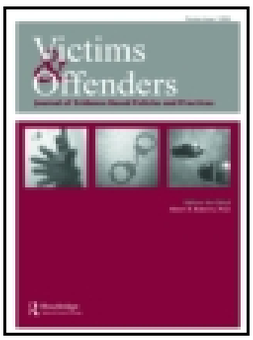

Routledge
Taylor & Francis Group

Victims & Offenders

An International Journal of Evidence-based Research, Policy, and Practice

ISSN: 1556-4886 (Print) 1556-4991 (Online) Journal homepage: http://www.tandfonline.com/loi/uvao20

Two Models of Monetary Redress: A Structural Analysis

Stephen Winter

To cite this article: Stephen Winter (2017): Two Models of Monetary Redress: A Structural Analysis, Victims & Offenders, DOI: 10.1080/15564886.2017.1280108

To link to this article: http://dx.doi.org/10.1080/15564886.2017.1280108

VICTIMS & OFFENDERS
http://dx.doi.org/10.1080/15564886.2017.1280108

Routledge
Taylor & Francis Group

Two Models of Monetary Redress: A Structural Analysis

Stephen Winter

Politics and International Relations, University of Auckland, Auckland, New Zealand

ABSTRACT

Monetary redress is a developing area of human rights policy. The article examines how a redress program's design affects the interests of program applicants. It distinguishes two program models, individual assessment and common experience, and explores their differing effects on applicants' interests. Analyzing two Irish cases, redress for survivors of the industrial schools and the Magdalene laundries, the discussion is applicable to a wide range of redress programs including those in postconflict, transitional justice, and postcolonial contexts.

KEYWORDS

redress; compensation; procedural justice; program evaluation; victims' rights

It is now common for states to discharge rectificatory responsibilities for systemic wrongdoing through monetary redress programs. Well-known examples include Holocaust reparation programs, compensation for Japanese American wartime internees, and redress for those registered as victims by the South African Truth and Reconciliation Commission. For survivors, monetary redress can be a superior alternative to civil litigation.[1] Because the offender accepts liability ex ante, redress is usually faster and cheaper than judicial proceedings (Law Commission of Canada, 2000). Further, because these schemes employ lower standards of evidence and circumvent technical impediments to litigation, redress enables more survivors to receive settlements. Last, redress enables many applicants to avoid adversarial proceedings, making settlement less psychologically costly. In exchange for those advantages, redress programs tend to provide smaller settlements than what a comparatively-situated plaintiff would receive through litigation (Malamud-Goti & Grosman, 2006).

The present article concerns redress as a policy. It analyzes how differences in the structure of a scheme's money logic affects the applicants' interests. A redress program's money logic determines who gets what (Daly, 2014). The money logic includes how the program defines participant eligibility, the means by which the scheme obtains and organizes information about applications, the standards for assessing evidence, rubrics for determining settlement figures, and mechanics of payment. As a structural characteristic, a program's money logic conditions the applicants' engagement with redress. Because the client populations of redress programs are often profoundly disadvantaged, program providers have good reason to optimize the design of redress programs for applicants.

In general, redress programs employ one of two money logics.[2] In an individual assessment model (IA), redress payments are strongly sensitive to the individual's

CONTACT Stephen Winter s.winter@auckland.ac.nz Politics and International Relations, University of Auckland, Private Bag 92019, Auckland, New Zealand.

particular experience of injury. The second model is a common experience (CE) program. A CE program responds to the shared experience of injury with a money logic that is relatively insensitive to individual circumstances. Most schemes have either an IA or a CE structure and some programs combine both.[3] The IA and CE money logic models are ideal types that encompass all the different ways a scheme might individuate or collectivize participant engagement.

The article assesses how different redress program structures affect applicants' interests; outlining benefits for and costs to applicants associated with IA and CE structures. To provide context, it contrasts two Irish examples of IA and CE redress programs that respond, respectively, to the abuse of children in industrial schools and the incarceration of women in Magdalene laundries. The article develops these Irish cases to identify certain advantages and disadvantages for applicants associated with each money logic model. The picture that emerges is one of countervailing strengths and weaknesses. Neither an IA nor a CE model is all things considered better for applicants. IAs are better in some areas—substantive justice and participant agency—whereas CEs are faster, more certain, more attractive to applicants, less psychologically difficult, and more equitable. Policy design involves, therefore, complex trade-offs between interests of differing salience.

Method

In the context of institutional theory, a redress program's money logic occupies what Elinor Ostrom (2005) called an action arena—a space wherein agents interact to "exchange goods and services, solve problems, dominate one another, or fight" (p. 14). The IA and CE models are distinguished by their differing action situations. This analysis of those structural differences is informed by historical institutionalism's sensitivity to the relational dynamics between agency and structure—understanding both as shaped by power and disadvantage (Hall & Taylor, 1996; Steinmo, 2008). The article has a narrow scope: the analysis gains precision by focusing only on the applicants' engagement with the program; putting aside, for example, the medium or long-term consequences of redress. Moreover, the article considers only the interests of applicants, ignoring those of other stakeholders, such as states, nongovernmental organizations, and other citizens.

In positivist terms, the article assesses the IA and CE models as independent structural variables, examining their effects on the applicants' interests (Mintrom, 2012). The standards for assessment draw from the *Basic Principles and Guidelines on the Right to a Remedy and Reparation* (United Nations Office of the High Commissioner, 2006). Those guidelines suggest three broad operative desiderata for a redress program: (a) equal and effective access to justice; (b) adequate, effective and prompt reparation for harm suffered; and (c) access to relevant information concerning violations and reparation mechanisms.

Developing those guidelines, the following analysis attends to three characteristic interests of applicants: justice, both in redress procedure and substantive outcome; the cost to applicants of involvement; and the nature of their participation. The article uses those three criteria to develop a nuanced account of the advantages, and disadvantages, for applicants associated with each model.

The article employs a triangulation method that uses both documentary and interview sources to inform the qualitative analysis. The first corner of the triangle is documentary and the article relies on existing discussions of survivor experiences in both Ireland and

elsewhere. The analysis also employs reports, regulations, and statutes produced by state agencies: these provide raw numerical data and operative descriptions. The second corner of the triangle is comprised of interviews. The article draws on 22 hours of semistructured information interviews conducted in Ireland with officials from 12 organizations during November 2014. Comprising the third corner of the triangle, the analysis uses both documents and interviews to assess how differing program structures affect the interests of applicants.

The 17 interviewees were senior officials with experience in redress policy design or with hundreds (sometimes thousands) of redress applications. These officials have in-depth knowledge as to how particular programs operate and the impact of those operations on applicants. Although any expert's perspective is, of necessity, merely partial; interviews were conducted with experts from differing types of organizations to enable particular judgments to be confirmed or disconfirmed. Interviewees were drawn from three organization types. Survivor advocate interviewees were representatives of survivor advocacy groups. Service interviewees were drawn from community-based organizations providing state-funded services to survivors. State official interviews were officers responsible for developing and implementing redress programs. When citing from transcripts, the article classifies the interviews as advocate, service, or state, distinguishing different interviews by date.[4] Interviewees were assured anonymity.[5] Where two interviews of the same type occurred on the same date, they are differentiated as A and B.

Cases

Monetary redress is a complex practice. First, the circumstances of redress are diverse because different programs operate in the varying contexts of jus post bellum, transitional justice, and established democracies (Davidovic, 2013; De Greiff, 2006; Winter, 2014; Wolfe, 2014). Second, monetary redress interacts with other rectificatory measures, such as commissions of inquiry, official apologies, personal records access, family-tracing, and public memorials (Sköld & Swain, 2015; United Nations Office of the High Commissioner, 2006). Interactions with those other rectificatory mechanisms affect the constitution, process, and outcome of monetary redress. That twofold diversity means that no two redress programs are identical.

However, despite this diversity, every redress program must determine which individuals will receive settlements and how much they will receive. Therefore, all redress programs confront a common set of architectural questions pertaining to their money logics. The two Irish cases described below offer a valuable perspective on those common structural concerns. Unlike many postconflict states, overt post bellum realpolitik does not affect who is an acceptable applicant for redress (Grodsky, 2010). And, in contrast to most postconflict cases, the Irish programs are not limited by sharp financial and institutional constraints. The product of a developed Organization for Economic Cooperation and Development economy with a robust legal and administrative infrastructure, Irish redress is relatively autonomous from political, financial and administrative constraints, despite the significant 2008–2013 recession. The Irish cases offer two further advantages for study. First, they are free from the postcolonial politics characteristic of settler democracies. Second, the Irish CE and IA programs are not combined in a single scheme, with consequent potential interactive effects. The Irish cases provide largely uncluttered examples, helping to isolate the effects of

differing money logic structures. As a result, implications exposed by comparing the Irish programs are likely to apply to redress programs elsewhere.

The Irish IA program provides redress to industrial school survivors. Run by religious orders, Ireland's industrial schools housed children under 16 years old who were in the care of the state (O'Sullivan, 2015; Ryan, 2009). The schools were marked by high levels of physical and sexual abuse, inflicted by both staff and children. Discipline in the schools was harsh and calculated to humiliate. Education through industrial training became child labor and state funding was inadequate to meet the children's basic needs. The schools were bleak places that neglected the physical, emotional, and educational development of the children. Total population estimates vary widely, but it is likely that schools and associated institutions housed at least 70,000 children during the 20th century (Eoin O'Sullivan, personal communication, November 11, 2015).

The Irish CE program provides redress to survivors of Ireland's ten Magdalene laundries. The laundries were popularly reputed to be places of penitence for the sexually licentious. In reality, the laundries were workhouses for women without viable residential alternatives (Finnegan, 2001; McCarthy, 2010). A 2012 report by an Inter-Departmental Committee provides a post-1922 population figure of 11,198 (McAleese, 2012). Residents tended to be young: 60% entered the laundries before the age of 22 years (McAleese, 2012). The laundries did not admit small children; forcing single mothers to relinquish their children (often to the industrial schools). The women were not paid and their working conditions could be very poor. Many residents experienced the laundry as a carceral institution enforced by state authority: those leaving without alternative support could expect to be returned to the laundry by social workers or the police (O'Rourke, 2011).

Differences between the industrial schools and the laundries underpin differences between their respective redress programs that are independent of the IA/CE structure. Perhaps the most striking difference is gender. While the industrial schools housed both males and females, the Magdalene survivors are exclusively female. Population size and composition also differ: the laundries housed many fewer residents and industrial schools residents were, on average, much younger during incarceration.

Despite those differences, there are strong commonalities across the cases. The Irish state administers and funds both redress programs.[6] Both survivor populations were subjects of what James Smith (2007) described as Ireland's architecture of containment; a system unified by both purpose and technique. The purpose was to discipline and detain people of marginal classes cheaply, efficiently, and out of sight. The technique was carceral and the schools and laundries were often part of the same physical complex. Religious orders operated both the Magdalene laundries and the industrial school. This unity of technique and purpose produced a significant population overlap.[7] Both survivor populations are characterized by lower-than-average levels of education, literacy, and numeracy. Both populations experience relatively high levels of unemployment, poverty, and morbidity. Both populations are ageing and suffer from socially produced shame—to be an industrial school survivor or a Magdalene is to bear a stigma.

Case 1—Industrial Schools redress

Monetary redress for industrial school survivors began in 2003. The program officially closed on December 15, 2005, but accepted late applications until 2011. By September

2015, the Residential Redress Board had received 16,631 applications, of which 15,579 (93.7%) were offered a settlement (Residential Institutions Redress Board, 2015). The money logic of the case has three elements: the conditions of eligibility, the means of assessment, and the process of application.

Eligibility for redress depends on four factors: application, vitality, residency, and injury (Residential Institutions Redress Board, 2005). An applicant needs to apply to be eligible and provide evidence that the applicant was alive as of May 11, 1999. The applicant must demonstrate that they experienced at least one of four types of injury (sexual, physical, emotional abuse, or wrongful neglect) while resident in a relevant institution. Any act of sexual abuse constitutes a basis for claim. Physical abuse is eligible if it caused major physical damage—the illustrative examples offered in the program literature include broken limbs, serious scarring or long-term medical problems (Residential Institutions Redress Board, 2005). Emotional abuse includes both depersonalization[8] and residence in institutions characterized by fear and verbal abuse. The last category is neglect. Neglect embraces factors likely to impede the child's development including malnutrition, deficient education and the failure to provide clothing and bedding.

Applications are assessed using a weighted points matrix. Redress programs use matrices because they are efficient and because they indicate to both officials and applicants what information is relevant and how to treat that information. Matrix-based assessment also promotes in-program consistency by helping the scheme treat like cases alike.

Table 1 reproduces the matrix used by the industrial schools program. As it indicates, the program describes redressable injuries as having two overarching components, the historical experience of abuse or neglect and the consequences thereof. Applications are scored out of 100 points. The experience of abuse constitutes 25% of the maximum weight of a claim. Testimony is the primary form of evidence for that element of the application. In terms of consequential harm, two heads of claim—physical/psychiatric illness and psychosocial sequelae—depend on medical evidence. To gain points under those heads, each worth 30%, applicants require professional medical reports showing how specific damage was a consequence of abuse experienced by the applicant while residing in an industrial school. In general, the Board accepts the reports on face value, but in cases of doubt or disagreement, it may obtain an independent report. A loose application of the balance of probability test applies to facts alleged in the application (State Interview, November 10, 2014). However, when there is disconfirming evidence, the test becomes the tort law's balance of probability test.

Loss of opportunity is the final head of consequential harm and is worth 15%. Gaining points depends on the claimant demonstrating illiteracy or innumeracy or on a bridging argument that shows how a relevant injury prevents the applicant from obtaining,

Table 1. Weighting scale for evaluating the severity of abuse and injury.

Constitutive elements of redress	Severity of abuse	Severity of injury resulting from abuse		
		Medically verified physical/ psychiatric illness	Psychosocial sequelae	Loss of opportunity
Points awarded	1–25	1–30	1–30	1–15

Adapted from Compensation Advisory Committee (2002).

Table 2. Redress board bands.

Redress bands	Points	Award payable	Applications within the band[a]	Percentage of total
V	70 or more	€200–300,000	48	0.31
IV	55 to 69	€150–200,000	280	1.8
III	40 to 54	€100–150,000	2,073	13.32
II	25 to 39	€50–100,000	7,512	48.27
I	Less than 25	Up to €50,000	5,649	36.30
Total			15,562	100.00

Adapted from Residential Institutions Redress Board (2015).
[a]As of September 15, 2015.

retaining or advancing in employment. No points are awarded for loss of earnings: the focus is on whether or not the applicant failed to meet a threshold of employability as a result of damage suffered while in the school(s). Loss of opportunity can include needing to invent a concocted identity in order to hide the applicant's history of residence from family and employers.

Once the Board has all the relevant information, it invites the applicant and their lawyer to a settlement hearing. The settlement process models Irish tort law. Applicants must waive their rights to litigate and the Board covers all reasonable legal expenses for applicants (Residential Institutions Redress Board, 2005). The applicant's legal representative opens the settlement process by presenting a case indicating how the application satisfies the conditions for a particular band (see Table 2) or settlement value. The majority of awards (77%) are negotiated by the applicant's legal representatives and the Board. The remaining cases go to an evidentiary hearing. Evidentiary hearings occur to clarify factual evidence or when evidence depends on third party testimony. Hearings may also be requested by applicants who wish to tell their stories in person or who wish to appeal a settlement offer. It is possible for the alleged abuser(s) and/or the relevant religious order(s) to request a hearing. In practice that is very rare.

Having determined the facts of the application, the Board assigns points to the application using the final row of the matrix in Table 1. It then uses Table 2's matrix to assign a provisional monetary value by locating the application's score in one of five bands.

The industrial schools program aims to match settlements to the unique circumstances of each individual applicant—that is what makes it an IA program. As a result, the scheme is both complex and demanding. Each phase of the process, the medical assessments, the points award, and the financial calculation, requires human judgment. Those judgments require a large amount of high quality information. The financial costs associated with the redress procedure are correspondingly high. As of November 26, 2014, settlements totaled €967 million. The Board paid the legal fees of about 92% of applicants, costing around €198 million (Residential Institutions Redress Board, 2015). The Board itself spent around €64.4 million, bringing the total expended to around €1,229 million.[9] In addition, many applicants also benefit from the support of counseling services and survivor organizations, often funded by the state. In terms of settlements alone, 21% of the program's total expenditure went to individuals other than applicants. Put another way, for every euro received by an applicant, the scheme paid at least 27 cents to someone else.

Case 2—Magdalene redress

The Magdalene program's CE money logic reflects criticisms of the industrial schools program as protracted, expensive, difficult and legalistic (Advocate Interview, November 6, 2014B; Advocate Interview, November 20, 2014; State Interview, November 19, 2014; State Interview, November 20, 2014). The program calculates payments with regard to residence duration in one or more of the 10 Magdalene laundries, plus two training schools. The program has two heads of claim, residence and labor. Under the first head of claim, because these institutions were harsh and stigmatizing places of confinement, the scheme pays a minimum of €10,000 for the first three months, then an additional €500 per month of residence, up to a six-year maximum of €40,000. Under the second head of claim, the scheme pays €500 per month in compensation for unpaid labor, up to a 10 year maximum of €60,000. All valid applications receive both forms of redress, as evidence of residence in a relevant institution is sufficient for eligibility under both heads. The program's payment matrix appears in Table 3.

The scheme's pecuniary structure aims to protect the interests of a survivor population made vulnerable by age, (mis)education, and illness (Quirke, 2013). The maximum lump-sum payment any applicant receives is €50,000. Any monies in excess of €50,000 are converted into a life pension, paid weekly. In addition, the program also provides applicants aged 66 or older with a pension equivalent to the top standard state contributory pension, which was €230 per week in 2015. Those aged 65 years old or younger receive €130 per week. Either pension is reduced by the value of any primary benefits received by the woman (Shatter, 2013). All of these pensions cease at death and are not heritable. Last, eligible applicants are able to access a range of medical and other services through special statutory provision (Redress for Women Resident in Certain Institutions Act, 2015).

The Magdalene program opened in June 2013. An applicant begins by lodging a request with the religious order responsible for the institution for evidence of the applicant's residence. The primary evidence is the institution's register of entry, which should record the date, name, and age of the woman at the time of entry. Less frequently, the institution will record a release date. Having obtained what they can from the religious orders, the applicant submits the application to the Department of Justice's Restorative Justice

Table 3. Magdalene program payment matrix.

Time spent in laundries[a]				
Years	Months	Residence	Labor	Total
—	up to 3	€10,000	€1,500	€11,500
1	0	€14,500	€6,000	€20,500
2	0	€20,500	€12,000	€32,500
3	0	€26,500	€18,000	€44,500
4	0	€32,500	€24,000	€56,500
5	0	€38,500	€30,000	€68,500
6	0	€40,000	€36,000	€76,000
7	0	€40,000	€42,000	€82,000
8	0	€40,000	€48,000	€88,000
9	0	€40,000	€54,000	€94,000
10	0	€40,000	€60,000	€100000
10+ years		€40,000	€60,000	€100,000

Adapted from Quirke (2013).
[a]Payments are calculated per month of residence.

Implementation Team (the Team). That application authorizes the Team to cross-check the applicant's documentation and search for other files held in public records.

Problems with assessing residence-duration arise both from gaps in the institutional records and from the fallibility of human memory.[10] For approximately 50% of applicants, building an application requires cross-referencing the files obtained from the religious orders with voting, employment, education, and criminal records (State Interview, November 19, 2014). The Team may ask applicants to attend an informal hearing to assist in those inquiries.

The settlement process begins when the Team issues a provisional settlement offer. If the applicant agrees, then the Team issues a formal offer. (If the applicant disagrees, they can appeal). Because settlement requires applicants to waive any further claims against the state arising from residence in the institution, the state provides €500 (plus VAT) for legal advice. That sum funds legal advice at the point of settlement. While applicants can self-fund legal representation earlier in the application process, for the most part, "[t]he only time a solicitor is involved, with the Magdalene[s], is when they're actually at the end of the process and they are signing the waiver" (Advocate Interview, November 20, 2014).

As of October 2016, the Team had received 814 applications and 658 women had received ex gratia payments (Department of Justice, private communication, October 12, 2016). The program rejected 102 applicants who were not resident in a relevant institution; the remaining 54 applications were in process. Payments totaled approximately €24.6 million, giving a mean-average lump sum of €37,386. Those settlement figures do not include the value of the women's health care or pension entitlements.

Discussions

The Irish examples of IA (industrial schools) and CE (Magdalene laundries) money logics suggest a number of comparative benefits and disadvantages. The remainder of the article compares the two models across three domains of applicants' interests: justice, cost and participation. Each criterion is internally complex. The first discussion considers how differences between CEs and IAs affect justice, in both comparative and substantive terms. The second discussion contrasts IA and CE informational demands and examines the resulting differences in speed, accuracy, and psychological costs. The third addresses how program design affects the quantity and quality of participation.

Justice

Because they are faster, cheaper and less traumatic, redress programs may be rationally preferable to civil litigation for applicants. But rationality is not justice. Justice is giving people what they are due. This section contrasts the valence and forms of injustice that IA and CE programs create, in both substantive and procedural terms.

A redress scheme can be substantially unjust in two ways: it can be partial in scope and partial in relief. The partial scope of redress arises from ex ante limits on liability: eligibility and assessment criteria limit what is redressable. Both IA and CE schemes are partial in scope because they exclude injuries suffered by applicants. For example, the industrial schools program excludes claims for nonsexual assaults that did not cause major damage. The Magdalene program excludes claims for family separation. Partiality in scope

not only represents a failure to do justice, it also creates injustice when a program requires successful applicants to indemnify the state against all further claims.[11]

In addition to their partial scope, redress programs also create injustice by providing partial relief. The Magdalene program is explicit in providing less than what a comparatively situated plaintiff would receive in court (Quirke, 2013). And the original intent of industrial schools redress to provide full compensation was not realized. A comparison with civil litigation indicates the magnitude of the latter disparity. In 1998, Louise O'Keeffe won an Irish court settlement of €305,000 against a teacher who abused her when she was a child. In 2014, she won a further €100,000 against the Irish state for failing to take reasonable steps to protect her (O'Keeffe vs. Ireland, 2014). Certainly, O'Keeffe experienced serious injury—the point is not to deny that she deserves justice. The point at issue is a disparity. Her €405,000 award is 650% of the industrial schools' average payment (€62,240). Yet, O'Keeffe was not denied a family, education, food, clothing, and shelter: she was not incarcerated in an industrial school.

Both CEs and IAs create both forms of injustice (partial scope and relief). But the structure of a CE is aggravating on both counts. A CE program is insensitive to the information that would inform a substantially just remedy for the individual's injury; therefore, it is less capable of being just than an IA program. Focused on a single common experience (such as residence), a CE excludes the (potentially) broader scope of the applicants' injuries. Moreover, because a CE only attends to the common experience, a CE does not collect the information necessary to relieve particular injuries. For example, in the Magdalene program, an applicant whose time in residence was marked by abuse and malnutrition would receive the same as an applicant who spent an equal time under benign conditions. Because individual particularities are irrelevant to the operation of the CE program, the resulting settlements are less capable of being substantially just.

A second and distinct problem of justice concerns procedural inconsistency. Procedural equity requires like cases to be treated alike and here the comparative positions of the CE and IA models are reversed. The CE model is superior in terms of procedural equity because a simple common metric facilitates like in-program treatment. For example, in the Magdalene program, all women with residences of similar duration are treated similarly. The reasons explaining variations in their monetary settlements are simple and public. Everyone can easily understand why participants get what they receive. For that reason, commentators note that CE settlements provide a shared public acknowledgement of the applicants' experience (Daly, 2014; Green, MacKenzie, Leeuwenburg, & Watts, 2013; Niezen, 2013).

In contrast, IAs are prone to greater in-program invidious distinctions (Battersby, Greaves, & Hunt, 2008; Royal Commission into Institutional Responses to Child Sexual Abuse, 2015). As noted previously, human judgments play significant roles in IA assessment, as program officials apply complex criteria to the equally complex information presented by the applicant. The use of a matrix system helps promote consistency; nevertheless, different officials and different applicants will make differing judgments as to the substantive bases for claim, the facts of the case, and the valence of the settlement.

The salience of human judgment in an IA program increases the uncertainty of the process. Human judgments vary. That variance is a range of unpredictability and the concatenation of unpredictable judgments can make the outcome of an IA very uncertain. By comparison, the CE's simpler structure and greater objectivity help

applicants to have greater confidence in predicting their entitlements. An applicant with documentary evidence of residence in a Magdalene laundry can refer to the table in Table 3 and determine if she is eligible, and what she is entitled to, before she submits her application.

Further, because an IA program requires both officials and applicants to make a number of difficult judgments, irrelevant factors will affect some of the settlements. For example, one interviewee suggested that awards in the industrial schools program reflect whether the applicant "comes in and actually behaves as a victim might be expected to behave" (Advocate Interview, November 13, 2014). When similarly situated applicants receive differing awards, they experience in-program inequity. As another interviewee said, "[applicants] compare notes, so "I got 5,000, you got 10,000, she got 50,000. What makes her so much better than me?" (Advocate Interview, November 6, 2014A).

One structural solution to mitigate in-program inconsistency is to restrict the range of settlement amounts. If all applicants receive similar monetary settlements, there will be less in-program variation. However, that architectural technique may tend to increase substantive injustice, as narrowing the range of settlements reduces the ability of the program to respond to the applicant's unique individual circumstances.[12] If policy-makers prioritize in-program equity over substantive justice, then it may be preferable to shift to a CE structure with greater in-program consistency and the acknowledgement of a common experience.

Cost

When compared to civil litigation, the lighter burden that redress imposes on applicants is an important factor in justifying a monetary redress program. This section examines how the cost of redress for applicants varies according to the informational demands of the program. It compares the IA and CE models with regard to two domains of cost, the interdependent demands of speed and accuracy, and the degree and character of psychological difficulty.[13] In general, the costs that applicants incur will tend to increase in step with the greater quantity, and quality, of the information demanded. Across all three rubrics, IA programs tend to impose greater costs on applicants. Not only do IAs require more information than CEs, the type of information they require exposes applicants to a pervasive and alienating scrutiny.

To begin, a redress program confronts a trade-off between accurately assessing claims and the time taken to make the assessment. Both inaccuracy and the time taken in processing are potential costs to applicants. Those costs are interdependent. A decision based on poor information is less likely to be accurate, increasing both the frequency and magnitude of substantive injustice in the program. But eliciting, handling and refining information takes time. Therefore, increasing the scheme's informational demands will tend to decrease its processing speed. As the previous section discussed, an IA program requires significant amounts of high-quality information. They are consequently likely to be more accurate. However, because CE programs need less information, they tend to operate faster than an IA.

The Irish cases offer good comparative data on speed. In the first 24 months of operation, the industrial schools scheme completed 2,425 of 5,111 applications (47%). In its first 24 months, the Magdalene scheme completed 627 of 787 applications (80%). The

CE has a clear speed advantage. And that advantage has knock-on effects. Care leavers are often economically disadvantaged. Regarding Magdalene applicants, one interviewee said,

> generally they're not in good shape financially. I know of only one or two that aren't in financial trouble. You are talking loan sharks. You are talking no heating in your house. (Advocate Interview, November 6, 2014B)

When applicants experience material deprivation, are unhealthy or elderly, a speedy program offers significant advantages. Therefore, some applicants may have reason to prefer a speedy but inaccurate program to one that is slower but more precise.

The time taken by assessment is a period of uncertainty borne by applicants of not knowing whether they will be believed, how the scheme will judge their deeply personal experience, and what (if any) monies that judgment will make available. Those uncertainties are psychological costs associated with the application. Further psychological costs emerge at three points: the subjective costs of testimony, the nature of scrutiny, and the alienating character of victim-representation. The remainder of this section compares the IA and CE models across those three psychological domains.

Testifying to abuse and neglect can be very difficult for applicants (Duckworth & Follette, 2012; Miller-Karas, 2015). Responding to those concerns, the United Nations guidelines enjoin states to avoid retraumatization in the course of legal and administrative procedures (United Nations Office of the High Commissioner, 2006). However, because an IA program needs information particular to the individual, those applicants must testify to their personal experience. In the process, applicants must relive the details of past abuse on multiple occasions as they complete various elements of the application. Despite efforts to make the process congenial and informal, Ireland's industrial schools program imposed a high psychological cost on some applicants. Applying for redress could be "a very painful and arduous process" and in some cases "caused more damage" (Service Interview, November 13, 2014). As noted previously, approximately 23% of applications involve evidentiary hearings: those hearings could be very difficult, with one interviewee describing them as "the most adversarial, horrible, horrible place to go for all survivors" (Advocate Interview, November 20, 2014).

Psychological costs are not confined to the act of testimony, they also appear in the forms of assessment the program involves. An IA program aims to identify the injurious damage that is attributable to residential abuse. Therefore, it must determine what happened to applicants and the extent of their injuries, discovering and weighing all potential causal factors. To illustrate, imagine an applicant with a preinstitutional family history of sexual abuse. Not only would the applicant confront that information in the assessment process, the program would need to determine the effects of those noninstitutional injuries on the applicant and adjust the weighting of any consequential harm accordingly. The program requires detailed information to make that assessment. Because injuries may include long-term physiological and psychological damage, along with losses of opportunity, the scope of the IA assessment is unrestricted. The applicant becomes the subject of the investigation and the resulting assessment can expose their entire life to scrutiny.

> So we did look at the totality of people's lives. So that is where the medical evidence and everything came into effect. So we looked at, I suppose, all of the things that happened to people in their life. Pre-care and post-care, you look at other contributing factors in their lives

> as well, and that sort of provided us with a framework to assess how their time in care impacted on them. (State Interview, November 10, 2014)

A final sphere of psychological cost concerns the relations between the disciplinary effects of the program and the resulting potential for alienation. Any program of incentives will discipline its subjects (Brown, 1995). A redress scheme disciplines applicants by encouraging them to represent themselves as satisfying its eligibility criteria. Because eligible damage in an IA potentially includes the totality of people's lives, applicants will gain higher settlements if they can represent their detrimental life choices, failed prospects, and invidious character traits—all components of their personhood—as consequences of injuries.

Representing oneself as a damaged person involves a form of Marxian alienation. In brief, for Marx, alienation involves an individual understanding something that is (or should be) integral to them to be a distinct and hostile force (Marx, 1978). In an IA, harm that is consequent to abuse may be represented as simultaneously both something that happens to the applicant (something he or she suffers) and as constitutive of the applicant (something he or she is). The applicant is oppressed by the damage, and the oppression inheres within. For example, an application might represent an applicant's inability to be a good parent as resulting from her experience of childhood abuse. The application represents a critical human functioning as an injurious imposition.

The type of damage that an IA validates encourages applicants to describe undignified and shameful conditions as inherent character traits. The personal history and characteristics eligible for redress—unemployment, innumeracy, illiteracy, and disorderly tendencies such as alcoholism and violence—are all indicators of inferior social status in contemporary Ireland. The point is twofold. First, some IA applicants describe themselves as "embarrassed and ashamed" by the process (Advocate Interview, November 6, 2014A). Second, and in addition to the possible subjective experience of indignity, an IA structure makes alienation objective. Personal pathology is enacted within an official process and becomes part of the applicant's medical and state records—an objective representation of the applicant as personally defective.

By comparison, a CE is likely to be less psychologically costly across all three domains. A CE does not require significant personal information. It does not require testimony, it does not expose the totality of the applicant's life to scrutiny, and it need not ask the applicant to represent their personhood as damaged: it confines assessment to the common experience. Yet, a CE does not preclude all difficulties. Applicants are required to identify as survivors. That is a process with personal costs, both for applicants and in the eyes of their family and acquaintances (Justice for Magdalenes Research, 2015). Further, the Magdalene program compels applicants to make contact with the religious orders responsible for the laundries, a process many women find difficult (Advocate Interview, November 6, 2014B).

To summarize this discussion of certain psychological costs associated with the programs' different informational demands, while CE programs are likely to be worse in terms of their accuracy, IAs are likely to be slower, more uncertain, and more psychologically burdensome for applicants. These differences result from the type and quality of the information required in the different models. Reflecting the gravity of the costs involved, representatives of one service organization said that most of the people they

supported through the industrial schools (IA) program did not think the difficulties they encountered were worth the settlements they received (Service Interview, November 13, 2014).

Participation

This last discussion considers how a money logic affects applicants' participation, both quantitatively and qualitatively. Beginning with quantity, a high participation rate is evidence of a successful program, indicating that redress provides a worthwhile service to applicants. It seems likely that a CE model will facilitate greater participation because, as observed above, CEs are both less costly and more predictable for applicants. That hypothesis is supported by observers who believe that the prospect of psychological difficulties deterred some applicants from engaging with the Irish IA scheme (Irish Survivors in Britain, 2012; Moore & Thorton, 2014; Advocate Interview, November 6, 2014A). Quantitative data from the Irish cases offers further qualified empirical support for the hypothesis that CEs are more attractive.

Recall that, as of October 2016, 658 women had received payments from the Magdalene program. In 2013, the Department of Justice estimated the surviving Magdalene population at between 800 and 1,000 (Department of Justice, private communication, May 27, 2015). That 2013 estimate does not reflect the total scheme-eligible population because it does not include eligible survivors of the two training schools. There is no available data on the size of the additional training schools population. But it is possible to estimate. As of May 2015, former training schools residents had secured 140 of 533 (26%) of the settlements (Department of Justice, private communication, May 27, 2015). Inflating the estimated scheme-eligible population by 26% provides a total population range of 1008–1260. If that is right, then the Magdalene program provided monetary redress to between 52–65% of the scheme-eligible population by October 2016.

Turning to the industrial schools, there are no accurate official scheme-eligible population statistics (Higgins, 2010; O'Sullivan, 2015). Figures produced in the early phases of the scheme proved erroneous—one 2003 estimate suggested 10,000 eligible applicants (Committee of Public Accounts, 2005). In light of the much higher number of actual settlements, Carol Brennan estimates that there were approximately 30,000 eligible applicants alive in 2006 (Brennan, 2008). Using Brennan's figure, the 15,579 successful applicants represent around 52% of the eligible population.

If the Magdalene program redressed 52–65% of the eligible population and the industrial school program settled with approximately 52%, the Irish data provides moderate support for the hypothesis that IAs are less attractive. However, uncertainty over eligible population numbers mandates caution. In addition, application numbers are sensitive to factors that are noningredient to the CE/IA contrast. Noningredient factors include the period over which program stays open (increasing duration tends to increase the number of applications), the absolute quality of the program's benefits, the support attached to the program, the gender profile of the eligible population, and the program's public profile. The Irish programs differ, to the disadvantage of the Magdalene program, across all those factors. To expand briefly on the last, the industrial schools' program has a much higher public profile. The scheme has an outreach campaign involving a media strategy, regular newsletters and a professional online presence.[14] None of that is true of the Magdalene

program. The importance of program publicity is demonstrated by the fact that application numbers surge in conjunction with high-profile media events (Green et al., 2013). For example, publicity surrounding the 2009 Ryan Report prompted a spike in redress applications to the Irish IA.[15] Nevertheless, despite offering comparatively less benefits, having a shorter duration and a lower public profile, Ireland's CE scheme appears to have been more attractive, than its IA, to eligible applicants.

Turning to qualitative questions, IA programs offer a countervailing benefit in comparison to CEs. The CE application process focuses on records of institutional residence. That focus on documents, not applicants, is central to its comparative advantages in psychological cost, speed and certainty. But that reliance on documents is itself a problem. Institutional records are often poor. Recall that 50% of Magdalene applicants are unable to obtain sufficient documentation from institutional registers. The Restorative Justice Implementation Team works with applicants to develop their applications. However, because the Team operates within the Department of Justice, some applicants perceive it as having a conflict of interest (Ó Fátharta, 2014; Advocate Interview, November 6, 2014B). Some private organizations support applicants, as do the Citizen Information Centres, but those independent organizations lack expertise and funding (State Interview November 19, 2014; Advocate Interview, November 20, 2014).

The resulting challenge for a CE program is not merely the difficulties of validating information. Rectificatory scholarship emphasizes the applicants' interest in being active in the redress process (Laplante, 2015; Murray, 2015; Waterhouse, 2009). However, the CE focus on documents decenters the applicant. Personal experience is not the subject of redress: a CE responds to the applicant's inclusion in a common history. And the focus on documents means that the primary evidence of inclusion is not participatory.

As evidence, a symptom of the Magdalene applicants' marginalization is the common complaint, that, when testimony conflicts with the files, documentary evidence prevails.

> The woman might say, "Well, I was 10 years there." They get their assessment back and, no, no, no the religious orders' records say you were 6 years there. And to be honest, what happens in reality is most women are in such dire financial circumstances, they go, "Okay. I'll take that." (Advocate Interview, November 6, 2014B)

Another interviewee said,

> from the ladies' point of view, it is like they just believe the nuns…They all perceive it as, the restorative scheme believes the nuns and that's it. There's no questioning of the nuns, you know. (Advocate Interview, November 20, 2014)

By contrast, an IA places the experience of the applicant at the center of the process (Malamud-Goti & Grosman, 2006, pp. 14–16). Previously the article observed that an IA's focus on the applicant's experience can impose higher costs in time and trauma. But applicants may have reason to bear those costs in the course of exercising effective agency.

Applicants' agency within a redress program is not restricted to testimony. Changes applicants requested to the negotiation process in Ireland's IA program indicate the broader importance of nontestimonial agency. In this case, Ireland's IA scheme made changes in response to applicants' requests for greater involvement in the negotiation of settlements. Originally, the Board would open negotiations by making a settlement offer on the basis of the written application. However;

> [Applicants] just didn't feel engaged in the process. So after only, maybe 2 or 3 weeks, it did in fact evolve into a kind of, probably less adversarial version of what we would call a "round hall" discussion. So in fact the survivor's legal team came and they "pitched" what they believe the case was worth for their client. (State Interview, November 10, 2014)

The original vision positioned the applicant as a respondent to the Board's proposal. The revised procedure made the Board respond to the applicant's (or their lawyer's) proposal thereby allowing applicants to set the initial terms of the settlement process.

This section's discussion of participation can be neatly summarized. While the CE model appears superior in terms of its quantitative attractiveness to applicants, the IA model has a qualitative advantage because it puts the applicants' agency at the center of the money logic.

Summative discussion

This section summarizes the three preceding discussions. In short, because an IA program puts applicants at the center of the redress process, that model imposes higher costs on them. CE programs reduce the burden on applicants by limiting their role in the application process. Those less costly programs may be faster, attract more participants and treat them more equitably, because they marginalize applicants. Therefore, the disadvantages associated with IA programs are balanced, at least in part, by the applicant's capacity for agency within an IA redress program.

The matrix in Table 4 presents the comparative analysis schematically. In the two rightward columns the greater-than symbol (>) indicates the comparative superiority of that model with regard to a particular domain of applicants' interest. However, the schematic should not be read as indicating unmarked cells are without content. For example, the presence of a greater-than symbol (>) in the CE's model's psychological cost row indicates that a CE program is less likely than an IA to impose *as* severe psychological costs on applicants. That comparative superiority should not obscure the fact that applying to a CE program may be psychologically costly for many applicants.

Observe that the analysis does not support a simplistic aggregate judgment. CE programs are not, all things considered, better because they exhibit four points of superiority when compared to the IA's superiority in two domains: there is no reason to think that the identified interests are equally salient. The task of this article has been to identify and prosecute particular points of comparison. The much more difficult task of the policymaker involves complex trade-offs between values of differing salience.

Table 4. Comparing IA and CE models across three domains of applicants' interests.

Interest		IA model	CE model
Justice	Substantive (*scope and relief*)	>	
	Procedural (*consistency and certainty*)		>
Cost	Speed		>
	Psychological (*retraumatization, scope of scrutiny, alienation*)		>
Participation	Quantitative		>
	Qualitative	>	

Conclusion

Monetary redress schemes are popular alternatives to civil litigation because they offer structural advantages for applicants. But redress programs are not all the same. The article outlines how different redress money logics have differing effects on applicants' interests. It distinguishes two money logic models, the IA and CE, and makes the following points. Compared in terms of justice, IAs are more capable of achieving greater substantive justice in terms of both scope and relief, but a CE may reduce inconsistencies. In terms of cost, IAs are likely to be slower, more uncertain and impose greater psychological burdens on applicants. Finally, although there is reason to think that CE programs should attract higher rates of participation, this comes at the cost of limiting the scope for applicants' agency within the program.

To conclude with a conditional recommendation, the article treats IA and CE programs in contrast. However, the two models can be combined. A combined program can offer applicants a choice between models and the ability to opt-in and opt-out of each. The previous conclusion, that neither an IA nor a CE structure is clearly superior for applicants, supports the following proposal: ceteris paribus, optimal redress programs might combine both CE and IA models. That suggestion is provisional, for it does not take into account the potential interaction effects involved in combining CE and IA programs, and between those programs and other rectificatory mechanisms. Nor does that suggestion take into account the interests of other stakeholders. Those concerns require a broader global assessment, one that locates monetary redress within larger rectificatory practice—including the work of apologies, truth commissions, and memorials—and within a scope of analysis that considers the interests of all stakeholders.

Acknowledgments

This article has benefited from comments by, among others, Kathy Daly, Geoff Kemp, Kathy Smits, and Martin Wilkinson. Improvements were also prompted by presentations at Griffith University, McGill University, Swinburne University, and Linköping University. Last, anonymous reviewers for *Victims & Offenders* prompted a number of significant and valuable changes.

Notes

1. Comparisons might also be made with victims of crime compensation programs. For an overview and discussion, see Miers (2014).
2. The article treats the IA/CE structure as binary. That abstraction is designed to facilitate analysis. In the real world, the individual or collective character of a program's money logic is both multifaceted and scalar and it is possible to vary the IA and CE character of different elements in a program. For example, a program might tailor payments to the individual's experience, but use collective data regarding injuries as evidence—that approach has been used in Australia. By contrast, the reverse occurred in Sweden (see note 12). The article abstracts from these complicating factors to help clarify the general contrast of interest.
3. Examples of combined programs include the Queensland Government Redress Scheme and the Canadian Indian Residential Schools Settlement Agreement.
4. Advocate organizations often provide services. Interviewees are identified as Advocate if a primary purpose of the organization is advocacy for survivors. Those designated as Service tend to prioritize professional service provision.

5. Redress for Irish care leavers comprises a relatively small field of practice, in which state and private agencies depend on each other for information, clients, services and funding. Anonymity ensures that participation is low-risk for interview participants and their organizations.
6. The Irish government expects religious orders to meet half of the involved costs. However, as of 2016, the state is bearing around 65% of the costs.
7. Entry registers indicate 8% of Magdalene residents entered directly from the industrial schools (McAleese, 2012). However, because the entry registers indicate the immediately prior residence only, the 8% figure under-represents the overlap.
8. Depersonalization includes lying to the children about their birth names or about their siblings or parents. It also includes degrading the children's sense of themselves as humans with dignity (Residential Institutions Redress Board, 2005).
9. This figure is calculated using the Annual Reports published by Residential Redress Board. The last such report was published in 2013.
10. Indicating the potential significance of human fallibility, a 2015 study comparing 111 Swedish care leavers' testimonies with their archival records found that only 18 testimonies corresponded exactly with the records of placement duration. Of those 18, six survivors had reviewed their records prior to testifying. The discrepancies did not only concern duration, but also location. 37 survivors recalled fewer placements than records indicated, 19 recalled residences missing from the files (Sköld & Jensen, 2015).
11. Internationally, Western Australia's (Redress WA) is one of the few programs without a waiver.
12. The Swedish Financial Redress Scheme (2013–2016) provides an extreme example in which the evidence required for a valid application was highly individualized, yet the payments were all the same amount (SEK 250,000). This program offers a surprising instance of the injustice created by treating distinctly unlike cases alike. For more information, see (Sköld, Sandin, Schiratzki, & Sköndal, 2016).
13. The section does not examine the financial costs to applicants: in Ireland, applicants are not required to bear the financial costs of application.
14. In addition, the IA scheme's higher legal fees may have encouraged lawyers to find more clients.
15. The scheme closed on December 15, 2005. In the following three years the Board received an average of 9.6 applications per month. In 2009, when the Ryan Report was published, the Board received 24.8 per month. There were 51 per month in 2010. Note that applicants had to make a special case for late consideration.

References

Battersby, L., Greaves, L., & Hunt, R. (2008). Legal redress and institutional sexual abuse: A study of the experiences of deaf and hard of hearing survivors. *Florida Coastal Law Review*, *10*, 67–118.

Brennan, C. (2008). Facing what cannot be changed: The Irish experience of confronting institutional child abuse. *Journal of Social Welfare and Family Law*, *29*, 245–263. doi:10.1080/09649060701752265

Brown, W. (1995). Rights and losses. In *States of injury: Power and freedom in late modernity* (pp. 97–134). Princeton, NJ: Princeton University Press.

Committee of Public Accounts. (2005). *Committee of public accounts report into the residential institutions redress scheme Dáil Éireann*. Retrieved from https://www.oireachtas.ie/viewdoc.asp?fn=/documents/press/090305.pdf

Compensation Advisory Committee. (2002). *Toward redress and recovery: Report to the minister for education and science*. Retrieved from http://www.rirb.ie/documents/cac_report2002.pdf

Daly, K. (2014). *Redressing institutional abuse of children*. London, UK: Palgrave Macmillan.

Davidovic, J. (2013). International criminal court, the trust fund for victims, and victim participation. In L. May & E. Edenberg (Eds.), *Jus post bellum and transitional justice* (pp. 217–243). New York, NY: Cambridge University Press.

De Greiff, P. (Ed.). (2006). *The handbook of reparations*. New York, NY: Oxford University Press.
Duckworth, M. P., & Follette, V. M. (Eds.). (2012). *Retraumatization: Assessment, treatment, and prevention*. New York, NY: Routledge.
Finnegan, F. (2001). *Do penance or perish: Magdalen asylums in Ireland*. New York, NY: Oxford University Press.
Green, G., MacKenzie, J., Leeuwenburg, D., & Watts, J. (2013). Reflections from the redress WA Experience in light of the Royal Commission Into Institutional Responses to Child Sexual Abuse. *Stress Points*. Retrieved from http://www.aasw.asn.au/document/item/5899
Grodsky, B. (2010). *The costs of justice: How new leaders respond to previous rights abuses*. Notre Dame, IN: University of Notre Dame Press.
Hall, P. A., & Taylor, R. C. R. (1996). Political science and the three new institutionalisms. *Political Studies*, *44*, 936–957. doi:10.1111/j.1467-9248.1996.tb00343.x
Higgins, M. (2010). *Developing a profile of survivors of abuse in Irish religious institutions*. Newbridge, Ireland: Saint Stephen's Green Trust.
Irish Survivors in Britain. (2012). *Factsheet-survivors of child abuse in Irish institutions*. Retrieved from http://www.irishsurvivorsinbritain.org/wp-content/uploads/2012/05/FIS-Factsheet-Survivors-of-Child-Abuse-formatted-bw-120612-FINAL.pdf
Justice for Magdalenes Research. (2015). *JFM Research says Magdalene healthcare provisions are a betrayal of survivors' trust*. Retrieved from http://docplayer.net/20856929-Jfm-research-says-magdalene-healthcare-provisions-are-a-betrayal-of-survivors-trust.html
Laplante, L. J. (2015). Just repair. *Cornell International Law Journal*, *48*, 513–578.
Law Commission of Canada. (2000). *Restoring dignity, responding to child abuse in Canadian institutions*. Ottawa, Canada: Library and Archives Canada.
Malamud-Goti, J. E., & Grosman, L. S. (2006). Reparations and civil litigation: Compensation for human rights violations in transitional democracies. In P. De Greiff (Ed.), *The handbook of reparations* (pp. 539–559). London, UK: Oxford University Press.
Marx, K. (1978). Economic and philosophic manuscripts of 1844. In R. Tucker (Ed.), *The Marx-Engels reader* (pp. 66–125). New York, NY: Norton.
McAleese, M. (2012). *Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries*. Retrieved from http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013
McCarthy, R. L. (2010). *Origins of the Magdalene Laundries: An analytical history*. Jefferson, NC: McFarland.
Miers, D. (2014). State compensation for victims of violent crime. In I. Vanfraechem, A. Pemberton, & F. M. Ndahinda (Eds.), *Justice for victims: Perspectives on rights, transition, and reconciliation* (pp. 105–139). New York, NY: Routledge.
Miller-Karas, E. (2015). Assessment and Interviewing. In E. Miller-Karas (Ed.), *Building resilience to trauma: The trauma and community resiliency models* (pp. 164–172). New York, NY: Routledge.
Mintrom, M. (2012). *Contemporary policy analysis*. New York, NY: Oxford University Press.
Moore, J., & Thorton, C. (2014). The lifelong impact of institutional child abuse: The prespective of the irish in Britian. In M. O'Loughlin & M. Charles (Eds.), *Fragments of trauma and the social production of suffering: Trauma, history, and memory* (pp. 89–105). Lanham, MD: Rowman and Littlefield.
Murray, S. (2015). *Supporting adult care-leavers: International good practice*. Bristol, UK: Policy Press at the University of Bristol.
Niezen, R. (2013). *Truth and indignation: Canada's truth and reconciliation commission on Indian Residential schools*. Toronto, Canada: University of Toronto Press.
Ó Fátharta, C. (2014, February 19). Just 33% of Magdalene survivors get redress. *Irish Examiner*. Retrieved from http://www.irishexaminer.com/ireland/just-33-of-magdalene-survivors-get-redress-259185.html
O'Keeffe vs. Ireland. (2014). Application no. 35810/09. The European Court of Human Rights, sitting as a Grand Chamber 2014.

O'Rourke, M. (2011). Ireland's magdalene laundries and the state's duty to protect. *Hiberian Law Journal*, *10*, 200.

O'Sullivan, E. (2015). The Ryan Report: Reformatory and industrial schools and twentieth-century Ireland. In R. Meade (Ed.), *Defining Events: Power, resistance and identity in twenty-first century Ireland* (pp. 200–217). Manchester, UK: Manchester University Press.

Ostrom, E. (2005). *Understanding institutional diversity*. Princeton, NJ: Princeton University Press.

Quirke, J. (2013). *The Magdalen Commission Report: Report of Mr Justice John Quirke On the establishment of an ex gratia Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries*. Dublin, Ireland: The Department of Justice and Equality. Retrieved from http://www.justice.ie/en/JELR/THE%20Quirke%20report.pdf/Files/THE%20Quirke%20report.pdf

Redress for Women Resident in Certain Institutions Act. (2015). Retrieved from http://www.irishstatutebook.ie/eli/2015/act/8/enacted/en/print

Residential Institutions Redress Board. (2005). *A guide to the redress scheme under the residential institutions redress act, 2002 as amended by the Commission to Inquire into Child Abuse (Amendment) Act, 2005*. Retrieved from http://www.rirb.ie/application.asp

Residential Institutions Redress Board. (2015, September 15, 2015). *Newsletter*. Retrieved from http://www.rirb.ie/updates_article.asp?NID=139

Royal Commission into Institutional Responses to Child Sexual Abuse. (2015). *Final report: Redress and civil litigation*. Sydney, Australia: Commonwealth of Australia. Retrieved from http://www.childabuseroyalcommission.gov.au/policy-and-research/redress/final-report-redress-and-civil-litigation

Ryan, S. (2009). *The report of the commission to inquire into child abuse*. Dublin, Ireland: The Commission to Inquire into Child Abuse.

Shatter, A. (2013). *Government agreed details of implementation of Quirke Scheme for women in Magdalen laundries*. Retrieved from http://www.justice.ie/en/JELR/Pages/PR13000383

Sköld, J., & Jensen, Å. (2015). Truth-seeking in oral testimonies and archives. In J. Sköld & S. Swain (Eds.), *Apologies and the legacy of abuse of children in 'care': International perspectives* (pp. 159–171). London, UK: Palgrave Macmillan.

Sköld, J., Sandin, B., Schiratzki, J., & Sköndal, E. (2016). *Memories of childhood traumas meet the law*. Unpublished manuscript.

Sköld, J., & Swain, S. (2015). Introduction. In J. Sköld & S. Swain (Eds.), *Apologies and the legacy of abuse of children in 'care': International prespectives* (pp. 1–9). London, UK: Palgrave Macmillan.

Smith, J. (2007). *Ireland's Magdalen laundries and the nation's architecture of containment*. South Bend, IN: University of Notre Dame Press.

Steinmo, S. (2008). Historical institutionalism. In D. Della Porta & M. Keating (Eds.), *Approaches and methodologies in the social sciences* (pp. 118–138). Cambridge, UK: Cambridge University Press.

United Nations Office of the High Commissioner. (2006). *Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law*. Retrieved from http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx

Waterhouse, C. (2009). The good, the bad, and the ugly: Moral agency and the role of victims in reparations programs. *University of Pennsylvania Journal of International Law*, *31*, 257.

Winter, S. (2014). *Transitional justice in established democracies: A political theory*. London, UK: Palgrave Macmillan.

Wolfe, S. (2014). *The politics of reparations and apologies*. New York, NY: Springer.