got their child settled then they would leave within a few days.

**Because of course, before 1952 there was no official adoption policy.**

Mary: No, but there was St Patrick's up on the Navan Road and they took children,

**Is this St. Patrick's Guild?**

Mary: Well St. Patrick's Guild was more over the city centre. St. Patrick's, they were a mother and baby home, and they would take children, they would take the mothers and the children and when the children were a certain age, I suppose they would keep them until they were, maybe three or four months, and then they would put the children up for adoption.

**Could these women be part of any religious denomination?**

Mary: Oh yes, there was never any, our hostels always were, and still are, open to any religion and none. We do have a Catholic ethos, it's run by the Legion of Mary, which is a Catholic, a lay Catholic organisation. But we've always welcomed everybody. But mostly our residents would have been Catholic because of the population.

**So would the Legion of Mary, as a Catholic lay organisation, have had a lot to do with the daily running of the hostel?**

Mary: Well we run the hostel, it was always legionaries who ran the hostel, it wasn't that we had a lot to do with it, the whole thing, the whole shebang, was run, managed, financed by the legion.

**But how far did the legion's Catholic ethos go? Was there daily prayer or going to mass?**

Mary: When our oratory opened then there would have been weekly mass, and occasionally mass during the week. But very few of our residents would attend it, they would always be welcome but no one was ever forced to attend. We've had, as I've said, all faiths and none, girls didn't want anything to do with formal religious practice, but we've always felt that em, if someone could be reconciled to God a lot could go right in their life after that. Whatever religion they were, we would have liked them to practice it.

**What parts of the country did unmarried mothers come from?**

Mary: All over, it was all over, a lot of our residents, we would have discovered over the course of time that they didn't give us their correct address, probably because they didn't want the family to ever know about them. They would come from all parts of the country, Donegal, Kerry, Galway, Offaly. But most of them would have probably been working in Dublin before they came to us.

[Moira returns to the interview]

**So they would have come to Dublin and heard about the hostel within the city? What I mean is the hostel was not known nationally?**

Mary: A lot of our, em...we didn't have any referrals as such but a lot of our girls would have been recommended by their priests. You know if they were in trouble they may have gone to their priest for assistance and they would have sent them over. The hospitals also recommended girls to come to us, but mostly it was word of mouth.

Moira: You know John he lives down there, he's about fifty now, but he said his mother came out here. She had him in Holles Street [hospital], she came out the door of Holles Street but she didn't want to part with him and she didn't know where to go so she asked a Guard in the street and he told her that there was a hostel off Brunswick Street there he says and they would take her. So he was here until he was about fourteen and fifteen. Word of mouth was really where most of them...

**Did both of you start working in the hostel in the sixties?**

Mary: I came in the late sixties

**And how, in your opinion, did you find society towards unmarried mothers back then, in the mid to late sixties?**

Moira: It depended, you know, there were some single mothers where their families took them in, but I suppose in general, it was the climate of the time, you know, but I mean at that time single people were the exception Now, nearly married people are the exception. And now we find that it's all for the children now and the poor mothers are getting left. I know now that some are probably not capable of looking after their kids, but some of them are even being denied rights to visitation, so it's kind of gone the other way now. The mothers are just...they take the children. OK they won't turn up for appointments and everything, but they all love their children, they all want their children.

Mary: They do. Both Moira and I, Moira is doing it now and I did it for a little while, dealt with enquiries from former residents, usually people who were here as children and they want information about their mothers, and they want to know more about their parents, particularly if they were given up for adoption.

Moira: There was a lady here last Wednesday or Thursday, she came over from England with her two daughters, her daughters have been corresponding with this place, but she actually came up here, she just wanted to see...and she was only kept one week. Like she was born in one of the hospitals and then she was brought back to here and then she was put up for adoption. So here's a woman and she's seventy years of age, she was born in nearly 1940. I just said she could come up, if she had information because we didn't keep detailed records.

Mary: I was just saying, Ann – Marie was asking what part of the country these girls came from and I was saying that the addresses they gave, a lot of them were incorrect.

Moira: But it didn't matter, we took their names and that, there were no real details kept...we took their age, and sometimes we didn't.

Mary: We really just wanted to know what to call them!

Moira: We're not into big paperwork. We're not computerised, we just take people in and take their word for it, no matter what they did.

Mary: Ann – Marie was also asking about the Catholic ethos here.

Moira: Oh yes we always had that

Mary: And she was asking about the prayers and that, and I was saying that we always had daily prayers but no one was obliged to take part, they were always encouraged, that all religions and none were welcome.

Moira: Because we find, I mean I have seen, priests come here, and I find that if girls can get confession and get all that gets on their chest off it, I've seen girls come out of confession crying. They say what a relief it was and they could go forward now and move on. But this is a Catholic hostel and everyone working here is Catholic.

Mary: We are all volunteers, we have no paid staff.

**Did you find that as the years progressed, society became more accepting of unmarried mothers?**

Mary: Definitely. When the unmarried mothers' allowance came in that made a huge difference.

**Did fewer unmarried mothers seek your help as society gradually became more accepting?**

Moira: I suppose, yes that's true, because at one stage we had about a hundred children, you know. But you see at the moment unmarried mothers nearly have more privileges now.

Mary: They get housed.

Moira: They get housed.

[Interview interrupted]

**So it wasn't that society became more accepting, rather there was better provisions which made a difference?**

Moira: Yes there's no doubt about that.

**And before this, really the only provision for unmarried mothers was the Illegitimate Children (Affiliation Orders) Act to seek maintenance. Did the hostel provide any legal aid for these women?**

Mary: No, most of the girls who came to us were not going to follow up looking for maintenance or anything like that. It was a very odd girl who would look for maintenance. I'd say most of them, would say that the fellow misled them, that he wasn't who he said he was, he wasn't around.

Moira: In fairness, a lot of them never told the boyfriends.

Mary: A lot of them especially in the early days....

[Interview interrupted]

Moira: A lot of them got married, we had a match making thing going on!

Mary: What was it called? The Marriage Association? St. Anne's?

Moira: No that was the address they used to give, they wouldn't give the Regina Coeli Hostel.

Mary: If anyone was applying for a job or anything they didn't give Regina Coeli Hostel as their address they gave St Anne's.

### **Why?**

Mary: Because, there would be a certain stigma attached to a hostel, a hostel for homeless people.

Moira: There was a building there between - Haven House is actually on the grounds of it now. And the staff, indoor staff slept at night and that was always St. Anne's.

Mary: Some of the girls did actually marry the father of the child, but that wasn't really that common.

### **Did the majority stay in the facilities which the hostel provided?**

Moira: At that stage the corporation now started to recognise the fact that these were kind of families I suppose.

### **And when was this?**

Moira: I would say it wasn't until the seventies that they started getting places. It was really when the unmarried mothers allowance came in.

Mary: It gave a kind of, I mean it's probably the wrong word to use, but it kind of gave legitimacy to the ladies and they were looked after.

[Person enters the room, interview interrupted]

### **So when some of these women married, did the men seem to have a problem with her having an illegitimate child?**

Moira: I don't think so because they would have been aware of it. In my time there were several marriages from here. I was a bridesmaid once or twice myself now that I think of it!

Mary: We used to give a little wedding breakfast, just to mark the occasion.

Moira: You see it's very hard nowadays to realise what it was like then. Because times were tough, they were tough for everybody. They were tough for everybody, even families had it tough, there wasn't money to burn back then. The people would just live day by day. It was only the eighties or nineties, the nineties actually when this Celtic Tiger came in.

Mary: Most of our ladies now don't have their children with them

Moira: It's so sad now, they're very young girls now. Their children are either all in care, or "me mammy has them", which is just desperate. They're not capable of looking after them

Mary: Some of them, they would have either, like, drug problems or drink problems, but either way their children seem to be, they seem to be encouraged to give up their children. Or else they're taken off them by court order. Unless they fit into quite a, you know for them, quite a er, regimented regime, then they don't get to see their children.

**What was the average age of these women when they came to the hostel?**

Moira: They would be in their twenties wouldn't they?

Mary: About mid twenties

Moira: Yes

Mary: They would be mid twenties. We'd get older ladies with children, erm, we'd get an odd lady in her thirties but mostly they would have been in their twenties

**Did the majority of women have just one illegitimate child?**

Moira: At that time, yes, to a certain amount. But then there was the odd woman who had three or four. I mean, there were two families, I remember there was one lady who had five at the time and that was kind of unusual. The woman herself at the time had been married, I think it was, but it didn't last, probably nowadays it would have been annulled, you know? And er, she was, her boyfriend was single, but the other one was, he was a married man so it was very sad you know?

**And when unmarried mothers came in with more than one illegitimate child, did the hostel still take them?**

Moira: Oh it didn't make any difference to us, it never did.

Mary: They would normally start off with one, sometimes they would arrive with two, or you'd get three. But, em, normally they would stay with us...

**Were there many unmarried mothers who returned to the hostel?**

Mary: Yes that has always been a feature and still is a feature.

**Thank you to both of you for taking the time to do this interview, I really do appreciate it.<sup>2</sup>**

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<sup>2</sup> Some information was added by the interviewees after the interview, this has now been added into the transcript.

**Appendix D: Interview with unmarried mother (who wishes to remain anonymous), Naas, Co. Kildare (3 Sept. 2010).**

**In what year did you have your twin boys?**

My twins were born in February 1972.

**Who did you tell first about your pregnancy?**

First I told their father, he didn't want to know. He panicked, he said, well we talked about getting married anyway, then he arranged, we both arranged the wedding and he called it off. He said I'll be around but I won't be getting married, I'm not ready for marriage, we don't need to get married. Then, of course at that time I didn't know it was twins. It was only one baby I thought. Then I told my brother, my brother told my father. My mother died when I was a baby, then I told my sister. Then it was all pressure. Em, the priest had to be told, the priest came to the house.

**Why did the priest have to be told?**

Well, first of all he said we were going to get married anyway and em, my father said you have to get married now. So then of course, in them days you had to tell the priest because the priest would come to your home anyway. So then the priest was very cross, very angry, and he said right you'll just have your baby and have it adopted, have the baby adopted. And em, after that then the father was banned, he wasn't allowed visit, and I used to sneak out to see him of course! So then em, what happened after that? Yes, coming up to Christmas time I hadn't been feeling well and the doctor sent me not for a scan but for an X ray, for an X ray up to Holles Street [hospital] and I was told I was having twins. And it was like I was telling my family I was pregnant all over again.

**So, what was your family's reaction to it?**

Er, shock at what the neighbours would say, mostly. My father used to do a lot of work for people, like people who would want maybe, a family who would want information and my father would go to the local T.D. or something like that and he would do things like that for people. So people would call to the house and when people called to the house I would have to go to my room and er, not be there. So that was it. So by the time February came my father had sort of got used to it but he did say the babies are never coming home. Another reason, he said, you would not be able to rear two children on your own. You would never be able to rear two children on your own.

**Why?**

Er, he was thinking of my health, he was thinking, I don't really know what he was thinking. No babies were coming home and that was it. By that stage then, my father said that I would be better off having them adopted. And I pretended that they were going to be adopted, even though I knew they weren't going to be adopted. So then I went to Holles Street and they were due on the 11<sup>th</sup> February, no they weren't due on the 11<sup>th</sup>, they were due on the 18<sup>th</sup> and I went in on the 11<sup>th</sup>. When you went in as an unmarried mother then you weren't treated very nice. I ordered a taxi and a taxi came and got me and the taxi man dropped me off at the doorstep and I went in with my bag.

**Were you on your own?**

I was on my own, yes I was on my own. I happened to be, I just happened to be beside a lady who I knew from way back, a really really very nice lady. She was in with problems, her baby wasn't due for a while. And when her people would come and visit her they would visit me as well. My family didn't believe me. So then, er, the doctor had ordered a section but then I started into labour myself and er it was a very quick labour. It was, it started about 12 o'clock and it finished at quarter past 2. So one baby was four and a half pounds, and the other was four which were big enough for me, they were big enough for twins. They were put into incubators straight away and I didn't see them. So then the registrar girl came to get their names and I gave her the father's name and she never put it down. She just put down my name.

**Do you know if this was the practice for all unmarried mothers?**

I think it was. And I didn't find out until a good while after that she hadn't put it down. Until I went to get their birth cert and I seen their names, but of course that's another story. But then I left hospital and they were still in incubators. I had to leave them I came home and I came home to an empty house, my father was away down the country, and it was a cold, snowy day and I just went up to bed. And after that then someone wrote to me in Holles Street and said that the babies were going to St. Patrick's Home in Temple Hill, a beautiful beautiful place. I don't know if it's still there now, Temple Hill, Blackrock, you know that area? A beautiful place. And they were there and they were actually there a year and a half. And most of the babies were there for adoption. And I would visit the twins every Sunday and I, many a time I would see a baby being handed over for adoption. I would see really really expensive cars coming in, and really well dressed people adopting the babies.

**Did you have to give your consent for the babies to be adopted?**

Oh yes, yes, yes. So my family every week, and every month would say well, why aren't they being adopted? And I would say, well probably because nobody wants them! So then, er, one day after about a year, two nuns came to my house from Temple Hill, they wouldn't tell me they were calling, but they came anyway, and they said that they had a family in Cork, a very wealthy family who would take them, they would take them there and then. And I said no. And then they said well, you'll have to take them out of Temple Hill because we're not keeping them there any longer. So there was pressure. So this went on and on and putting things off.

**How long did that go on for?**

That went on for a good few months. And then em, a few people did say to my father, ah sure they're big boys now, they can help. So eventually he did say they can come home. And er, I was able to go up to Dublin and we brought them home.

**Why did you decide to keep your sons instead of adoption?**

Well I knew there and then that they were the only two children I would ever have. And I just thought, well their father didn't turn out to be a nice person so, even though he did come back again and he said he wanted to go ahead with the marriage, I said no. No way. And he kept saying he wanted to go ahead and get married but he never mentioned the children at all, he never said like, you know, how much money do you need every week? What do they need? So no way. So he just stayed around

and I said you'll have to support them now, and he didn't want anything to do with them. With the court business, he didn't want a court order or anything.

**Did you ever get maintenance from him?**

I got about thirty pounds maintenance.

**And was that through the courts?**

No, I got one through the courts. There was a court order made and he said he could only afford to give ten pounds a week. So I got one ten pound from that, and he paid twice before that, as a gift. And that was all.

**That was all you ever got?**

Yes. He never bought them shoes, or toys or anything. It was tough from then on but it was nice. And yes, it was good from then on.

**Did you live in your father's house?**

Yes, I lived in my father's house and that was another story because I would have to take them out for long walks every day and stuff like that to keep them out of the way when he'd be there. You see he used to go down to the country a lot and in the summer I'd go to my sister in Kilkenny but I wouldn't stay with her I'd stay in a B&B. And er, my children would play with her children in the park. And more or less I kept myself to myself all the time.

**Were your children accepted in your family?**

Em, not really no. My brother did, yes I have to say, my brother did. As they grew older, as they grew older they did. My family said right they're two children, that's all they are! Just two children, you know.

**So, in terms of living and employment opportunities, what were people's attitudes towards you and your children?**

Em, no people definitely didn't want unmarried mothers. I would never admit if I went anywhere that I was an unmarried mother. And people when they seen you in the street they would always call you Mrs. And that used to really annoy me. And everywhere you would go it was Mrs.

**Were you able to get employment?**

No, because it was a full time job with the boys. Because no way did I ever get an offer of a babysitter. I could never go out at night or anything. I never went out at night. And I wouldn't even dream of asking them to babysit but they never offered anyway. And then, when they started school em, there was one or two teachers that was nice but the rest definitely did look down on unmarried mothers.

**How?**

They did. Em, they would always be calling me in, your children did this wrong or that wrong. They didn't do these things, they used to call in other single parents as well and I knew they were picking on single parents.

**Did you feel that it was the stigma attached to illegitimacy?**

Yes I did, definitely. And in the meantime the boys grew to be very musical. When they were two years of ages they started singing you see, and they would just be singing because I used to be singing and they would sing and I taught them the songs they would sing. So they turned out to be very musical and good singers and all that. So that made them popular in school, the teachers used to get them to sing, they had them on stage then and in concerts. And that was a real booster, that was great, so then they became popular then and it was always the twins this and the twins that and the twins are great boys. So that was good.

**Did you ever avail of the services supplied by the state, for example the unmarried mothers' allowance?**

Oh I did yes. I can't remember the year that came. Yes, because the year they were born there was nothing. And that was another reason why my father was worried about them coming home. I did yes, I had to get that. It was, it was just er, it was just one weekly payment, it wasn't anything, you didn't get money for shoes or clothes.

**Did you find that you could live on that?**

It was ok, yes. It was ok because I was a dressmaker and I was able to make all their clothes and knit their jumpers and stuff like that. Yes, it was ok, but I didn't really have a social life I suppose, but yes it was ok.

**Because you brought the father to court, you were obviously aware of the legal opportunities available to you?**

I was, but I went to a solicitor in Newbridge and he told me at that time the law was if the baby was over six months old you could claim. So I went very early, and I didn't realise this, he kept making another appointment and another appointment. And it would be an appointment for you and an appointment for the babies' father to go in. And it was going on and on and on and I was in Newbridge one day and it wasn't going well and nothing was happening. And I was in Newbridge one day and I saw their father coming out of the solicitor's office and I had a feeling that something not right was happening and the next time I went in I was told, it's too late now you can't claim. Whether that was right or not I don't know. The claim I had at that time had run out and er, I had to let that go, and then it was a good while after that then when I got the court order in Naas, and I got the court order. But it was a good few, the boys would have been. I can't remember but they were going to school anyway. I can't remember how long it was.<sup>3</sup>

**When you went to the solicitor were the boys still in St Patrick's?**

Yes, they were still in St. Patrick's.

**Did you have to pay for them in St Patrick's?**

No, I was supposed to pay but I didn't and er, then when they were leaving I said you may send the bill to their father and I gave his address and er, to this day I don't know if he ever paid them or not.

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<sup>3</sup> If this was an application made under the Illegitimate Children (Affiliation Orders) Act, 1930, then an application, in this circumstance, had to be made before the birth or within six months after the birth (see chapter two above).

**So, in your experience, how did society change as you brought your children up?**

It changed very slowly, it did change for the better but it changed very slowly. Lets say, nowadays you can get a house when you're pregnant, have a baby, I mean now I could get a house, I could get a fully furnished house, I could get, I suppose probably anything I want. I could get a cheque for their school books and anything the child would want but back then you couldn't get anything like that. Single girls didn't get council houses or anything like that. Had I not gotten my father's house well I don't know what I would have done. I really don't know what I would have done.

**So did you just live on the unmarried mothers' allowance, or, you said you were a dressmaker, so did you earn money out of that?**

Well I earned a little bit out of that but I didn't earn that much, it was nothing really. I would make little alterations for people. I had a lot to do really in my own home, in my father's house. And then I hadn't the space, it was a small cottage at that time, it's bigger now. So I had no sewing room if you like. I had to set up my sewing machine on the kitchen table when my father went down to bed.

**Did your father ever become a father figure to the boys?**

Er, I suppose in a way he did towards the end, yes. I suppose as they got older and especially as they came towards secondary school. They knew, what would you say now? They knew he was a father figure in the house and they would obey him, they knew the house rules and he was head of the house, yes, I suppose in that way. He was good to them in the end, yes.

**When you were having your children, did you just go to hospital? You never went to an institution? You were allowed to stay in the hospital?**

I was yes.

**Do you think that was because society's perception had changed towards unmarried mothers by the 1970s?**

I think so. I don't think there were any mother and baby homes in the 70s, I don't really know.

**Did you meet other unmarried mothers?**

I knew a few but no one would talk much about it.

**Is there anything you would like to add into the interview?**

No, I think that's brought us up to secondary school. They were good to daddy in the end they looked after him before he died. Yes so. It was a happy ending, yes, I suppose it's not as interesting as the earlier days.

**Thank you very much for taking part in the interview.<sup>4</sup>**

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<sup>4</sup> Some information, at the request of the interviewee has been changed or deleted.

**Appendix E: Interview with Paud Sexton, Killeenboy, Roscommon, County Roscommon (21 Sept. 2010).**<sup>5</sup>

**In what year were you born?**

I was born in 1932. 29<sup>th</sup> January 1932.

**Can you give a description of the Ireland of your childhood? What the country was like when you were growing up?**

Oh well when I was growing up there was next to nothing. And um, sure um, everywhere was a rural area. I had, well I suppose a medium size farm now, it wasn't a small one, I suppose 150 acres. And eh, so we had about 80, 70 cows, a horse. Is that ok? And uh, yeah we had tililage then, you would have a crop of, or a couple of fields of oats and a field of potatoes. Ah sure I remember it went a long way and things weren't great but then came the war years then. As bad as it was then, that made it an awful lot worse. And in a sense we weren't the worst in Ireland because we were within I suppose a good fifteen, twenty minutes, well by car, not that there was many cars at that time, to the Northern Ireland border you see. And smuggling was a big thing in Cavan, Monaghan and all that area. So er, I remember there was a M\_\_\_\_\_ man he was a fowl dealer and he was mixed up with M\_\_\_\_\_ and M\_\_\_\_\_, I don't know they were called M\_\_\_\_\_ and I think M\_\_\_\_\_ was the proper name. And they were a Northern Ireland, big in this fowl business. And they supplied him with a pick up lorry which was something at that time. And sure of course M\_\_\_\_\_ was wide open, he could go up and down you know. But the man was a kind of a smart alec but he was going with them for a number of years working away and buying fowl and eggs and all that kind of thing. And sure the war was on and he was bringing paraffin oil up to them, all that was rationed like tea, sugar, flour. Some of the time he would get the wife flour whereas some of the flour here in Ireland, in the Southern part it was kind of black, it was I don't know, they didn't take anything out of it, it was I don't know, in its whole. I don't know what it was, it was dark coloured now, and not a bit nice. But sure he was up and down and that went on for a number of years but then he began to get too independent and he went to try smuggling on his own and he got caught and lost his lorry and lost his job and that was the end of that. But the war was over or very near at the time and sure it began to creep back up then, little by little, but it was really very slow. And sure there was nothing out there, there was no money, there was nothing. It was desperate times.

**Was there a lot of poverty?**

Oh an awful lot of poverty, sure it was all poverty, there was nothing else. Well in the rural end of it. But again like, going back again to when I remember, I remember, like '47 was one of the worst winters we ever had. Now people talk about last winter but it wasn't a catch on it. And like I remember, you see you had your own bacon, you killed your own pig, you see you had your own bacon, your own fowl, you had your own eggs, chicken or hen or whatever. You had em, well sure then you had turf, you see you had your own fuel, you had your own potatoes, you had your own milk, you churned and you had your own butter. But like there was very little things to be bought if you know what I mean. They lived with what they had like, it was sort of

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<sup>5</sup> Paud Sexton got in touch with the author via letter after she posted an advertisement in local papers looking for people to speak to her about their experiences/views or thoughts of unmarried mothers. He grew up with a number of illegitimate children and wished to present his views through an interview.

self sufficient. It was, it was, there was no luxuries that was for sure. But em, do you want me to talk about anything?

**When you were growing up were you aware of illegitimacy and unmarried mothers? Was it something that was spoken about?**

There was that alright and em, yeah there was a couple of them but it was all taboo at that time, and you see we as children, now the parents wouldn't mention that like, that someone's child had no father, like that was never mentioned. And er, there was one such case, now we had to walk to school in my time sure, and er, you had to walk a good mile and a half up and back the laneway and near the school, there was this, will I mention the name? Well there was this lady and she was working for a farmer and that farmer had more respect for his dog than he had for her now. And that chap was a few, well a couple of years I'd say, younger than I was. But he was with us, he'd be with us to school and he'd be with us home. And I remember, as I've gone over there about the war years, things very tight and very scarce, I remember him coming to school and the better part of his bread was maize meal. It wasn't even flour, such as the flour was, it wasn't even that itself like. And I remember us swapping with him giving our bread to him to get this maize meal thing. It was a change you see. And ah now sure I seen the mother she was working hard and she had no respect or no praise no nothing. I'd see her there coming to the well she would have jute bag tied around her for an apron – that was the apron she would have. And one thing I do remember, J\_\_\_\_\_ as we'll call him, he was, he was average at school now, he was alright and I didn't know it at the time now but the priest come to the school. It was years after I left school and I was at a wake around where the teacher that taught me the little I do know lived. And when he come in to the wake and he came over to me, he knew me, and he was talking to me about the ones who was around my age and where were they like, and he was enquiring you know. Talking to him, and it was him that told me this story now, the priest landed up, he lived down about half a mile from the school, he landed up this day anyway and he wanted to know could he get him clerks for the altar, or clerks, he wanted new ones because the ones he did have were getting very thin on the ground. So, he told me, he says 'I began to look at it he says and fourth class were the only year or two', you see when you finished school you finished on the altar, that was the kind of set up of it. But er, the next thing was anyway, he, the teacher went back into third class and he had a good few you see then, and then there would be a few years in them as well you see. So he began to think about serving the mass which was in Latin at that time and er, they picked it up fairly quick and he landed back this day and he said 'oh yes, I have five or six of them there.' 'Oh that's wonderful! Tell them to get their soutanes and surplices.' Ok, and he says 'I brought then down a Friday evening and I put them through you know, through the mass of the altar to give them a taste of it', you know? So he told them to get their soutanes and surplices and he lands up on Friday evening, with the whole lot of them and he landed them back and the next thing was there was a knock on the door, and he said 'out I went and he was like a bull because there was two that had no fathers if you know what I mean, in the bunch.' There was no way he was going to have them on the altar and that was that. And he says, 'the two of us fell out', and he says, 'my job was on the line, and I told him, because I knew there was priests made out of the same stock', that's the way he put it! And he says no, no, no, he was having none of it. Now, you know, when I look back at it now, you know, and I didn't know at the time now, it was only when the teacher told me this after years you see, but when I

look back at it now and see that poor S\_\_\_\_, she was working night and day, and for the first time in her life, there was some little glimmer of hope that her little lad would be up on that altar. And her to scrap, just really scratching to get the soutane and surplice and get that little lad dressed up and have him on the altar, and then the next thing was the whole thing was thrown back into her face.

**At the time, did you know why she was treated so badly?**

It was I'd say, you see, they were, that type of girl, she was just dirt in everyone's eyes because she had a baby. That was the set up of it at the time. There was no, no one wanted her anymore and that was it. She wasn't the only one, now that was a common enough thing at that time, some of them wouldn't have just had it as tough or as hard as this lady that I'm referring to did. She, she really was, she was really caught up in it now and there was no escape, where could she go? What could she do? She was just a prisoner there and that was it. And er, sure the wee lad we'll call him, he went on and finished school, and sure, the next thing was a brother of hers died that was in a council house where she was reared, she was reared in a council house. And er, he died, and she got back to the house, to the home where she was reared in and she lived there for years. J\_\_\_\_ as we'll call him went off to England that was the common thing in them times, he went to England and sure got married out there and as far as I know done really well for himself. The mother was living in, as I said, there on her own and the next thing was. Well I suppose at this time she was living a little, well I mean she was a bit better off, she had a pension, for the first time in her life she had money, that was just the way to put it, and er, there was a shop. A travelling shop, a young fella used to go round with it, and he arrived this day anyway and normally she'd be up and she'd be there, she lived on her own, he'd get no trouble, she'd be there and he'd bring her in whatever she wanted and that was it. But the door was locked and there was no admission and he wandered at that and he went to the neighbours house and they didn't know anything. So they went back and they thought they heard something move, something inside and they shouted 'are you alright?' and there was no answer. So they got forcing the door somehow anyway and when they went in she was upstairs, as black as the ace of spades where she was crawling around for, I don't know how long, maybe a day and a night, she was on the floor dragging herself about. So the ambulance, and they made her tea and got her heated up and the ambulance came. She come out of it pretty good, so the son came over then and he brought her to England then. So that was the end of all, she died out there and was buried out there but I'd say she had it good enough out there with him.

**Was it ever spoken about openly?**

Oh well I mean this neighbour and what I'm after relating to you of yeah, it was known. I mean I related what the teacher told me, some of them knew it you know, I didn't know it until the teacher told me. It was terrible, it beat out all. Like they talk about Christianity being gone but I tell you something there wasn't much Christianity at that time either. You look back at it.

**Where you aware of how unmarried mothers were treated and the institutions some of them were sent to?**

When you grew up and you know more or less got into adulthood you really got to know and you could look back at some of the stories you were hearing about them, they were very badly treated. Very badly treated now, no question about it.

**So in your opinion, how has society's perception of unmarried mother changed?**  
Oh it's changed immensely. Sure there are hardly ever any remarks passed about if they're married or not married now. A complete change around.

**Was this change gradual?**

Oh very gradual, oh very very gradual. Sure it's like everything else, it's like, getting married, Protestants getting married to Catholics or vice versa you know. There would have been none of that or very little of it and sure actually my two daughters that's married to two Protestants. One of them did turn and I mean at my blessing but sure look the clergy wouldn't be too happy to see it happening because of interest you know they don't want to be losing because of the financial end of things begin to slip as the people are going. The whole thing has changed and no harm. And there was class distinction at that time, very much so, you know. And if someone got married to one of them well and one of them had a baby, well they were nothing but a, that was it.

**When did you notice the change?**

Well, in I suppose, the first of that was really after the war, after the war years. There began a whole thing, sure there was a flood gate opening in all directions and a lot of the things that was old beliefs and a lot of old fairytales and ghosts began to disappear. As I said floodgates began to open up and a whole new image of everything and everyone. It was no harm that's for sure. Because when I look back at that and I seen how them two women, their pupils was in my time and I knew the two of them, the other one wouldn't be on my route to school, but I knew them, I knew her. And the first one her boy went to Dublin and done well today because I met him at a school reunion back there in '90. Because the school I went to was built in 1909. And there was a school reunion and it was a wonderful turn out and a wonderful, it was very interesting meeting up with old school pals that you hadn't seen from well from when you left school, some of them. And he was one of them, one of these, O\_\_\_\_\_ was his name, and he was a brilliant scholar at school, there was no getting away from it, and he wasn't allowed on the altar. He wasn't let on either, and of course his mother now, I knew but that was about it, that was the limit of it. She was living with a sister on a small patch of land too. And I suppose she would have had it a little better than the other one you know because she was with the sister and well they pulled together and they would have a better living then the other had.

**Is there anything you would like to add to the interview?**

I don't think so. I don't think there is. Probably when you're gone I'll think of something!

**Thank you for taking part in this interview.**

**Appendix F: Interview with Stephen Lalor, 3 Kenilworth Lane, Rathmines, Dublin 6 (23 Nov. 2010).**<sup>6</sup>

The following is what I know. My grandmother was first married in 1900, her husband died seven years later, 1907, they had three children one of them died, and she married again in 1916 and didn't have any more children, they didn't have any. Around about six months ago, my sister was visiting [me] and she said 'we have cousins on the North side'. I had never met them, it turns out I probably had met them a long time ago. I rang them up 'call for a cup of tea, smashing!' We had a great chat. My grandmother was from Waterford, County Waterford, a place called Modelligo, Closhnaganeen, Modelligo. And my cousins were from there, from Modelligo and we knew very little about them, I mean we didn't meet them very often. And coming towards the end of our tea, we had finished our cakes, the woman got a little bit uncomfortable and then she said, 'I'm not sure I should tell you' and we [Stephen and his sister] said 'tell us what?' She said 'your granny had another baby', and we said 'you're not serious? You are not serious?' We had no notion. This em, my cousin said that your granny was married in 1900, which we knew, she had a child in 1893, or thereabouts, 94 or 93. And that this woman lived with the Sisters of Mercy, or sisters of something or other, I have it here, in er, in Dublin, in Donnybrook. Sisters of Charity I beg your pardon. So em, what she said was that she had always known this woman was, she had met her in the sixties when she had first come to Dublin the woman died about 1977 and em, she'd hadn't known her terribly well, they used to visit her when she was a child, she was a very nice lady, she was retired and she worked in the laundry. That was completely shocking of course, absolutely shocking, shocked the whole family in all sorts of ways, some people got very upset that they hadn't been told earlier and that sort of thing, you know that kind of thing. So I set about trying to establish a little bit about this because the woman had the surname of Molly Fitzgerald which wasn't her mother's name or anything about, Molly Fitzgerald was a name that didn't fit. So I attempted to get her birth certificate and failed, I still haven't been able to find this woman's birth certificate. What I have found is that she turns up on the census. The census from 1901, I had a gander, in fact when I, what actually happened was after the conversation, I went back to my family tree and realised that I had actually heard of this woman from the census, but if you actually look at the census you will see Daniel Murray, Mary Murray, Richard Murray, Patrick Murray, Kate, Mary and Richard D which is simply a visitor. Now look at the ages, the parents are 61, [they were] 63 and 61, three children are 27, 25, 26 and then Mary is 6 and she is down as the daughter, but she's clearly not.

**So would she be Katie Murray's daughter?<sup>7</sup>**

She's Mary Murray's daughter and she is Mary herself, that's who she is. Because my grandmother isn't on this list.

**She's not?**

No she's already married in New Ross and this is in Modelligo. So for the purpose of the census they are claiming that she, I believe, I believe this is evidence that they are claiming that she is the daughter of her own grandmother, which was a common

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<sup>6</sup> Stephen Lalor is the grandson of an unmarried mother.

<sup>7</sup> The author got permission from the interviewee to use names.

thing to do. So how did she end up with the Sisters of Charity? She's already being raised with the family at this stage, she's 6, in 1901 she's 6, er, or thereabouts because these people were not accurate. And, what we think happened is that the parents died, the grandparents die very soon afterwards.

**After the census?**

After the census. And the farm is inherited by Richard and his wife, who shunted her off to the Sisters of Charity and dumped her. Because if you go to the 1911 census which is many years later...

[pause while finding the 1911 census]

In the 1911 census for Donnybrook – Mary Fitzgerald from County Waterford. She's the only one from Co. Waterford, she's the right age at this stage she's 17, and em, it is, we don't know what happened, it's very mysterious. How they were able to dump this poor kid with a new name on the nuns having reared her as their sister. She had to have been raised as their sister at least up until the age of 6 possibly 7 or 8.

**Surely people would have asked where she went?**

Yes.

**Unless people knew?**

But we don't know.

**So this is the only possible conclusion that you can come to?**

Yes that's it. Yes.

**Do you know where the name Fitzgerald came from?**

No. That's why I have been trying to find her birth certificate but I've failed. Now I'm going to go back to the General Register office.

**You'll find that she may not be registered.**

It's possible

**As many illegitimate children were not registered and if she wasn't registered then she may not have a birth certificate.**

This is possible, however, she surely has, now I haven't even begun to look here, but she surely has a baptismal certificate. And, I haven't managed to get into the National Library. The National Library has the Modelligo parish records on microfilm, but I haven't managed to get in there yet to do that, but that's the next thing I have to do.

**There may be a better chance of getting a baptismal record.**

I would think so because they would surely have baptised her, They may not have registered her because that was a different kind of a thing and they may not have bothered. You know the graveyard in Donnybrook? There is a grave to Molly Fitzgerald. But the death certificate does say Mary Murray. There is no Mary Murray you know, so obviously the nuns felt when they were registering her death that they should put her real legal name on the em...

**So did the nuns know that she was legally Mary Murray?**

They did, because clearly, she was registered, the registering was done by Sister Bernadette somebody, so and that she's registered, her death is registered as Mary Murray.

**So did she stay in...?**

She stayed there and she retired there and she died there, for the rest of her life, she never married, she never left. In fact the family in Waterford who were in touch with her used to refer to her as 'the nun in Dublin', even though they knew that she wasn't a nun. Because she used to send them little presents to the children, little presents.

**How did they know about her?**

They just knew about her, it wasn't an issue. On the other hand, in New Ross, because it's all in Waterford, in New Ross, my grandmother never mentioned her family in Waterford if she could possibly avoid it. On two occasions her sister came to visit her in New Ross and she refused to meet her. On the first occasion she was looking for money, this could happen, people would need money. And the family thought that the reason my grandmother hadn't met her sister was because her sister was cadging money. The second time, that wasn't an issue, the sister came to New Ross, stayed with my mother, stayed with us, who was apparently a very nice person, my grandmother refused to meet her. The first time my uncle had a few bob, so those people were aware of this sister coming and looking for money, because that was that kind of thing. But the second time she came after the war, or during the war, and she stayed with my mother, she liked to drink, she liked whiskey, no big deal. And the family story there was possibly granny wouldn't meet her because she could drink and my grandmother is very against drink. But clearly neither of these stories was enough, they didn't hold water. Another thing was that one of my brothers lived with my grandmother for long periods and they were very close. And he frequently said to her 'I'll take you down to Modelligo, we'll go for a spin', she never said no but they never went, it never happened. It never ever happened.

**So what time period was this?**

Erm, the first visit? It was around 1936, and the second visit was about 1944.

**So it was a long time after she had her child?**

Oh yes, a long time, long time. My grandmother, the sequence seems to be something like this. My grandmother has a baby at about the age of sixteen, around 1894. She goes to, she leaves Modelligo, she goes to Waterford city.

**Do you think this is why she left?**

Let me give you the sequence of events, the whys are really more your territory actually, than mine. She left Modelligo, we don't know when, goes to Waterford, works for an aunt in an eating house in Waterford for a number of years. It was a guest house, a small hotel place in Waterford. Meets a cattle dealer, or a cattle dealer's son from New Ross, marries him, moves to New Ross and shakes the dust of Waterford off her heels. My impression is that when she came to New Ross she was very warmly welcomed by her new family and that this made a huge impression on her. And she absorbed the new family and er, to the point where she got on very well with her sister-in-law and even after the sister-in-law's death, when there was a major row over the sister-in-law's house and my grandmother refused to go to law

over it and I think this is because she felt part of the family and you don't go to law against your own family. And, she has three children, she calls one of them Mary which is the name of her other child. So she has a little girl called Mary in 1894 and she has a little girl called Mary in 1903 I think, or 2. Who tragically dies at the age of 4 in a rain barrel accident, in a rain barrel in the back yard. When you look at family history the scope for tragedy is just tremendous, floods of tears. And, but lives the rest of her life in New Ross, her husband died in 1907, she, somehow or another gets some members of the family, I suspect the Waterford family but I don't know who, to look after the children, there are two children left by this stage, my mother and my uncle. She went to Dublin, she trained as a midwife on her own in Holles Street [hospital], she qualifies, does her internship and gets her references which I have somewhere here which are great. She comes back to New Ross and works as a midwife for the rest of her life. I'll show you something amazing. This is rather nice, the 1911 census, my grandmother, her husband is dead so she's head of the household. Margaret Bryan, that's my mother Bridget Bryan, Laurence Bryan, Bridget Nolan who I think was a relation who was 72 who I think was staying with them and then a servant who was 14. And there's my grandmother's signature, Margaret Bryan. The enumerator, who was a constable in the Royal Irish Constabulary was Brian Donellan, she married him in 1916. I wondered did they meet when they were doing the enumeration. It gets better, she proposed to him! She was some cookie, she was terrific, she was wonderful. She was kind, sweet old lady with the will of steel! In 1924, the Civil War was going on, and the I.R.A. were still very active and they sent a note to my step-grandfather, Brian Donellan, giving him twenty four hours to get out of town or be shot. I asked my mother what happened, she said 'what are you talking about?' 'what happened?' 'what are you talking about?' So I said 'Mammy, stop, we're going to start this conversation again. The I.R.A. who are famous for being serious give Brian Donnellan 24 hours to leave New Ross or be shot. What happened next?' And she burst out laughing, she said 'did you not see who signed the letter?' in those days the I.R.A. signed their death threats with real names. And she said, 'he lived five doors down Brogue Lane, they weren't going to touch Brian Donellan, they weren't going to touch him, they would have been afraid of your granny'. And the instant she said it I knew it was true because she brought them into the world and no better woman to send them back, no better woman. What would have actually happened, she would have refused to go to any of their families if they were sick, and the women would have made bits of the men. Brian Donellan was as safe as houses, she wouldn't have had to say it, there are people who if you were at the long end of the corridor looking out the window and they came in the far end and you'd know they were there, she was one of those, she just had presence. And she was sweet and kind, and never said a bad word, and went to mass every day, and twice on a Sunday and three times on Christmas Day. She used to serve mass which was a very advanced thing for a woman to be doing back in those days.

Can I answer any of your questions?

**I wrote down some questions, but you actually answered them.**

**Do you know who the father of the child was?**

No, I'm not even, I don't even know if his name was Fitzgerald.

**So you don't know anything about...?**

I don't know anything about the father, and that could mean anything or nothing. My grandmother was 16 I think. Let's pretend the 1901 census is accurate, she was 6 in 1901. What we think, we actually think it was 1894 when the baby was born, because the things happening in the middle of the years and stuff. My grandmother was born in 1877, so that means, let's say 77, so that's what? 77 from 94 is what? That's 17 so she was 16 or 17 when the baby was born.

**When she became pregnant did she have her child at home?**

We know nothing about it. We, I would presume she had it at home, everybody did. She was living in a small village in the backend of Waterford you know? She was actually living in Closhnaganeen which is actually remote even from Modelligo.

**So she wasn't sent away?**

I suspect the baby was born at home that they pretended it was her mother's but they sent her to Waterford to stay with an aunt where she worked in the eating house in Waterford.

**Because it was a member of family that told you, there was clearly people who had always known that she had had an illegitimate child.**

Yes, the sister who came to New Ross from Modelligo in 1935 and 1944, she clearly knew and she told her own daughters. And they were in touch with her because she used to send them Christmas cards, as I said, and little presents at Christmas to the children, from the Sisters of Charity in Donnybrook.

**It's surprising that she kept in touch with her and yet your grandmother didn't.**  
Yes it is, what the hell was going on?

**Because your auntie obviously wasn't ashamed if she kept in touch with her, or at least it could be presumed that she wasn't ashamed of her?**

It's possible that the people in Waterford, my grandmother's family, drove my grandmother out, kept the child, kept control of the child, drove my grandmother out to Waterford city where she worked, possibly refused her access to the child. My grandmother then meets a man and marries him and probably doesn't tell him. And can't, because once it gets beyond a certain point you're no longer not just telling somebody but you're keeping it secret and it spirals out and so she never tells anybody. She didn't tell her son and daughter that they had a sister. Neither of them knew I can tell you. I can absolutely guarantee it, my mother couldn't have kept her mouth shut, my mother had all the confidentiality of a colander! She would swear to keep it, absolutely swear, but there would be an occasion where saying something smart was just too tempting and she would succumb! She couldn't resist a dig, so I can tell you, guarantee that she didn't know, it would have coloured her life in ways you can't imagine if she had found out. She didn't know all along, she didn't know when she was an adult and it is very sad. The relations who were in touch with her tell me that she was very happy, they used to visit her and they would have tea, you know, and have buns and stuff you know that kind of thing, and this was when she was an old lady.

**Do you know if she ever asked about her mother?**

No, no because the kids coming up to meet her were your age meeting a 70 year old. And the 70 year old has had a life which, you know, it was pretty linear, I'm sure

they just talked about the family in Waterford. I'd say it was just a thing that just never came up.

**Why do you think you were told about it now?**

Because I was ferreting around! About two years ago I thought it would be fun just to find a little bit out about the family and just have a family tree. And, er, it turned out that I have two interesting relations, one on my mother's side and one on my father's side. My granny on my mother's side, my grandfather on my father's side, in quite different ways they're interesting.

**Thank you for taking part in this interview.**