

THROUGH THE LENS OF SURVIVORS: LESSONS FROM THE NORTHERN IRELAND HISTORICAL INSTITUTIONAL ABUSE INQUIRY

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Introduction

Historical institutional child abuse scandals have rocked Church and State institutions across the globe. A frequent government response has been to commission abuse inquiries to investigate allegations of harm and wrongdoing. An estimated 20 countries have established such processes (Swain, et al., 2018), but there is scant research and critical analysis of abuse inquiries, particularly from the perspective of survivors.

This policy brief discusses in-depth research on the Northern Ireland Historical Institutional Abuse Inquiry (HIAI) from October 2014 to date. Research has been collated using a mixed methods participatory action research (PAR) ² approach including 43 in-depth interviews with survivors, five focus groups with 75 participants, observation of the HIAI, a survey post-Inquiry, and analysis of the HIAI transcripts ³. This paper examines survivors' experiences and assessments of the HIAI, what they hoped to achieve, and to what extent their justice needs were met. It gives a unique insight into an abuse inquiry from the perspective of survivors and lessons learned.

The Historical Institutional Abuse Inquiry

The Historical Institutional Abuse Inquiry (HIAI) was established in Northern Ireland in response to survivors' campaigns for justice, and in 2013 the Northern Ireland Assembly enacted legislation to establish an inquiry into the scale of child abuse in institutions run by the Catholic Church and the state. The HIAI's remit included sexual, physical and emotional abuse, neglect, and unacceptable practices in children's residential institutions (other than schools) between 1922 and 1995. In public hearings between January 2014 and July 2016, 22 institutions were investigated, as well as the circumstances surrounding the sending of child migrants from Northern Ireland to Australia, and the abuses committed by Fr. Brendan Smyth, a notorious paedophile Catholic priest.

The HIAI had two components: a confidential Acknowledgement Forum that provided survivors with the opportunity to tell their story; and a Statutory Inquiry where evidence was given in public. Survivors could choose to participate in the Acknowledgement Forum only, or both components. Four-hundred and twenty-seven survivors spoke to the Acknowledgement Forum, and one individual gave a written account. Three-hundred and thirty-three survivors gave evidence to the Statutory Inquiry (246 in person and 87 via witness statements) (Hart et al., 2017).

The Inquiry also heard from 194 witnesses who were not former residents (staff, police, and public officials). The HIAI Report was published in January 2017 and found evidence of systemic failings in residential institutions, i.e. that there was "sexual, physical, and emotional abuse, neglect and unacceptable practices across the institutions and homes examined" (Hart et al., 2017, 8-42).

Research Findings

One of the key challenges in researching responses to historical institutional abuse is to clarify what is required for survivors to achieve justice (Lundy, 2020). I identify eleven survivor justice needs, namely: voice, acknowledgement, vindication (includes validation), apology, redress (monetary/symbolic), rehabilitation measures, intergenerational needs, access to records, authoritative historical record, offender accountability and taking responsibility, and prosecution. They form the basis of the analytical framework to assess the Inquiry from the survivors' perspective. Survivors' identified justice needs are discussed below.

Voice, Acknowledgement, Vindication:

Of the 43 survivors interviewed, most stated that the motivation to participate in the Inquiry was to "have a voice." They wanted to "tell their story" and "to speak for those unable to testify." Survivors wanted their voices to be heard and the abuse and harms to be publicly acknowledged. Thus, a further motivation for taking part in the HIAI was acknowledgement (45%). A recurring theme in interviews was that victims wanted to be believed. Overwhelmingly participation was about achieving vindication and validation.

Apologies were perceived as vindication and validation. 63% of interviewees said they wanted an apology, whereas 29% believed an apology had no benefit. Apologies had to have consequences: "what good is an apology without action?" [Interview with F4, July 2016]. Apologies as stand-alone gestures are not sufficient in meeting survivors' justice needs, although, if perceived as satisfactory, they can be an important form of symbolic redress.

Redress (monetary/symbolic):

Compensation was the most frequently cited justice need in interviews. Almost 80% prioritized compensation. Participants in all five focus groups discussed compensation at length as a priority. In the Inquiry itself a lower proportion (33%) stated that compensation should be recommended, which may be related to the official and public nature of the Inquiry. In interviews with the author, some said they were reluctant to talk publicly about financial compensation, concerned that they might be seen as "in it for the money."

Others found it difficult and offensive to “put a price” on their suffering. The HIAI specifically asked survivors about their views on a form of memorial. There were mixed views on this: some welcomed the idea as a form of acknowledgement; others were strongly opposed to it as a painful reminder that might even be harmful: 13% were in favor and 26% were not. In the Inquiry, 11% were not in favor and 12% were.

“**Repair**” or **rehabilitation** measures were a constant theme in interviews and survivors discussed this at length in focus groups.⁴ Measures to help repair and rebuild shattered lives were emphasized, including healthcare services, long-term counselling, education and training, **intergenerational needs**, and reunion with family/siblings. As with compensation above, a lower proportion (2%) mentioned family compensation/intergenerational needs at the public Inquiry. This, again, underscores the context of reticence in an official public arena.

Access to records emerged as a key justice need in most interviews and all focus groups. A major source of distress, trauma, struggle, and frustration for survivors was gaining access to their personal historical files and establishing meaningful information. Survivors shared accounts of their disappointment when records retrieved were inadequate and/or heavily redacted. “I was trying to understand my childhood...I thought I would get to understand me as a person.” [Interview with F2, Jan. 2016] It cannot be overstated the depth of distress this has caused: “Our lives are in a file somewhere and we can’t find out who we are” [Male participant, Focus Group 4].

Accountability, Prosecution, Historical Record:

A key motivation for participating in the Inquiry was to get “the truth”. Some described the same principle in other ways, e.g. the need to find out why the abuse happened, why them and how people could justify what they did. Others said they wanted “the truth to be known” and documented so that society understood the extent of the abuse and harm they had suffered as children. Truth was linked to establishing an authoritative historical record. Others said that they already knew the truth; all they wanted was for perpetrators and institutions to take responsibility and be accountable. A significant number of survivors (71%) expressed a strong desire for those who abused them to be criminally prosecuted or “punished through the courts”. Accountability emerged as an important aspect linked to acceptance of responsibility, and vindication, and validation:

When people stand up and say, what we did was wrong – we shouldn’t have done that ... Then you get to think, you know what, maybe I’m not scum – maybe I didn’t deserve this [Int: M10, Nov. 2016].

Did the Inquiry meet Survivor’s Justice needs?

A clearer understanding of survivors’ justice needs allows for a more critical analysis of the potential and limits of the format of the HIAI in meeting those needs, from the perspective of survivors who engaged in the Inquiry. The next section considers the confidential Acknowledgement Forum, followed by the public Statutory Inquiry.

The Acknowledgement Forum

The Acknowledgement Forum sought to provide “an opportunity for victims and survivors to recount their experiences on a confidential basis” (Hart et al., 2017, p.5). The Forum was private, confidential and had therapeutic aspirations seeking to hear testimony and accept without challenge.

Out of the 43 interviews conducted with survivors, more than half said that the Forum was a positive experience. Survivors said it conferred acknowledgement (53%), gave voice (50%) and regarded it as “helpful” (39%). Most described the Forum as meeting their needs to be listened to:

The Acknowledgement Forum was a channel I felt I could best cope with. The Acknowledgement Forum personally brought a sense of relief without being intrusive or judgemental. For me, it afforded me a platform as an individual to give me confidence to speak out and people will listen. While the Acknowledgment Forum provided a relaxed environment, I can’t say the same for the statutory element [Int: M2, Nov 2015].

Some survivors were of the opinion that the Acknowledgement Forum was all that was required and that the more intrusive Public Inquiry was not necessary. “You could have actually written the report just on the Acknowledgement Forum” [Int: M5 Nov 2015].

For many the Forum was a positive first step in breaking the silence and denial, however, only a small number described the experience as healing or cathartic (18%). Furthermore, a sizeable number said they “felt exposed” or “vulnerable” (39%), and experienced longer term emotional consequences (29%) after attending the Forum.

There were mixed views as to the adequacy of support provided during and after the Forum. Some said that adequate support and help had been provided (29%), others felt more support was needed (37%), while others still were highly critical. The HIAI felt every effort had been made to ensure that sufficient emotional support had been provided, yet the survivors’ groups felt they have been left to “pick up the pieces” (BBC, 2013).

The Public Inquiry

Giving Voice: The Trauma of Testifying

Survivors spoke in interviews of being re-traumatised and re-victimised by the experience of giving evidence to the Public Inquiry. It was an “emotional experience” (55%), “traumatizing” or “abusive” (47%); or they “felt vulnerable” (42%). A small number said it was an “intimidating experience” (18%), and others felt “victimized” (18%). Existing research on the psychological effects of giving testimony to such inquiries questions the therapeutic value and healing effects (Hamber, 2009). The “glow quickly fades” once survivors return home, which is when many feel a sense of abandonment (Stover, 2004: 107).

When survivors received their testimony in the form of a written statement in the post to their home, this created new vulnerabilities:

A lot of our guys would have gone more or less secretly and then a letter arrives in your post box with 15 pages or whatever...So someone is going to have to go off on their own and read through this statement word for word - and that's a point of vulnerability. You need to have somebody to contact people, and somebody that they're able to contact; because this is going to be really emotionally charging for people. [Int: M 5, Nov 2015].

Adequate information is crucial to ensure participants fully understand what the process involves. Of the 43 survivors interviewed, 42% said that they had "insufficient information and understanding" of the public hearing procedures. Just 5% said they were well informed. This falls far short of a victim-centred approach. Even those who described the process as very positive felt that they could have been better prepared:

I found the court thing intimidating...that court was packed - then you've got that panel and all of the electronics and the TV up on the wall - and all the people sitting in the background - and you're not sure who they are - and what they're doing - why they are there - and I'm thinking are these press or social workers. I just didn't know...Maybe a little bit more information about who everybody is and what their role is. [Int: M10, Nov. 2016].

Although witness support officers and a representative from Contact NI counselling services were available at all times to provide assistance, and survivors were signposted to appropriate agencies, half of those interviewed said "more victim support was needed"; strong criticism was also expressed about the adequacy of support.

Inquisitorial or Adversarial?

The Inquiry stated that public hearings would not be conducted like a trial, it would be inquisitorial and all questions would be directed to ascertaining facts (*Hart et al., 2017, p.12 para 28 & 30*). A significant number of survivors regarded the process as adversarial (39%). To some it felt like they were the ones being "held to account" (39%):

It actually felt as if you were on trial. We were specifically told it would never have felt like that - but it did, it did - it was terrible...It was an experience I wouldn't want to do again...Honestly, I wouldn't want to put myself through that again. [Int: F1b, June 2017]⁵

Many survivors considered that they should have been better prepared in advance. Only 29% said that Counsel "explained clearly" the public hearing's procedure. What might be considered as "sympathetic" questioning by Counsel was perceived by some survivors as deeply intrusive and unnecessarily challenging of their integrity. Some strongly objected to what they saw as irrelevant details about their past being brought up (37%). This made some feel like they "were offenders" or "the guilty party" and that made them defensive.

Timely Disclosure

The nature, extent, and timing of disclosure emerged as a significant factor. As one survivor put it, "why are we finding out about ourselves in front of everyone in the dock?" [Int: M13, Jan 2016]. Some survivors said that they were given personal and sensitive information in the briefing session immediately prior to testifying. Ill-timed disclosure "surprised" and "shocked" survivors and this had a destabilizing effect:

It was a really hard day because I had to find things out about my mother, and stuff that I had never known in my life. I didn't know that my younger sister was born with [named disease]. I didn't know my mother was in such a hospital...And then I discovered there was a letter... [Counsel] said, "I know you won't have seen this before but we're going in now; and by the way did you know your mother had syphilis..." And you are supposed to just deal with that and then answer questions. [Int: F15, Sept. 2016].

In addition, information of a highly personal and potentially traumatic nature was casually introduced while survivors were on the stand giving oral evidence. Of the 43 survivors interviewed, almost 40% said "disclosure was distressing" and should have been "communicated in advance" of public hearings. Some survivors asked for copies of the disclosed documents but were refused. Since many survivors had spent decades looking for snippets of information about their childhood, this appears particularly harsh, even cruel. For some survivors, the experience was disempowering, undermining, and traumatizing.

Legal Representation and Equality of Arms

Some survivors expressed disappointment that they were denied their own personal legal representation (34%), which was stated by the Inquiry Chairman to be unnecessary because "it is the role of the Inquiry legal team to gather the relevant evidence and to interview each applicant to ascertain what that person can say about the matters that have to be investigated by the Inquiry."⁶ In contrast, only those against whom allegations were made (alleged perpetrators/institutions) had "a right to legal representation and, if not otherwise indemnified or without sufficient financial resources, to have their legal representation paid out of public funds."⁷

In some circumstances, where those accused of abuse were unidentified, “dead, or very elderly, and too physically frail to give evidence in person, or their mental health or memory had failed to such a degree that they were not able to give reliable evidence” (Hart et al., 2017: 1-15), spokespersons for the respondent religious orders with no personal experience of the events gave generic evidence from written records. Survivors were not afforded the same opportunity to present a “collective account” of an institution. Alleged perpetrators, having had sight of all the evidence in advance, appeared better prepared for oral hearings and not dependent on memory. By comparison survivors having had no advance access to documents were expected at short notice and under pressure to recall specific details of events that took place 30 or 40 years earlier.⁸

Accountability and Prosecutions

Accountability and Prosecution was clearly a justice goal for many of the survivors. Analysis of HIAI transcripts show that of the 177 survivors who gave evidence in person, only 6% stated they wanted prosecutions. However in interviews with the author a significant number of survivors (71%) expressed a strong desire for those who abused them to be “punished through the courts”.

That’s a big thing to me, if people are going and giving evidence at an inquiry and naming individuals who have done such horrific crimes on them, there should be prosecutions. [Int: F2, Jan 2016].

The HIAI did refer 190 complainants to the PSNI, from which 77 matters relating to the complaints were reported to the Public Prosecution Service (PPS) for consideration. However, to date, in Northern Ireland there have been no prosecutions emanating from cases referred to the PSNI by the HIAI.¹⁰

Apology, Memorials and Compensation

The HIAI recommended that the NI Executive and those responsible for each institution where systemic failings were found should make a public apology. A memorial should be erected in Parliament Buildings or on the Stormont Estate to remind legislators and others of what many children experienced in residential homes. On monetary compensation (see Research Findings: Compensation above), the Inquiry did make recommendations for redress which were published in January 2017¹¹. However, research shows that the recommendations fall far short of meeting survivors’ justice needs (Lundy & Mahoney, 2018). In April 2017, the Panel of Experts on Redress (see footnote 3 above) published a Position Paper which set out a detailed critique of the Inquiry’s redress recommendations and proposals to improve redress to meet survivors’ needs (Panel of Experts on Redress, 2017). This was used as a lobbying/campaign tool and led directly to “significant changes” being made to the historical abuse redress legislation which passed through Westminster in November 2019. These changes helped bring compensation closer to meeting survivors’ needs (some issues remain and are still under discussion).

Reflections and Recommendations

- The potential risk to mental health through re-traumatization and re-victimization raises important questions about the appropriateness of this model to deal with historical child abuse. Policy-makers should explore a less intrusive, more humane, inclusive, and empowering way in which to acknowledge, vindicate, and establish an authoritative historical record. It is crucial that any harmful aspects of existing processes are not repeated, and lessons are learned.
- The very nature of public inquiries, their processes, and structures are limited in terms of addressing the full range of justice needs. A conversation should take place to explore creatively, sensitively, and imaginatively a model for dealing with historical child abuse which embraces survivors’ justice needs. The starting point should be to determine what survivors want, i.e. their justice needs. Thereafter, addressing those needs would be centre-stage and drive the initiation, shaping, design, and implementation of approaches to dealing with historical child abuse.
- Fundamental to developing a model to address the legacy of historical child abuse is the full participation of survivors from an early stage in its development, design, and implementation.
- Support services should be designed in consultation with survivors. It is important that complementary processes are set in place such as counselling, witness briefing and debriefing, victim-sensitive questioning, support to assist survivors to attend processes, avoiding delays, supporting families and NGOs to offer additional support, as well as supporting culturally appropriate approaches to healing and dealing with harm. Victim-centredness should underpin processes.
- Survivors bring knowledge, resilience and resources. But capacity-building, resources, and appropriate support should be put in place to enable genuine survivor engagement; so that survivors have and can exercise power. Supporting existing local initiatives and advocacy should be encouraged in this regard.
- The development of a model (or strategy) that could embrace survivors’ justice needs would require political will, resources, and paradigm shift towards a victim-led approach to historical institutional abuse.
- A single mechanism is unlikely to address all of survivors’ needs.

References:

- Hamber, B. (2009). *Transforming Societies after Political Violence: Truth, Reconciliation, and Mental Health*. New York: Springer.
- Lundy, P. (Spring 2020), "I just want justice": A Critical Analysis of the Historical Institutional Abuse Inquiry in Northern Ireland, *Éire-Ireland* Special Issue: Towards Transitional Justice in Ireland: Addressing the Legacies of Harm.
- Lundy, P (2016), *What Survivors Want From Redress*, Published Research Report, <http://uir.ulster.ac.uk/33766/1/Final%20March%208th%20Aspect%20Media%20-%20What%20Survivors%20Want%20From%20Redress%20%285%29.pdf>.
- Lundy, P., & Mahoney, K. (2018). Representing Survivors: A Critical Analysis of Recommendations to Resolve Northern Ireland's Historical Child Abuse Claims. *Annual Review of Interdisciplinary Justice Research (IJR)*, *Representing Justice*, 7(7), 258-291.
- Mahoney and Lundy (2016), *What Survivors Want, Part 2: A Compensation Framework for Historic Abuses in Residential Institutions*, Published Research Report, <http://uir.ulster.ac.uk/34640/1/WSW%20FINAL%20APPROVED.pdf>.
- Panel of Experts on Redress, (2017), *Response to Historical Institutional Abuse Inquiry Redress Recommendations: The Panel of Experts on Redress Position Paper and Recommendations*. Belfast: Ulster University. Retrieved from <https://pure.ulster.ac.uk/en/persons/patricia-lundy>;
- Stover, E, (2004), "Witnesses and the Promise of Justice in The Hague," in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (London: Cambridge University Press, 2004), 104–120.
- Swain, S., Wright, K., & Sköld, J. (2018). Conceptualising and Categorising Child Abuse Inquiries: From Damage Control to Foregrounding Survivor Testimony. *Journal of Historical Sociology*, 31(3), 282-296.

Footnotes:

- ¹ The author wishes to acknowledge and thank the Leverhulme Trust for a Major Research Fellowship Grant (MRF-2015-124) that enabled the research to be conducted.
- ² In collaboration with survivors, a Panel of Experts on Redress was established. It involved survivor groups, human rights NGOs, legal reps and academics – national and international. The survivor led Panel was a platform to facilitate survivors' voice, and that, their needs and concerns were heard. To this end, Prof Lundy's research was used to co-create with the Panel lobbying and campaign 'tools'.
- ³ Percentages are used to compare as the number of people in the different data sets are not the same (e.g. forty-three interview/177 Inquiry transcript responses).
- ⁴ See Lundy, 2016 and Lundy & Mahoney, 2018.
- ⁵ F1a & F1b interviews were conducted at the same time.
- ⁶ Anthony Hart, (Inquiry Chairman) "Remarks at the Third Public Session of the HIAI Inquiry" (Ramada Encore Hotel, St Anne's Square, Belfast, 4 Sep. 2013), 16.
- ⁷ "In the Matter of a Decision of the Inquiry into Historical Institutional Abuse 1922 to 1995," NIQB 3 (2015): 10–11, para 30.
- ⁸ The HIAI Chairman's decision not to allow victims personal representation was judicially reviewed. It was upheld at first instance but overturned on appeal.
- ⁹ freedom of Information, Historical Institutional Abuse Inquiry FOI 2017, F-2017-02046.
- ¹⁰ UN Commission Against Torture, pointed to similar low numbers of prosecutions stemming from the Ryan Report when the Republic of Ireland was examined in 2011 and again referenced the matter in 2017.
- ¹¹ Hart et al., 2017.
- ¹² See also, Brandon Hamber and Patricia Lundy, "Lessons from Transitional Justice? Toward a New Framing of a Victim-Centred Approach in the Case of Historical Institutional Abuse," (forthcoming, 2020). This article discusses in detail the positive and negatives of transitional justice and makes recommendations for an alternative approach.