


ORIGINAL ARTICLE

“Up with the Brave”: Gender, Transgression and Judges’ Use of Catholic Convents in England and Ireland, 1930–1959

Máiréad Enright  School of Law, University of Birmingham, Birmingham, UK
Email: m.enright@bham.ac.uk

Abstract

Using newspaper coverage of women’s and girl’s property offences in minor English and Irish courts, I analyze courts’ use of Catholic convent institutions between 1930 and 1959. Coverage of minor local hearings offers access to everyday cases, where boundaries between moral and legal transgression were blurred. I explore three interlocking themes in newspaper reports. First, those courts sent to convents were punished, at least in part, for breaching prevailing gendered moral norms. Second, judges represented convents as sites of moral reform; justifying convent detention by reinforcing gendered notions of damaged female agency. Finally, judges sent women and girls to convents even when they publicly resisted. In these ways, courts reinforced reliance on convents for gendered “moral reclamation.” In the conclusion, I explore the argument’s implications for state reckoning with historical abuses in institutions like Ireland’s Magdalene laundries, showing how abolition feminist legal histories can pose new questions about relationships between law and the experience of mass incarceration.

Molly M.¹ appears in newspaper reports of Irish District Court cases a dozen or so times between 1936 and 1941.² One day in November 1939, she was arrested

¹ Women’s and girls’ names are pseudonyms, preserving original initials. In England, under s. 49 Children and Young Person’s Act, 1933 names of girls under 16 were not reported. On relevant ethical issues, see Adrian Bingham et al., “Historical Child Sexual Abuse in England and Wales: The Role of Historians,” *History of Education* 45, no. 4 (July 3, 2016): 423–26; Laura Nys, “‘I Am F. B.’: Historians, Ethics and the Anonymisation of Autobiographical Sources,” *Paedagogica Historica* 58, no. 3 (May 4, 2022): 424–38.

² *Irish Press* July 13, 1936; *Cork Examiner* July 13, 1936; *Cork Examiner* June 14, 1937; *Limerick Leader* June 19, 1937; *Evening Herald* October 16, 1937; *Cork Examiner* October 18, 1937; *Limerick Leader* April 23, 1938; *Tipperary Star* May 7, 1938; *Irish Independent* January 7, 1939; *Connacht Tribune* January 14, 1939; *Evening Herald* March 3, 1939; *Nenagh Guardian* March 4, 1939; *Midland Counties Advertiser*

on a bus in County Tipperary, wearing new wellingtons and a new raincoat. She had tidied her hair with a new comb, and there were sweets and two kinds of English cigarettes in her pockets. The breakfast she had purchased earlier was almost forgotten. All these things she bought that same day, with money taken from the nurse's room of the mother and baby institution at Sean Ross Abbey in Roscrea. Finding the money missing, the nuns telephoned the police, who mounted an immediate search. When the police caught up with her, she was less than twenty miles from the Abbey. The District Justice heard Molly had six previous convictions and had been imprisoned several times. Molly was a thief, especially of bicycles; the papers called her a "joy-rider" and a "bandit." Her widowed father, a rural farmer, appears sometimes in newspaper reports; by turns "respectable" and "broken-hearted." In 1939, the District Justice told Molly he could imprison her again for six months, but asked if she would go, instead, to Limerick's Good Shepherd convent for two years. She agreed. This was surprising; Molly had generally preferred prison to convents in the past. At her previous court appearance, a few months earlier, the prosecuting policeman "pleaded" with her to enter the convent for "training." When she refused, he said there must be something "mentally wrong with her." Convents, the exasperated judge explained on that occasion, were "soft" alternatives to prison for those capable of "improvement." In November 1939 it may have seemed Molly M. was finally willing to reform. But days later, she absconded. Some defiant spark remained in her, and she appeared in court again in the years before her early death from tuberculosis. The first time Molly was ever imprisoned, she stole from a cousin who employed her but did not pay her properly. She bought cosmetics and a coat. Prosecuted for theft, Molly wore that same coat to her hearing. On her very first appearance in court, aged about eighteen, she was charged with malicious damage. She was a good girl, her father said, and only meant it as a joke. She had daubed a slogan in black paint on the village dispensary's noticeboard; "Up with the brave," it read. "Up with the brave at any cost."

Institutions like the convent to which Molly M. was sent existed worldwide. In Ireland they are called "Magdalene laundries"; "Magdalene," for their association with gendered penitence, and "laundry" for women's unpaid work in their commercial laundries and sewing rooms. They "rescued" young women who transgressed Catholic sexual norms or were considered likely to do so in future. Today, Irish feminists understand them as places of containment and punishment³ for women and girls who would or could not conform to Ireland's patriarchal order. They are synonymous with forced labor, unlawful detention, family separation and physical and mental distress.⁴ Drawing on

November 22, 1939; *Nenagh Guardian*, December 2, 1939; *Midland Counties Advertiser* December 7, 1939; *Nenagh Guardian* August 2, 1941; *Nenagh Guardian* October 25, 1941.

³ James M. Smith, *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* (Manchester: Manchester University Press, 2007); Louise Brangan, "States of Denial: Magdalene Laundries in Twentieth-Century Ireland," *Punishment & Society* 26, no. 2 (April 1, 2024): 394–413.

⁴ See further Mark Coen, Katherine O'Donnell, and Maeve O'Rourke, *A Dublin Magdalene Laundry: Donnybrook and Church-State Power in Ireland* (London: Bloomsbury Publishing, 2023); Claire McGettrick et al., *Ireland and the Magdalene Laundries: A Campaign for Justice* (London: Bloomsbury

newspaper coverage of minor English and Irish courts' approaches to women's and girl's property offences,⁵ I present an abolition feminist analysis of courts' use of Catholic convent institutions between 1930 and 1959. Newspaper reports are amongst the only contemporary published narratives explaining specific individuals' detention in convent institutions. Coverage of minor local hearings offers access to everyday cases, where boundaries between moral and legal transgression were blurred. This article is the first sustained analysis of such cases in either Ireland or England.⁶

I begin by outlining an abolition feminist approach to convent institutions' legal history. I then explain the value of discussing these English and Irish cases together. Next, I map the shared legal principles applied in both jurisdictions. Then, focusing on women and girls prosecuted for property offences, I explore three interlocking themes in newspaper reports. First, those the courts sent to convents were punished, at least in part, for breaching prevailing gendered moral norms. Second, judges represented convents as sites of moral reform; justifying convent detention by reinforcing gendered notions of damaged female agency. Finally, judges sent women and girls to convents even when they publicly resisted. In these ways, courts reinforced reliance on convents for gendered "moral reclamation." In the conclusion, I explore these arguments' implications for recent state reckonings with historical abuses in institutions like Ireland's Magdalene laundries.

Unsettling Criminal Law, De-Exceptionalizing Ireland

This article works with digitized newspaper reports.⁷ Newspapers typically presented women and girls sent to convents as deviants because most were defendants in criminal cases. Feminists recognize that criminalization is a gendered practice and acts, alongside other social institutions, to punish some gendered behaviors while supporting others.⁸ It reinforces assumed connections between

Publishing, 2021); Chloe K. Gott, *Experience, Identity & Epistemic Injustice Within Ireland's Magdalene Laundries* (London: Bloomsbury Publishing, 2022); Smith, *Ireland's Magdalen Laundries and the Nation's Architecture of Containment*.

⁵ Police may not have considered these cases "minor." See e.g. *Nenagh Guardian* April 9, 1938.

⁶ Martin McAleese, "Report of the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries" (Dublin, 2013), 282–86, <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013>. The equivalent Northern Irish report makes more use of newspapers; Leanne McCormick et al., "Mother and Baby Homes and Magdalene Laundries in Northern Ireland, 1922–1990" (Belfast: [Department of Health], 2021), 265.

⁷ Although digitization makes these reports more accessible to researchers, it does not overcome problems of stigma and exclusion; Julia Laite, "The Emmet's Inch: Small History in a Digital Age," *Journal of Social History* 53, no. 4 (June 1, 2020): 976–82; Kathryn M. Hunter, "Silence in Noisy Archives: Reflections on Judith Allen's 'Evidence and Silence—Feminism and the Limits of History' (1986) in the Era of Mass Digitisation," *Australian Feminist Studies* 32, nos. 91–92 (April 3, 2017): 202–12; Jake Hodder and David Beckingham, "Digital Archives and Recombinant Historical Geographies," *Progress in Human Geography* 46, no. 6 (December 1, 2022): 13053.

⁸ Joanne Conaghan, "Theorizing the Relationship Between Law and Gender," in *Law and Gender*, ed. Joanne Conaghan (Oxford: Oxford University Press, 2013), 3.

female transgression and moral deficiency.⁹ It disqualifies certain forms of knowledge, including women's understanding of their own law-breaking.¹⁰ Some feminist analyses of convent cases might consider whether the law was misapplied to female defendants; whether, for instance, they were punished more harshly than men and boys who committed similar offences,¹¹ or were incarcerated without strict legal justification.¹² I proceed differently, drawing on abolition feminism to critique incarceration for property offences, irrespective of its legality. Abolition here, is associated with penal abolition but is increasingly invoked to challenge all social systems normalizing incarceration.¹³ Abolition feminism understands incarceration as expulsion or incapacitation; excluding "surplus" people from full participation in society.¹⁴ From this perspective, incarceration is an inherently violent practice, whether legally justified or not.¹⁵ For Liat Ben-Moshe, abolition is a "dis-epistemology";¹⁶ a letting go of attachment to violent carceral ways of knowing. In engaging with carceral archives, abolition feminists seek to transgress and thereby expose and disrupt their oppressive logics.¹⁷ If archives stigmatize incarcerated women and girls, abolition feminists emphasize their often-fragmentary expressions of dissent.¹⁸ For instance, Saidiya Hartman's histories of "wayward" Black American women use carceral archives to "recover the insurgent ground of these lives; to exhume open rebellion from the case file."¹⁹ Along these lines, I aim to unsettle women's and girls' simple categorization as "criminals" in cases involving convent detention. As Ann Laura Stoler writes, archives are sites of both "command and countermand."²⁰ Historical records, even of powerful institutions, can disclose evidence of defiance and disruption.

⁹ Carol Smart, *Law, Crime and Sexuality: Essays in Feminism* (London: SAGE, 1995), 21.

¹⁰ Carol Smart, *Feminism and the Power of Law* (Abingdon: Routledge, 2002), 3.

¹¹ Maureen Cain, "Towards Transgression: New Directions in Feminist Criminology," *International Journal of the Sociology of Law* 18, no. 1 (1990): 1–18; Alison Young, *Imagining Crime* (London: SAGE, 1995), 39–40.

¹² See e.g. McGettrick et al., *Ireland and the Magdalene Laundries*, 75.

¹³ Savannah Shange, "Abolition in the Clutch: Shifting through the Gears with Anthropology," *Feminist Anthropology* 3, no. 2 (2022): 187–97.

¹⁴ S. M. Rodriguez, "African Feminisms for Abolitionist Futures: Archival Hauntings in a Speculative Geography," *Agenda* (October 2, 2022): 29–39.

¹⁵ Abolition feminism mirrors legal theories which frame law as legitimated violence. See e.g. Robert M. Cover, "Foreword: Nomos and Narrative The Supreme Court 1982 Term," *Harvard Law Review* 97 (1983): 4–68; Catherine Kellogg, "Walter Benjamin and the Ethics of Violence," *Law, Culture and the Humanities* 9, no. 1 (February 1, 2013): 71–90.

¹⁶ Liat Ben-Moshe, "Dis-Epistemologies of Abolition," *Critical Criminology* 26, no. 3 (September 1, 2018): 341–55.

¹⁷ Michael J. Coyle and Mechthild Nagel, *Contesting Carceral Logic: Towards Abolitionist Futures* (Abingdon: Routledge, 2021), 4–5.

¹⁸ Damien M. Sojoyner, "You Are Going to Get Us Killed: Fugitive Archival Practice and the Carceral State," *American Anthropologist* 123, no. 3 (2021): 658–70.

¹⁹ Saidiya Hartman, *Wayward Lives, Beautiful Experiments: Intimate Histories of Social Upheaval* (New York: WW Norton, 2020), xvi.

²⁰ Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2009), 51.

Why discuss England alongside Ireland? Scholars rarely engage with Catholic convent institutions in twentieth-century England. Comparative study of English and Irish convent institutions is difficult. Relevant religious congregations rarely permit researchers to access their twentieth-century records.²¹ Relevant state-produced records in the UK National Archives concentrate on convents' role as children's homes after 1948.²² Archives of English probation committees, assorted inspectorates, courts, police forces and charities contain fragments illuminating local admission patterns. Equivalent Irish records, where they exist, are often inaccessible.²³ Oral history has been essential to deepening knowledge of conditions in Irish Magdalene laundries.²⁴ There has been no equivalent gathering of English testimony. However, the jurisdictions are similar in crucial ways. The same religious congregations ran convent institutions in both jurisdictions; primarily, the Good Shepherds and the Sisters of Our Lady of Charity of Refuge (OLC).²⁵ Similar legal frameworks legitimated convent detention in both jurisdictions. Indeed, Irish courts' reliance on convent institutions was partly inherited from England.²⁶ Statutory paths into convents were established before Irish independence and both jurisdictions largely retained them afterwards. Finally, newspaper reporting provides comparable discussion of how those frameworks operated. Discussing both jurisdictions together allows us to avoid needlessly exceptionalizing Irish experiences.²⁷ Comparison with England also enriches the Irish literature on women's legal history, which typically emphasizes distinctive laws passed after independence,²⁸ rather than colonial "durabilities."²⁹

I use newspapers digitized by the British Newspaper Archive³⁰ and the Irish News Archives.³¹ Typically local publications, they discuss individuals asked to

²¹ See McCormick et al., "Mother and Baby Homes and Magdalene Laundries in Northern Ireland, 1922–1990," 6–8, 48–49. The period discussed here is also affected by the 100 year rule.

²² See e.g. UK National Archives TNA: HO45/21989.

²³ See further Maeve O'Rourke, "Ireland's 'Historical' Abuse Inquiries and the Secrecy of Records and Archives," in *Histories of Punishment and Social Control in Ireland: Perspectives from a Periphery*, eds. Lynsey Black, Louise Brangan, and Deirdre Healy, Perspectives on Crime, Law and Justice in the Global South (Leeds: Emerald Publishing Limited, 2022), 107–38.

²⁴ Katherine O'Donnell, "A Certain Class of Justice: Ireland's Magdalenes," in *Histories of Punishment and Social Control in Ireland: Perspectives from a Periphery*, eds. Lynsey Black, Louise Brangan, and Deirdre Healy (Leeds: Emerald Publishing Limited, 2022), 90–99.

²⁵ English newspapers occasionally featured the Poor Servants of the Mother of God and the Daughters of Charity. The Religious Sisters of Charity, Daughters of Charity and Sisters of Mercy also appear in Irish newspapers.

²⁶ McAleese, "Report of the Inter-Departmental Committee to Establish," 17.

²⁷ McAleese, "Report of the Inter-Departmental Committee to Establish," 45–48.

²⁸ See e.g. Caitríona Beaumont, "Gender, Citizenship and the State in Ireland, 1922–1990," in *Ireland in Proximity* (Abingdon: Routledge, 2002), 94–108; Una Crowley and Rob Kitchin, "Producing 'Decent Girls': Governmentality and the Moral Geographies of Sexual Conduct in Ireland (1922–1937)," *Gender, Place & Culture* 15, no. 4 (August 1, 2008): 355–72; Maria Luddy, "A 'Sinister and Retrogressive' Proposal: Irish Women's Opposition to the 1937 Draft Constitution," *Transactions of the Royal Historical Society (Sixth Series)* 15 (2005): 175–95.

²⁹ Ann Laura Stoler, *Duress: Imperial Durabilities in Our Times* (Durham, NC: Duke University Press, 2016).

³⁰ www.britishnewspaperarchive.co.uk.

³¹ www.irishnewsarchives.com.

enter convents run by the Good Shepherds or the OLC; sixty individuals in England and over one hundred in Ireland. Unless the convent involved was clearly run by either congregation, I excluded the report from consideration. This meant excluding reports which simply referred to “Catholic convents” or “convent homes.”³² I constructed searches using names and locations of known institutions and associated congregations, together with relevant keywords such as “court,” “magistrates,” and “probation.” I did not confine searches to any region of either country. Given difficulties in accessing local court archives tracing individual admissions to convent institutions,³³ I cannot say whether courts in some English or Irish regions made more use of convents than those in others.

Court to Convent

Adult women sent to convents were convicted of some crime. Generally unmarried, rarely older than twenty-five, they were often domestic servants, factory workers or shop assistants. Those brought before English courts were mostly British-born, but some were Irish immigrants.³⁴ Lynsey Black shows that Irish convents held women convicted of serious offences, particularly homicides.³⁵ This also happened in England.³⁶ More often, convents were used to address minor property offences. Irish convents almost monopolized women’s and girls’ detention. In this period, there was no state-run “secure accommodation” for girls, no borstal,³⁷ and no state-managed girls’ reformatories or industrial schools.³⁸ In England, Catholics were a smaller proportion of the population, and various other religious and non-denominational charities ran residential institutions which served similar purposes to the convents discussed in this article.³⁹ This partly explains why I found fewer English than Irish newspaper reports.

³² See e.g. *South Western Star* July 7, 1944; *East Kent Times* August 4, 1953.

³³ On difficulties using Irish court minute books to track case outcomes, see McAleese, “Report of the Inter-Departmental Committee to Establish,” 209–11. Newspaper coverage is not comprehensive; see Kate Bradley, “Juvenile Delinquency and the Public Sphere: Exploring Local and National Discourse in England, c. 1940–69,” *Social History* 37, no. 1 (February 1, 2012): 29–32.

³⁴ On Ireland and England’s linked systems of gendered social control, see Sarah-Anne Buckley and Lorraine Grimes, “From Tuam to Birmingham: A Case Study of Children’s Homes in Ireland and the UK,” in *Legacies of the Magdalen Laundries*, eds. Miriam Haughton, Mary McAuliffe, and Emilie Pine (Manchester: Manchester University Press, 2021), 125–43; Paul Michael Garrett, “The Hidden History of the PFIs: The Repatriation of Unmarried Mothers and Their Children from England to Ireland in the 1950s and 1960s,” *Immigrants & Minorities* 19, no. 3 (November 1, 2000): 25–44.

³⁵ Lynsey Black, *Gender and Punishment in Ireland: Women, Murder and the Death Penalty, 1922–64* (Manchester: Manchester University Press, 2022).

³⁶ See e.g. UK National Archives TNA:CRIM1/1127; ASSI52/816; HO144/22147; HO45/1592. A vulnerable woman might be sent to the Good Shepherds even if the prosecution failed; see e.g. *St Pancras Gazette* January 6, 1939 (not convicted but appears on the 1939 Register for the Finchley Good Shepherds).

³⁷ See *Evening Echo* April 25, 1940; *Limerick Leader* July 29, 1959.

³⁸ McAleese, “Report of the Inter-Departmental Committee to Establish,” 253–54.

³⁹ In 1930s Warwickshire, for example, relevant non-Catholic institutions included The Hawthorns (Birmingham, Salvation Army), Birmingham Refuge (Church of England), St. Faith’s Shelter (Coventry, Church of England) and St. Michael’s Home (Leamington Spa, Clewer Sisters,

Irish cases were heard by male lawyers; a District Justice or Circuit judge sitting alone.⁴⁰ English cases were often heard by volunteer lay magistrates in benches of two or three or, less often, by paid stipendiary magistrates and recorders sitting alone.⁴¹ Women served as magistrates from the 1920s. Women recorders began sitting in the 1940s.⁴² Women police were increasingly common in Britain, but no Irish equivalents were appointed until the 1950s. The Probation of Offenders Act 1907 and the Criminal Justice Administration Act 1914 applied in both jurisdictions. The latter introduced residence conditions,⁴³ which could be used to require the defendant to live in a convent for a time. Irish judges might also suspend or adjourn a prison sentence,⁴⁴ provided the defendant “bound herself” to enter a convent.⁴⁵ By agreeing to convent placements, defendants avoided prison,⁴⁶ provided that the convent was willing to accept them.⁴⁷ However, probation came with strings attached. Absconding in breach of a probation order was an arrestable offence.⁴⁸ A probationer committing a new crime could be punished for both the new and original offence. Although probation orders were time-limited, they sometimes

Anglican). On Church of England institutions, see Alana Barton, *Fragile Moralities and Dangerous Sexualities: Two Centuries of Semi-Penal Institutionalisation for Women* (Abingdon: Routledge, 2017). Over half the girls’ approved schools in England and Wales were religious-run; Jessamy Carlson, *Approved Schools for Girls in England, 1933-1973: “Girls Will Be Girls”* (Cham, Switzerland: Springer Nature Switzerland, 2024), 11.

⁴⁰ Some women served as parish court judges in the revolutionary Dáil Courts between 1920 and 1924. On barriers to Irish women’s participation in the professions after independence, see Crowley and Kitchin, “Producing ‘Decent Girls,’” 361–62.

⁴¹ The Home Secretary approved a panel of lay magistrates; Basil Lucas Quixano Henriques, “Children’s Courts in England,” *Journal of Criminal Law and Criminology* 37, no. 4 (1946–1947): 295.

⁴² On factors facilitating women’s assumption of these roles, see Anne Logan, “‘A Suitable Person for Suitable Cases’: The Gendering of Juvenile Courts in England, c. 1910–39,” *Twentieth Century British History* 16, no. 2 (January 1, 2005): 129–45; Anne Logan, “Policy Networks and the Juvenile Court: The Reform of Youth Justice, c. 1905–1950,” *Crimes and Misdemeanours* 3, no. 2 (2009): 18–36.

⁴³ S. 8. On Ireland, see McAleese, “Report of the Inter-Departmental Committee to Establish,” 262.

⁴⁴ McAleese, “Report of the Inter-Departmental Committee to Establish,” 285–86. Black, *Gender and Punishment in Ireland*, 126. This arrangement applied to defendants aged 16–21. Commission of Inquiry into the Reformatory and Industrial School, “The Cussen Report (Commission of Inquiry into the Reformatory and Industrial School System, 1934–1936),” 1936, 48, <https://jfma.repository.wit.ie/id/eprint/318/>.

⁴⁵ Industrial school and reformatory managers could refuse to accept girls committed to their institutions. Some were admitted “voluntarily” to a convent “refuge” alongside adults; McAleese, “Report of the Inter-Departmental Committee to Establish,” 345–52.

⁴⁶ Women initially imprisoned were also sent to convents on early release; Penal Servitude Acts 1853 to 1891 and later s. 56, Criminal Justice Act 1948 (Ireland) and s. 23, Criminal Justice Act 1951 (England). McAleese, “Report of the Inter-Departmental Committee to Establish,” 82–84; 289–304; Lynsey Black, *Gender and Punishment in Ireland: Women, Murder and the Death Penalty, 1922–64* (Manchester: Manchester University Press, 2022), 151–52. In both jurisdictions, time in a convent on probation could be preceded by time in prison. See e.g. *Staffordshire Advertiser* May 30, 1914 (transferred from Aylesbury Prison to Finchley Good Shepherds).

⁴⁷ Convents could refuse to accept probationers; see e.g. *Kingston Times* September 24, 1938; *Western Daily Press* February 29, 1940.

⁴⁸ *Lancashire Evening Post* September 25, 1940.

inaugurated long periods of convent detention.⁴⁹ Expired probation orders might be extended, and in Ireland, women were sometimes encouraged to remain in convents “voluntarily” after their probation had ended.⁵⁰

Probation officers, police,⁵¹ priests,⁵² and social workers⁵³ arranged convent placements. In both jurisdictions, probation officers often straddled boundaries between religious and secular systems of social control. In Ireland, religious volunteers were used as probation officers into the 1960s.⁵⁴ As is well known, England’s probation service originated with Anglican police court missionaries. Between the wars, voluntary police court missionaries (paid by religious organizations) were gradually replaced by state-employed probation officers.⁵⁵ However, many of these same probation officers were former police court missionaries. In Ireland and in many English cities, probation officers served distinct religious communities.⁵⁶ In Manchester and Liverpool, nuns from non-cloistered congregations occasionally served as Catholic probation officers.⁵⁷ In Cornwall, an Irish nun attached to the Saltash Good Shepherds represented the congregation in court.⁵⁸ Thus, in both countries, probation practice was deeply shaped by religious commitments.⁵⁹

The statutory basis for sending individual teenage girls to convent institutions is not always clear from newspaper reports. Broadly speaking, there were two routes,⁶⁰ the criminal law, the primary focus of this article, and the child protection system. In both jurisdictions, these routes were governed by similar statutory frameworks. The key Irish legislation was the Children Act 1908, which was retained for decades after independence with minor amendments;

⁴⁹ For example, the defendant in *Birmingham Daily Post* May 10, 1928 was at Blackley’s Good Shepherd convent twenty years after she agreed to spend two years on probation in a “home.”

⁵⁰ O’Donnell, “A Certain Class of Justice,” 100.

⁵¹ See e.g. *Limerick Leader* July 29, 1959. Black, *Gender and Punishment in Ireland*, 128.

⁵² See e.g. *Nenagh Guardian* May 12, 1934; *Western Morning News* July 18, 1931.

⁵³ McAleese, “Report of the Inter-Departmental Committee to Establish,” 100–1.

⁵⁴ Deirdre Healy and Louise Kennefick, “Hidden Voices: Practitioner Perspectives on the Early Histories of Probation in Ireland,” *Criminology & Criminal Justice* 19, no. 3 (July 1, 2019): 346–63. See also McAleese, “Report of the Inter-Departmental Committee to Establish,” 239–49.

⁵⁵ William McWilliams, “The Mission Transformed: Professionalisation of Probation Between the Wars,” *The Howard Journal of Criminal Justice* 24, no. 4 (1985): 257–74.

⁵⁶ Henry A. McCarthy, “Probation in Other Lands (Ireland),” *Probation* 5, no. 17 (1946–1949): 225–26.

⁵⁷ See e.g. “Priest Too Late,” *Nottingham and Midland Catholic News* October 22, 1932, 16; “Five Against the Biggest Social Problem of Our Age” *Manchester Evening News* October 17, 1951, 6. See also “Transcript of Interview with George Chesters” Warwick Modern Records Centre 929/6/3, 3 remembering nuns in court.

⁵⁸ *Western Morning News* October 27, 1934. Although this convent was semi-enclosed, she was the “tourière sister,” permitted to do business in the outside world. This was not the arrangement at every Good Shepherd convent; see e.g. TNA: HO366/298.

⁵⁹ Louise Settle, *Probation and the Policing of the Private Sphere in Britain, 1907–1962* (London: Bloomsbury Publishing, 2021), 23, 40–43.

⁶⁰ Ireland’s age of criminal responsibility was seven. England’s 1933 Act raised this to eight. The Children Act 1908 established juvenile courts in both jurisdictions. Ireland’s only dedicated children’s court was in Dublin Castle; Sean Ryan, “Report-Commission to Inquire into Child Abuse, Vol. 1” (Dublin: Stationery Office, 2009), 45. On English juvenile courts, see Pamela Cox, *Gender, Justice and Welfare: Bad Girls in Britain, 1900–1950* (London: Palgrave Macmillan, 2003), 22–23.

a decision which, perhaps, says less about the independent state's attachment to the British regulatory model than about its lack of commitment to child welfare.⁶¹ In England, the Children and Young Persons Act 1933 replaced the 1908 Act; modifying the residential school system and associated judicial powers. Again, Irish cases were heard by men sitting alone, while in England there was always one woman on the magistrates' bench. Girls could be sent to convents on remand while awaiting trial or removal elsewhere.⁶² Girls were placed on probation with a condition of residence under much the same statutory powers used for adult women.⁶³ Some Good Shepherd convents contained residential schools,⁶⁴ to which girls were committed where probation was deemed inappropriate. In Ireland, these were called "industrial schools"⁶⁵ and "reformatories."⁶⁶ In England, after the 1933 Act, they shed that terminology, becoming "approved schools."⁶⁷ Girls committed to English approved schools could be supervised by a probation officer.⁶⁸

Courts also sent girls to convent residential schools⁶⁹ for their "care and protection."⁷⁰ Again, girls sent to English approved schools for this purpose

⁶¹ On this point, see Robbie Gilligan, "The 'Public Child' and the Reluctant State?," *Éire-Ireland* 44, no. 1 (2009): 265–90. The Act underpinned child protection law in Ireland until the Child Care Act 1991. Its last vestiges were removed by the Children Act 2001.

⁶² S. 4, Youthful Offenders Act 1901. See e.g. *Manchester Evening News* July 19, 1942; *Nationalist and Leinster Times* December 4, 1948. See also Cox, *Gender, Justice and Welfare*, 64; McAleese, "Report of the Inter-Departmental Committee to Establish," 213–16. Some English convents were registered remand homes under s. 33(2), 1933 Act. Irish girls sent on remand to one convent might later go on probation to another; McAleese, "Report of the Inter-Departmental Committee to Establish," 215.

⁶³ McAleese, "Report of the Inter-Departmental Committee to Establish," 228–60. In England, girls under seventeen should not have been sent to institutions which were not inspected by the Secretary of State, except for the purposes of employment. These placements should have been notified to the Secretary of State. I am unable to establish how many English convent institutions were inspected for this purpose. The Good Shepherds at Wavertree registered a probation home in 1931; UK National Archives TNA:BN62/3064.

⁶⁴ Five Irish "Magdalen laundries" ran industrial schools. One ran a reformatory. In this period, the Good Shepherds ran approved schools at Finchley and Bristol.

⁶⁵ Offenders under 12 could be sent to industrial school under s. 58(2). Under s. 58(3) those aged 12 or 13 could be sent if a reformatory was considered unsuitable. In Ireland s. 6, Children Act 1941 increased the upper age limit to 14. Under s. 65(b), 1908 Act, they could remain in industrial school until age 16 (17 after the 1941 Act); Ryan, 46. With the exception of truancy cases, they remained under managers' supervision, and subject to recall to the institution, until they were eighteen; S. 68, 1908 Act.

⁶⁶ Offenders aged 12–16 could be sent to reformatories under s.57(1), 1908 Act. Under the Irish Children Act 1941, this was increased to 17. Girls could be sent to reformatories for up to four years, or until age nineteen; s 65(a), 1908 Act. See e.g. *Evening Echo* February 23, 1956. From 1941, they remained under supervision and subject to recall until age twenty-one.

⁶⁷ Offenders could be sent to approved schools under s. 58, 1933 Act. Most approved schools were former industrial schools and reformatories. They were classified by age; junior (under 15), senior (15–17) and (after 1951) intermediate (14–16).

⁶⁸ S. 57(2), 1933 Act.

⁶⁹ I have not discussed "fit person" and associated supervision provisions of the 1908 or 1933 Acts (see e.g. ss. 21(1) and 60, Children Act 1908 and s. 57 and 62, 1933 Act). These were alternatives to committal to residential schools. *Evesham Standard and Midland Observer* January 9, 1943, referring to a girl placed under the mother superior's care, may be an example. *Halifax Evening Courier* August 9, 1934 may be another.

⁷⁰ Any person could bring the girl to court for this purpose under the 1908 Act. N.S.P.C.C. inspectors could bring children before the courts as authorized persons under s.62(2), 1933 Act. Their

could also be placed under a probation officer's supervision.⁷¹ This power originated with the 1908 Act, which allowed girls under fourteen⁷² who had committed no offence to be sent to industrial school if they were begging,⁷³ wandering,⁷⁴ destitute;⁷⁵ if they were persistently truanting from school;⁷⁶ if their parents were deemed unfit to have care of them because they were alcoholics or involved in crime;⁷⁷ if they were sexually abused by their fathers,⁷⁸ or if they were deemed at risk of becoming involved in theft or sex work.⁷⁹ England's 1933 Act expanded approved schools' "protective" jurisdiction,⁸⁰ opening them up to girls under seventeen whose parents were deceased, absent, "unfit," or not exercising "proper care or guardianship" and who, as a result, were "falling into bad associations," "exposed to moral danger"⁸¹ or "beyond control."⁸² Both the 1908 and 1933 Acts also allowed parents to apply to have their daughters committed to residential schools.⁸³ Girls seeking control of their time, bodies, or money challenged a conservative family contract; courts could restore it.⁸⁴ Sometimes parents⁸⁵ who had not themselves initiated an application supported courts' decisions to institutionalize their daughters.⁸⁶

I found few newspaper reports of pure "care and protection" cases. One example is from 1939,⁸⁷ when Liverpool Juvenile Court sent an unnamed Irish teenager to the Good Shepherds. On arrival in Liverpool, a welfare worker

evidence was used in 1908 Act cases, but they could not initiate committals; see e.g. *Nationalist and Leinster Times* May 11, 1940.

⁷¹ S. 62(1)(d), 1933 Act.

⁷² Increased to fifteen in Ireland by the Children Act 1941.

⁷³ S. 58(1)(a)

⁷⁴ S. 58(1)(b). This section applied if they had no parent or guardian, or one who did not exercise "proper guardianship."

⁷⁵ S. 58(1)(c). This section concerned girls whose parents were imprisoned or deceased. The Children Act 1929 broadened its scope.

⁷⁶ S. 58(6). See also s. 17 School Attendance Act, 1926 (Ireland); S. 40(3), Education Act 1944 (England).

⁷⁷ S. 58(1)(d).

⁷⁸ S. 58(1)(e).

⁷⁹ S. 58(1)(f)(g). Ryan, 41–42. On Irish newspapers and sexual crime, see Anthony Keating, "Sexual Crime in the Irish Free State 1922–33: Its Nature, Extent and Reporting," *Irish Studies Review* 20, no. 2 (May 2012): 135–55.

⁸⁰ S. 62(1) 1933 Act. The jurisdiction also applied to girls subjected to physical abuse; s. 61(b)(iv), 1933 Act.

⁸¹ Exposure to moral danger included wandering and begging; s. 61(b), 1933 Act.

⁸² S. 61(1) 1933 Act. This included wandering and begging; s. 61(b).

⁸³ S. 58(4), 1908 Act; S. 64, 1933 Act. In both instances, the court could place the girl under a probation officer's supervision. Local authorities having charge of a girl could also ask the court to commit her to an approved school; s. 65, 1933 Act.

⁸⁴ Tamara Myers, "The Voluntary Delinquent: Parents, Daughters, and the Montreal Juvenile Delinquents' Court in 1918," *Canadian Historical Review* 102, no. s3 (September 2021): 257.

⁸⁵ On requiring parents to attend hearings, see s.98 1908 Act and s. 34 1933 Act.

⁸⁶ See e.g. *Hendon & Finchley Times* August 11, 1939; *Limerick Leader* January 26, 1935.

⁸⁷ *Liverpool Evening Express* February 27, 1939. See also *Chelsea News and General Advertiser* November 16, 1951.

put her back on the Dublin boat,⁸⁸ but she returned soon after, and found work. She was brought to court when she lost this job. Her parents in Ireland were deemed unable to exercise proper care and guardianship. The magistrates said a probation officer would eventually return her to Ireland. In 1943, Evesham Magistrates sent a girl to the OLC Convent at Northfield outside Birmingham “for her own protection.” Her family had collapsed after her mother’s death and she was “wandering” and living in “hovels.”⁸⁹ In criminal cases, newspapers commonly discussed the defendant’s upbringing. So, boundaries between “neglect” and “delinquency” blurred under welfarist approaches which focused less on offences, and more on institutionalization’s perceived benefits.⁹⁰

Larger convents like the Good Shepherd houses at Limerick, Cork, Bristol, and Newcastle held more than one type of institution; for instance, an age-limited residential school and a “refuge” receiving women and girls of all ages. So, the distinction between time in a convent on probation and time in its residential school should not be overstated. Moreover, a girl committed to a convent residential school could later be transferred to another part of the convent complex, or to a convent elsewhere.⁹¹ Thus, although the law envisaged multiple routes to convents, the boundaries between them were often more fluid than statute suggests.

Punishing Resistance?

Courts were not the main gatekeepers to convent detention in either country.⁹² Convent detention is much older, for example, than probation. The Good Shepherds and the OLC originated in Normandy in 1641. The OLC were founded first. The Good Shepherds branched off from them in 1835.⁹³ By the end of the

⁸⁸ Samantha Caslin, “‘One Can Only Guess What Might Have Happened If the Worker Had Not Intervened in Time’: The Liverpool Vigilance Association, Moral Vulnerability and Irish Girls in Early- to Mid-Twentieth-Century Liverpool,” *Women’s History Review* 25, no. 2 (May 26, 2015): 1–20.

⁸⁹ *Evesham Standard and Midland Observer* January 9, 1943.

⁹⁰ Laura Tisdall, “‘That Was What Life in Bridgeburn Had Made Her’: Reading the Autobiographies of Children in Institutional Care in England, 1918–46,” *Twentieth Century British History* 24, no. 3 (September 1, 2013): 358–60. Louise A. Jackson, “Care or Control? The Metropolitan Women Police and Child Welfare, 1919–1969,” *The Historical Journal* 46, no. 3 (2003): 623–48.

⁹¹ Irish girls originally committed to a convent residential school might be transferred to the adult refuge; McAleese, “Report of the Inter-Departmental Committee to Establish,” 345–48. Girls could also be transferred when they “aged out” of residential school, or were sent away “on licence”; McAleese, “Report of the Inter-Departmental Committee to Establish,” 325–94. See also *Mercury & Herald* June 8, 1951.

⁹² McAleese documented 6918 “known entries” to Irish Magdalene laundries between 1930 and 1960 using convent registers. 646 entered through the criminal justice system between 1922 and 1996, of which 160 were recorded as sent by courts and 203 as sent on probation. These exclude referrals by the N.S.P.C.C. and Legion of Mary (often volunteer probation officers), and transfers from residential schools; McAleese, “Report of the Inter-Departmental Committee to Establish,” 161–63, 165. No equivalent English analysis is available.

⁹³ The congregations were reunified as the congregation of Our Lady of Charity of the Good Shepherd in 2014.

nineteenth century, both were international organizations. As well as institutions in Europe, Britain, and Ireland, both had presences in the United States,⁹⁴ Canada,⁹⁵ and Latin America.⁹⁶ The Good Shepherds also established bases in Australia⁹⁷ and New Zealand⁹⁸ as well as in Africa and South Asia. International connections were further maintained by correspondence⁹⁹ and occasional in-person visits. The rule and constitutions of the OLC and Good Shepherd congregations, and the vows taken by sisters across the world were broadly the same.¹⁰⁰ Traditionally, their convents focused on “fallen women”; essentially, those who had sex outside of marriage. By the twentieth century, the convents were admitting single women and girls who had formed (or merely explored) intimate relationships outside of marriage, whether or not they had become pregnant, or whose disability exposed them to possible sexual exploitation. Convents generally accepted “voluntary” admissions at the behest of families, acting alone or on the advice of priests.¹⁰¹ Other religious organizations¹⁰² also referred women and girls to the convents. Later, local authorities used them too.¹⁰³ “Voluntary” here describes admissions not directly compelled by law.¹⁰⁴ “Voluntary” admissions could be short-term,

⁹⁴ Jennifer Cote, “‘Habits of Vice’: The House of the Good Shepherd and Competing Narratives of Female Delinquency in Early Twentieth Century Hartford,” *American Catholic Studies* 122, no. 4 (2011): 23–45; Sarah A. Whitt, “Wash Away Your Sins: Indigenous and Irish Women in Magdalene Laundries and the Poetics of Errant Histories,” *American Indian Culture and Research Journal* 46, no. 3 (November 6, 2023): 1–23.

⁹⁵ Rie Croll, *Shaped by Silence: Stories from Inmates of the Good Shepherd Laundries and Reformatories* (Oakland: ISER Books, 2019).

⁹⁶ Sol Calandria and Luis González Alvo, “Toward a Non-Androcentric Historical Analysis of Women’s Prisons: The Cases of Santa Fe and Buenos Aires (Argentina, 1924–1936),” *International Journal for Crime, Justice and Social Democracy* 10, no. 2 (June 1, 2021): 67–82; Michael Welch and Melissa Macuare, “Penal Tourism in Argentina: Bridging Foucauldian and Neo-Durkheimian Perspectives,” *Theoretical Criminology* 15, no. 4 (November 1, 2011): 401–25.

⁹⁷ Edwina Kay, “Containment of ‘Wayward’ Females: The Buildings of Abbotsford Convent, Victoria,” *Archaeology in Oceania* 50, no. 3 (2015): 153–61.

⁹⁸ Barbara Lesley Brookes, Charlotte Macdonald, and Margaret Tennant, “Magdalenes and Moral Imbeciles,” in *Women in History* 2, eds. Barbara Brookes, Charlotte Macdonald, and Margaret Tennant (Wellington, New Zealand: Bridget Williams Books, 1992), 66.

⁹⁹ Jacinta Prunty, “Documentary Sources for Magdalen History and the Challenges,” *Studies: An Irish Quarterly Review* 107, no. 427 (2018): 270–73.

¹⁰⁰ One difference, not key to this study, was that the Good Shepherds were governed by a central generalate which oversaw provincial and local leaders and was directly accountable to the Vatican. OLC convents or “houses” were autonomous from one another (though subject to a shared rule and constitutions). Thus, local bishops had more influence over OLC convents; Prunty, “Documentary Sources for Magdalen History and the Challenges,” 268–69.

¹⁰¹ On priests, see McAleese, “Report of the Inter-Departmental Committee to Establish,” 869–74.

¹⁰² McAleese, “Report of the Inter-Departmental Committee to Establish,” xviii–xx. Myra Curtis, “Report of the Care of Children Committee Cmd. 6922” (London: HMSO, 1946), 19, 124. Cox, *Gender, Justice and Welfare*, 67–76.

¹⁰³ On Ireland, see McAleese, “Report of the Inter-Departmental Committee to Establish,” 458–67. See also e.g. s. 13(1) Children Act 1948 on English local authorities’ placement of children in voluntary homes.

¹⁰⁴ On voluntary admission, see P. E. Hughes, “Cleanliness and Godliness: A Sociological Study of the Good Shepherd Convent Refuges for the Social Reformation and Christian Conversion of

or effectively permanent.¹⁰⁵ The McAleese Report on the Irish state's involvement with the Magdalen laundries gives examples of "voluntary" admissions documented in convent registers. Irish familial admissions¹⁰⁶ included women with physical, intellectual and psychosocial disabilities,¹⁰⁷ women who gave birth outside of marriage,¹⁰⁸ and girls who had been sexually abused within the family.¹⁰⁹ "Self-referrals" included women who were destitute, ill, widowed, or estranged from their families.¹¹⁰ As is clear from these examples, voluntariness here is not synonymous with autonomy.¹¹¹

Those the courts sent to convents joined others entering "voluntarily." They often worked together in the same laundries, slept in shared dormitories and ate in shared refectories.¹¹² In using convents, therefore, courts affirmed their wider social and familial role in containing marginalized women. Court personnel often publicly identified with wider gendered projects of social control, sometimes expressing that commitment in religious terms.¹¹³ They were intensely interested in working class women's and girls' "moral welfare."¹¹⁴ Certainly, there were differences between England and Ireland. English law offered some freedoms unavailable in Ireland, especially around contraception and divorce.¹¹⁵ Some Irish judges

Prostitutes and Convicted Women in Nineteenth Century Britain" (ProQuest Dissertations Publishing, 1985), 16.

¹⁰⁵ On Irish lengths of stay, see Claire McGettrick, "Death, Institutionalisation & Duration of Stay," 2015, http://jfmresearch.com/wp-content/uploads/2017/03/JFMR_Critique_190215.pdf.

¹⁰⁶ On English parents' "voluntary" use of institutions, see Cox, *Gender, Justice and Welfare*, 22–23, 120. and Mary Stuart, *Not Quite Sisters: Women with Learning Difficulties Living in Convent Homes* (Birmingham: British Institute of Learning Disabilities, 2003), 114–34. On Ireland (in an earlier period), see Jane O'Brien, "'It Gives Great Relief to My Mind'—Family Involvement at Children's Committal to the Sister of Mercy Run Irish Industrial Schools, 1868–1936," *Journal of Family History* 49, no. 2 (April 1, 2024): 174–97.

¹⁰⁷ McAleese, "Report of the Inter-Departmental Committee to Establish," 860–63.

¹⁰⁸ McAleese, "Report of the Inter-Departmental Committee to Establish," 863–64.

¹⁰⁹ McAleese, "Report of the Inter-Departmental Committee to Establish," 863.

¹¹⁰ McAleese, "Report of the Inter-Departmental Committee to Establish," 889–92.

¹¹¹ See further Lindsey Earner-Byrne, "The Irish Family: Blame, Agency and the 'Unmarried Mother Problem,' 1980s–2021," *Contemporary European History* 32, no. 2 (October 13, 2022): 1–17. See also *Liverpool Echo* May 9, 1935; a girl "voluntarily" admitted to a convent escaped and was returned for her own "protection."

¹¹² On Ireland, see Gott, *Experience, Identity & Epistemic Injustice Within Ireland's Magdalene Laundries*, 86, 118.

¹¹³ See Basil Henriques, *The Indiscretions of a Magistrate: Thoughts on the Work of the Juvenile Court* (Edinburgh: Harrap, 1950), 96, 178–79. and "Plea for Extension of Children's Courts," *Irish Independent* November 9, 1949, 7 (quoting District Justice MacCarthy).

¹¹⁴ Susannah Riordan, "'Storm and Stress': Richard Devane, Adolescent Psychology and the Politics of Protective Legislation 1922–1935," in *Adolescence in Modern Irish History*, eds. Catherine Cox and Susannah Riordan (London: Palgrave Macmillan UK, 2015), 129–50; James Smith, "The Politics of Sexual Knowledge: The Origins of Ireland's Containment Culture and the Carrigan Report (1931)," *Journal of the History of Sexuality* 13 (April 1, 2004): 208–33. Heather Shore, "Inventing and Re-Inventing the Juvenile Delinquent in British History," *Memoria Y Civilización* 14 (January 1, 2011): 125; Julia Laité, "Immoral Traffic: Mobility, Health, Labor, and the 'Lorry Girl' in Mid-Twentieth-Century Britain," *Journal of British Studies* 52, no. 3 (July 2013): 698–99.

¹¹⁵ Jennifer Redmond, *Moving Histories: Irish Women's Emigration to Britain from Independence to Republic* (Liverpool: Liverpool University Press, 2018), 98; Caitriona Beaumont, "Moral Dilemmas

prohibited girls from emigrating to England rather than enter an Irish convent, apparently believing that English moral standards could not be trusted.¹¹⁶ In 1951 an Irish District Justice interrogated a girl charged with theft. He was considering sending her to a convent. She was, he said “like something you would read about in the Liverpool Gazette.”¹¹⁷ “Are you a Catholic?,” he asked. “Do you know what the seventh Commandment is?” “Does she go to dances?”¹¹⁸ His language is striking, but English courts also encountered simmering tensions around young women’s and girls’ income, mobility, status, dress, friendships, and sexuality.¹¹⁹

We might imagine that convents’ moral uses were clearest in “protection” cases, concerning girls whose activities, though not necessarily illegal, involved some “danger.” However, gendered moral expectations also underpinned punishment of property-related offences. Discussing Black women’s disobedience in the twentieth-century United States as “open rebellion and beautiful experiment,” Saidiya Hartman reframes minor crimes as “the practice of the social otherwise.”¹²⁰ Some cases discussed in this article concerned subsistence theft. But others dealt with girls’ and women’s demands to move about freely, love as they pleased, and access the enjoyment¹²¹ that others—wealthier women or their own male relatives—took for granted.¹²² They stole goods essential to middle-class respectability and attractiveness.¹²³ Besides bicycles,¹²⁴ they took jewellery,¹²⁵ clothing,¹²⁶ handbags,¹²⁷ silver,¹²⁸ money for good suede shoes and stockings to go with them.¹²⁹ Some stole money for the cinema, the seaside or other entertainments.¹³⁰ They were “living above their station

and Women’s Rights: The Attitude of the Mothers’ Union and Catholic Women’s League to Divorce, Birth Control and Abortion in England, 1928–1939,” *Women’s History Review* 16, no. 4 (September 1, 2007): 463–85.

¹¹⁶ *Kerry Champion* February 6, 1937; *Limerick Leader* November 1, 1952. Contrast *Limerick Leader* February 21, 1949 (judge sending girl to a convent until emigration).

¹¹⁷ *Longford Leader* March 24, 1951.

¹¹⁸ “Thou shalt not commit adultery.” The judge says it is “Thou shalt not steal.”

¹¹⁹ Cox, *Gender, Justice and Welfare*, 146–51.

¹²⁰ Saidiya Hartman, “The Anarchy of Colored Girls Assembled in a Riotous Manner,” *South Atlantic Quarterly* 117, no. 3 (July 2018): 465–90.

¹²¹ Louise A. Jackson and Angela Bartie, “‘Children of the City’: Juvenile Justice, Property, and Place in England and Scotland, 1945–60,” *The Economic History Review* 64, no. 1 (2011): 99.

¹²² Lisa Pasko, “Damaged Daughters: The History of Girls’ Sexuality and the Juvenile Justice System,” *The Journal of Criminal Law and Criminology* 100, no. 3 (2010): 1101; Charlotte Wildman, “An ‘Epidemic of Shoplifting’? Working-Class Women, Shop Theft and Manchester’s New Retail Culture, 1918–1939,” *Social History* 46, no. 3 (July 3, 2021): 292.

¹²³ Peter M. Scott, “The Booster, the Snitch, and the Bogus False Arrest Victim: Retailers and Shoplifters in Interwar America and Britain,” *Enterprise & Society* 24, no. 1 (June 25, 2021): 1–26.

¹²⁴ *Nenagh Guardian* May 2, 1939.

¹²⁵ *Cornishman* July 29, 1933; *Evening Echo* October 22, 1936; *Evening Echo* December 20, 1945; *Evening Herald* February 28, 1956.

¹²⁶ *Examiner* June 17, 1933.

¹²⁷ *Western Daily Press* March 23, 1933.

¹²⁸ *Western Daily Press* August 19, 1936.

¹²⁹ *Evening Echo* June 5, 1941.

¹³⁰ See e.g. *Sligo Champion* July 13, 1946. Contrast this woman who stole to pay her fare to visit her children; *Fulham Chronicle* October 29, 1948.

in life.”¹³¹ Janie C. took her mother’s quilt and sold it, spending the proceeds on having a fashionable permanent wave put in her hair. “Imagine,” sputtered the prosecuting policeman, “a girl of her age having a perm.” The District Court Justice warned she was headed for prison and encouraged her to enter a Good Shepherd convent.¹³² There is an ambivalence to her treatment; the perm supposedly indicated foolishness, but her rejection of parental authority signalled criminality. English newspapers were often more direct in presenting minor thefts as evidence of the desire to be attractive to men; a particular danger in wartime.¹³³ In 1941 a teenage girl was sent to Liverpool’s Good Shepherds, having stolen clothes. Her late father was a policeman. Her former teacher told Boston Police Court she had taken on “rather loose ways of living, associating with soldiers of the town.”¹³⁴ Jessica Calvanico insists girlhood becomes “carceral” when girls’ social behavior is incessantly surveilled, under threat of captivity.¹³⁵ Courts relied on, and affirmed, such surveillance. In 1933, Nora M. was charged with receiving stolen goods for her boyfriend.¹³⁶ Reported discussion in the Tipperary District Court concerned their relationship; perhaps transgressive for his Belfast Protestantism as much as for his theft. The local sergeant said they lived together without being married.¹³⁷ The District Justice tried unsuccessfully to broker a marriage proposal. He asked Nora to go to the Good Shepherds and, when she refused, jailed her for a month.

Courts sometimes interpreted theft as defiant refusal to be content with work’s meagre rewards.¹³⁸ In 1931, Vera O’B. took desirable things from her Devon employer’s household; colored beads, a wool suit, a tortoiseshell cigarette case, a blue frock, and money for chocolate. She later took two rings, naively showing them to the cook, who told their employer. Vera was ultimately sent to the Saltash Good Shepherds.¹³⁹ Early in 1939, Mina D. was charged with stealing clothes and other items. She was wearing these clothes when arrested in Tralee before Christmas.¹⁴⁰ The District Justice sent her to Limerick’s Good Shepherds for 12 months. The prosecuting policeman said she had left a good job “for reasons best known to herself.” The job meant long hours cooking, minding a farmer’s children, feeding twenty-five pigs. Perhaps Mina rejected the drudgery the policeman considered good enough for her.¹⁴¹

¹³¹ *Portsmouth Evening News* December 7, 1949.

¹³² *Tipperary Star* June 22, 1946.

¹³³ David F. Smith, “Delinquency and Welfare in London: 1939–1949,” *The London Journal* 38, no. 1 (March 1, 2013): 71–72.

¹³⁴ *Lincolnshire Standard and Boston Guardian* December 6, 1941.

¹³⁵ Jessica R. Calvanico, “Arson Girls, Match-Strikers, and Firestarters: A Reflection on Rage, Racialization, and the Carcerality of Girlhood,” *Signs: Journal of Women in Culture and Society* 47, no. 2 (January 1, 2022): 404.

¹³⁶ *Kerry Reporter* August 19, 1933. See similarly *Irish Independent* November 26, 1938.

¹³⁷ See also *Nenagh Guardian* April 16, 1949.

¹³⁸ Hartman, “The Anarchy of Colored Girls Assembled in a Riotous Manner.”

¹³⁹ *Western Morning News* July 18, 1931.

¹⁴⁰ *Liberator* January 7, 1939.

¹⁴¹ Leigh-Anne Francis, “‘Steal or Starve’: Black Women’s Criminal Work in New York City, 1893 to 1914,” *Journal of Women’s History* 32, no. 4 (2020): 13–37.

Defendants were sometimes found “wandering” or “sleeping out.”¹⁴² Hartman argues that laws punishing these activities inhibited “free movement and errant paths.”¹⁴³ Some convent cases may disclose similar efforts to live differently. In 1946, Waterford District Court heard an unusual “wandering” case. The defendant appeared “in most approved masculine attire”; a fact so surprising to the reporter that they itemized the outfit:

a man’s suit; complete with coat, vest, shirt and trousers... a pair of men’s shoes, and her hair was closely cropped and arranged in such a manner as to give the impression that she was really a member of the opposite sex.¹⁴⁴

Someone else owned this clothing; amongst the charges were thefts of a “gent’s silver watch, a suit of clothes, a pair of brown shoes and a gent’s hat.” Questioned by two detectives, the defendant used the name “John.” The police did not immediately notice the “deception.” It was only later that “her identity was revealed.” The District Justice said the case concerned a girl “going around the country without supervision.” He asked the defendant to choose between jail and the Good Shepherds. Although the judge promised the nuns would be kind, the defendant’s freedom was at stake; they were incarcerated “for an indefinite period.”

Destructive property offences can also be read in resistant terms. Calvanico, writing about teenage arsonists, suggests crime can be an attempt to assert control within an oppressive society.¹⁴⁵ Alice C. set fires at the Tipperary farm where she was a maid.¹⁴⁶ The first was accidental; started when she dropped the cigarette butt she was secretly smoking. The others were deliberate:

I burned it because Mrs. [Employer] was always finding fault with me all the morning....I burned [Employer’s] other cow house too ...because the two [Employers] were always finding fault with me...They were always fighting about the bad potatoes that were put down for the dinner every day...A couple of evenings ago I threw the bad potatoes or whatever they were out of the mill window into the mill race or whatever—I do not know what they call it. I threw out all the big ones that was in it because the [Employers] were always complaining how big and bad they were on the table.

The employers’ signatures on their statements are fluent. Alice’s is halting. Maybe she burned their property to protest how meanly they treated her. The judge ended her rebellion; sending her to Limerick’s Good Shepherds for a year.

¹⁴² *Western Daily Press* May 17, 1934; *Cork Examiner* November 7, 1932.

¹⁴³ Hartman, “The Anarchy of Colored Girls Assembled in a Riotous Manner.”

¹⁴⁴ *The Nationalist* February 20, 1946.

¹⁴⁵ Calvanico, “Arson Girls, Match-Strikers, and Firestarters,” 418.

¹⁴⁶ CC/State Files at CC Tipperary 1936 National Archives of Ireland ID/87/10; *Nenagh Guardian* October 10, 1936.

Resistance was rarely romantic.¹⁴⁷ Yet, even where trauma lurked at the edges of women's stories, courts often treated them as stubbornly disobedient. In 1930, a District Justice wanted Jennie G. to "go into a home." The newspaper reported she was travelling around the country, wandering from one short-term job to another, stealing from respectable people. Years earlier, the same newspaper covered a compensation hearing involving Jennie G. During Ireland's War of Independence, two masked men abducted her at midnight in a punishment attack and cropped her hair to her scalp.¹⁴⁸ She told that court she planned to go to America. Perhaps she never left Ireland. The 1930 newspaper report says little about her, except that "her people did not look after her."¹⁴⁹ Such accounts butressed expected familial boundaries, without asking why daughters transgressed them. Judicial decision-making reinforced wider discourses of feminine disobedience, affirming demands for social control.

Convents and Promises of Reform

Courts were often convents' advocates, presenting them as benevolent transformative institutions, superior to prisons. The practical differences should not be overstated. Those sent to convents could not leave of their own accord, and absconders could be recaptured and punished.¹⁵⁰ The length of time spent in a convent could be longer than a prison sentence.¹⁵¹ In 1937 Cork, 12 months with the Good Shepherds was substituted for four months' imprisonment.¹⁵² A Cornish girl was sent to a convent for six months in 1942 in place of two months in prison.¹⁵³ In 1959, the Limerick Circuit Court sent a seventeen-year-old arsonist to the Good Shepherds until she turned twenty-one, in place of eighteen months' imprisonment.¹⁵⁴

Imprisonment was stigmatized, and this may explain why longer convent detentions were substituted for shorter prison sentences. In 1931 Tilly W. "flatly" declined to go to the Staplehurst convent, preferring prison. The magistrates, their clerk and the probation officer questioned her reasoning at length until she relented. "[T]he stain of prison or Borstal," said one

¹⁴⁷ On resistance in carceral settings; see Rhian Jones, "'Send My Love': Defiance and Material Culture at the Parramatta Industrial School for Girls," 2022, 13; Laura Harrison, *Regulating Youthful Leisure: Streets and Public Space, Dangerous Amusements* (Manchester: Manchester University Press, 2022), 180. Michael A. Rembis, *Defining Deviance: Sex, Science, and Delinquent Girls, 1890-1960* (Champaign, IL: University of Illinois Press, 2011), 105-6; Abigail Wills, "Resistance, Identity and Historical Change in Residential Institutions for Juvenile Delinquents, 1950-70," in *Punishment and Control in Historical Perspective*, ed. Helen Johnston (London: Palgrave Macmillan UK, 2008), 217-18.

¹⁴⁸ *Connacht Tribune* January 14, 1922.

¹⁴⁹ *Connacht Tribune* June 14, 1930.

¹⁵⁰ S. 69(1) and 85, 1908 Act; McAleese, "Report of the Inter-Departmental Committee to Establish," 310-12.

¹⁵¹ Contrast *Portsmouth Evening News* July 31, 1951; *Connacht Tribune* August 16, 1940.

¹⁵² *Cork Examiner* April 17, 1937.

¹⁵³ *West Briton and Cornwall Advertiser* July 13, 1942.

¹⁵⁴ *Limerick Leader* July 29, 1959.

magistrate, “would not be nice in after years.”¹⁵⁵ The *Daily Mirror*’s account of Ellen M. is typical; she was “saved from the degradation of prison by the pleading of a woman magistrate,” who insisted she go to the Liverpool Good Shepherds. Imprisonment would “be the breaking point...and a career of crime would follow.”¹⁵⁶ In 1946, a Galway District Justice said that at a convent the defendant would learn to make a living and would associate with “the better class of girl.”¹⁵⁷ In 1952, another District Justice assured a girl that the convent was a “hospital.” By going, she would avoid the “stain” of prison.¹⁵⁸ Convents could “steady” a “giddy” girl.¹⁵⁹ For English courts too, convents could “try to pull the girl up to become a responsible citizen.”¹⁶⁰ Irish judges sometimes promised younger girls a good convent education.¹⁶¹

Convents were considered especially suitable for women and girls who were too difficult to supervise in the community.¹⁶² As Barton writes, semi-penal institutions combined formal and informal methods of control and surveillance to “feminize” recalcitrant women.¹⁶³ Convent regimes emphasized manual domestic labor, bringing women’s and girls’ behavior into line with desired values of obedience and productivity.¹⁶⁴ Nuns were considered well-placed to train their wayward counterparts in femininity’s demands.¹⁶⁵ Convents’ single-sex environment ensured double separation from the world. Where women’s or girls’ sexuality was in issue,¹⁶⁶ a convent could teach them how to “properly inhabit relationships, homes and families.”¹⁶⁷ Convents could correct their behavior, returning them to society as potential wives and mothers.¹⁶⁸ Failing return, a longer confinement extinguished their potential for motherhood. This was particularly important in Ireland, where access to contraception was heavily restricted.¹⁶⁹ When a girl’s misbehavior was attributed to familial

¹⁵⁵ *East Kent Times and Mail* July 1, 1931.

¹⁵⁶ *Lancashire Evening Post* October 25, 1937.

¹⁵⁷ *Connacht Tribune* September 28, 1946.

¹⁵⁸ *Evening Herald* May 29, 1952.

¹⁵⁹ *Evening Herald* June 19, 1953.

¹⁶⁰ *Western Times* October 26, 1934. See also *Limerick Leader* September 25, 1954.

¹⁶¹ *Cork Examiner* July 30, 1958.

¹⁶² See e.g. *East Kent Gazette* February 1, 1947.

¹⁶³ Alana Barton, “Wayward Girls and Wicked Women’: Two Centuries of ‘Semi-Penal’ Control,” *Liverpool Law Review* 22, no. 2 (May 1, 2000): 157–71.

¹⁶⁴ Chloë K. Gott, “Productive Bodies, Docile Women and Violence: Exploring ‘Respectable Work’ as Physical Abuse within Ireland’s Magdalene Laundries,” *Religion and Gender* 11, no. 2 (November 22, 2021): 167–91.

¹⁶⁵ Hugh Ryan, *The Women’s House of Detention: A Queer History of a Forgotten Prison* (Boston, MA: Hachette, UK, 2022), 48.

¹⁶⁶ In England “sexually knowing” girls were often diverted into religious institutions; Cox, *Gender, Justice and Welfare*, 48–49.

¹⁶⁷ Mary Zaborskis, “Queering Black Girlhood at the Virginia Industrial School,” *Signs: Journal of Women in Culture and Society* 45, no. 2 (January 2020): 373–94.

¹⁶⁸ But see Zaborskis, “Queering Black Girlhood.” on post-release struggles.

¹⁶⁹ Ingrid Holme, “Spiritual Eugenics as Part of the Irish Carceral Archipelago,” *Journal of Historical Sociology* 31, no. 2 (2018): 154–64.

failings,¹⁷⁰ a convent could recover her inherent innocence by “resetting her intimate ties.”¹⁷¹ A 1934 Irish case illustrates this point. A Donegal District Justice wanted to send Joan K. to Derry’s Good Shepherds, for stealing a purse. He berated Joan’s father for raising “a pagan.” She must go to a “Catholic Home where...she would be brought up as a good christian.” Joan was “living a vagabond and criminal life... She had probably been baptised but she seemed to know nothing about Christianity... [I]t was absolutely essential that the girl to be saved should be placed in receipt of instruction and under discipline.” When Joan refused the convent, the judge instructed police to remove her younger siblings because her parents were “incapable of discharging their duties.”¹⁷²

Some judges’ confidence in convents held steady even when sentencing defendants who had been institutionalized previously.¹⁷³ In 1947, a Waterford District Justice sent Norah F. to the New Ross Good Shepherds for 12 months.¹⁷⁴ After a row with her mother, she stole a bicycle and pedalled seventy-five miles to Cork. For weeks, she slept rough by the Marina, earning food by “darning socks” for sailors. When one rejected her, she reportedly tried to drown herself at Victoria Quay. Police returned her to Waterford, where the judge said she was “gone beyond the beyonds” but promised the nuns would “give her life a different turn altogether.”¹⁷⁵ That turn never came. Norah appeared before him three more times at least. In 1948, she was charged with theft. She fled and was found in Birkenhead, having stowed away on a steamship.¹⁷⁶ In the same year, a probation officer reported that Jean P. was “unable to deal with life or earn her living,” despite time spent at Saltash convent. The probation officer insisted the convent had “made a difference.” So, Jean returned to learn shorthand and receive “training in character” for another year.¹⁷⁷ Women could spend their lives cycling between prisons and convents. Aged 17 in 1938, Joan A.’s smiling photograph appeared in the *Sunday Mirror*; her mother was searching for her.¹⁷⁸ Between then and 1953, she was imprisoned three times, and was sent to the OLC convent at Waterlooville on probation at least once. In 1951, she went to a convent again as her “last chance.”¹⁷⁹ Seven years later, Portsmouth magistrates sent her again to a convent on probation. She had been in court over twenty

¹⁷⁰ See e.g. *Tipperary Star* April 29, 1939. See further Alys Levene, “Family Breakdown and the ‘Welfare Child’ in 19th and 20th Century Britain,” *The History of the Family* 11, no. 2 (January 2006): 72.

¹⁷¹ Annette Louise Bickford, *Southern Mercy: Empire and American Civilization in Juvenile Reform, 1890–1944* (Toronto, Ontario: University of Toronto Press, 2017), 46.

¹⁷² *Donegal Democrat* January 27, 1934 and February 24, 1934.

¹⁷³ See e.g. *Connacht Tribune* June 27, 1959. For a rare woman considered damaged by her convent upbringing, see *Daily Mirror* September 21, 1938.

¹⁷⁴ *Munster Express* April 29, 1947.

¹⁷⁵ *Waterford News and Star* August 29, 1947.

¹⁷⁶ *Evening Echo* July 7, 1948.

¹⁷⁷ *Torbay Express and South Devon Echo*, April 8, 1948.

¹⁷⁸ *Sunday Mirror* March 20, 1938.

¹⁷⁹ *Portsmouth Evening News* July 2 and 31, 1951.

times.¹⁸⁰ For some courts at least, convents occupied a blind-spot, and could be used whether they “worked” or not. Courts, therefore, helped define a role for convents in the criminal justice system, and supported them to maintain it.

Refusing Judicial Mercy

English and Irish courts affirmed demands for female discipline; offering convent detention as a mechanism of social control, even when defendants openly resisted. Resistance is likely to have been deemed unreasonable by default because judges and newspapers understood convent detention not as a punishment but as a mercy. Time in a convent could be a “Godsend.”¹⁸¹ Doreen S. was sent to the Finchley Good Shepherds around Christmas 1930 in an act of “seasonal leniency.”¹⁸² In 1939, a Tipperary judge told Agnes B. he would send her to the Good Shepherds because she was “more unfortunate than anything else.”¹⁸³ Apparent mercy is a feature of judicial power.¹⁸⁴ It is a performance of civility by the one offering it, to one much less powerful.¹⁸⁵ Crucially, this performance enables the judge to appear humane while enforcing inhumane policies.¹⁸⁶ Karen Brennan argues that judicial compassion preserved existing patriarchal structures.¹⁸⁷ Hugh Ryan for his part writes that women’s carceral institutions “hide every social problem we refuse to deal with.”¹⁸⁸ In a sobering English case from 1939,¹⁸⁹ a senior judge was confronted with Edward C. who came home from Canada and fell in love with his sister Freda on their first meeting. They were charged with incest. Edward returned to Canada, and when Freda offered to go to the OLC Bartestree convent, the judge said, perhaps relieved, “Ah that is the solution.” Edward and two of his brothers first went to Canada as child migrants, in an organized transfer from Birmingham’s Fr. Hudson’s Home. The answer to problems generated by family separation and institutionalization was further exile and confinement. Judicial mercy did not disrupt broader structural injustices.¹⁹⁰ Offers of “mercy” always came backed by a sanction.¹⁹¹

¹⁸⁰ *Portsmouth Evening News* January 14, 1958. Contrast *West Briton and Cornwall Advertiser* July 13, 1942.

¹⁸¹ *Boston Guardian* December 3, 1931.

¹⁸² *West Sussex Gazette* January 2, 1936.

¹⁸³ *Nenagh Guardian* May 2, 1939.

¹⁸⁴ Bickford, *Southern Mercy*, 76–77.

¹⁸⁵ Karen Brennan, “Social Norms and the Law in Responding to Infanticide,” *Legal Studies* 38, no. 3 (September 2018): 480–99.

¹⁸⁶ Barak Kalir, “Repressive Compassion: Deportation Caseworkers Furnishing an Emotional Comfort Zone in Encounters with Illegalized Migrants,” *PoLAR: Political and Legal Anthropology Review* 42, no. 1 (2019): 68–84.

¹⁸⁷ Karen Brennan, “Murderous Mothers & Gentle Judges: Paternalism, Patriarchy, and Infanticide,” *Yale Journal of Law and Feminism* 30, no. 1 (2018): 139–96. Lynsey Black, “‘On the Other Hand the Accused Is a Woman...’: Women and the Death Penalty in Post-Independence Ireland,” *Law and History Review* 36, no. 1 (February 2018): 139–72.

¹⁸⁸ Ryan, *The Women’s House of Detention*, 18.

¹⁸⁹ *Birmingham Daily Post* January 26, 1939.

¹⁹⁰ A rare counter-example is *Daily Herald* January 16, 1959. A recorder heard this case. A sympathetic solicitor represented the girl.

¹⁹¹ Ryan, *The Women’s House of Detention*, 20.

In principle, defendants consented to probation orders.¹⁹² Many made no reported protest.¹⁹³ When Patricia B. was arrested at the Finchley convent in 1938, she reportedly insisted on remaining there. The probation officer said she needed “to withdraw from ordinary life.”¹⁹⁴ Voluntariness, however, was not the absence of pressure. In both England and Ireland, women and girls sometimes openly preferred prison.¹⁹⁵ In 1941 Skibbereen, Mary W. refused to go to a convent. Her grandfather said “[s]he had gone beyond him.” The District Justice said Mary would be “made to go.” “You will have no choice in the matter.”¹⁹⁶ In Westmeath in 1952, a District Justice told another girl he would “force her” into a convent.¹⁹⁷ Often women and girls were unrepresented,¹⁹⁸ but sometimes, relatives resisted on their behalf. An Irishwoman in Sussex, Anna R. stole from her employers. Her father and sister wanted her to return to Ireland,¹⁹⁹ but the magistrates insisted she go to Staplehurst’s Good Shepherds.²⁰⁰ Hilda P.’s mother, “a little woman in respectable black,” asked that her daughter not be sent to an English convent, offering a letter from “some person in authority” describing her family circumstances. She was ignored.²⁰¹

Often, resistance meant verbal retort or physical struggle.²⁰² Sometimes it meant absconding²⁰³ from courtrooms or convents.²⁰⁴ Eileen B. was sent to borstal following her sixth escape from Bristol’s Good Shepherds in 1935.²⁰⁵ A girl escaping from Cork’s Good Shepherds in winter 1933 attempted suicide by jumping into the freezing River Lee.²⁰⁶ Others went to convents but, once there, became so “troublesome” or “disruptive” the nuns refused to keep them.²⁰⁷ Maura D. “broke everything that came in her way” and had to be

¹⁹² Curtis Report p. 17; Eileen Kennedy, “Reformatory and Industrial Schools System Report” (Dublin: The Stationery Office, 1970), 39.

¹⁹³ See e.g. *Cork Examiner* April 3, 1948; *Southern Star* October 11, 1958.

¹⁹⁴ *Yorkshire Evening Post* June 24, 1938. See also *Cork Examiner* December 9, 1936;

¹⁹⁵ *Connacht Tribune* January 14, 1930; *Leicester Evening Mail* February 3, 1958. On preferring prison, see Settle, *Probation and the Policing of the Private Sphere in Britain, 1907–1962*, 195–97.

¹⁹⁶ *Southern Star* November 15, 1941.

¹⁹⁷ See e.g. *Evening Herald* December 3, 1952.

¹⁹⁸ The Poor Prisoners Defence Act 1930 provided for legal aid in limited circumstances. The Legal Aid and Advice Act, 1949 extended provision. Ireland introduced criminal legal aid in 1965, under the Criminal Justice Act, 1962.

¹⁹⁹ On English courts returning Irish women to Ireland, see e.g. *Birmingham Daily Gazette* October 1, 1953.

²⁰⁰ *Eastbourne Chronicle* January 21, 1939.

²⁰¹ *Marylebone Mercury* January 22, 1938.

²⁰² Anita Stelmach, “‘It Was Pandemonium Let Loose’: Rioting, Resistance and Punishment at the Early Twentieth-Century Girls’ Reformatory at Redruth, South Australia,” *History Australia* 19, no. 3 (May 18, 2022): 1–19; Eloise Moss, Charlotte Wildman, and Ruth Lamont, “Reintegrating Agency, Regulation and the Economy into Histories of Child Emigration from NorthWest England to Canada, 1860–1930,” *History Compass* 19, no. 1 (2021): e12642.

²⁰³ *Western Daily Press* November 21, 1930.

²⁰⁴ *Cornishman* July 14, 1942; *Wokingham Times* July 8, 1949; *Hendon and Finchley Times* August 11, 1939; *Liverpool Echo* March 15, 1954.

²⁰⁵ *Western Daily Press* March 2, 1935.

²⁰⁶ *Cork Examiner* December 15, 1933.

²⁰⁷ See similarly Harrison, *Regulating Youthful Leisure*, 178.

removed from an Irish convent.²⁰⁸ Her probation officer said she needed more training. Resisters may have been institutionalized earlier in life—“voluntarily” or otherwise—and refused the convent based on their experiences.²⁰⁹ Madge F. escaped from the English convent where she had been ordered to reside for two years. She told magistrates she had “been locked up too long and did not want to go away.”²¹⁰ In 1956, a young Irishwoman knelt before Eastbourne’s magistrates, begging them not to send her to a convent “training school.” The probation officer persuaded her to go. Her brother said she had spent most of her childhood in an Irish convent where the nuns were “rather rough with her.”²¹¹

Reported tears, Daniel Grey suggests, may reflect journalists’ desire to produce “morality tales” for eager readers.²¹² Charlotte Wildman shows newspapers amplifying accounts of resistance to satisfy readers’ interest in threats to the social order.²¹³ At the same time, as Tamara Myers and Joan Sangster argue, resistance in the moment of punishment is not always a spontaneous and undirected reflex. It may be an attempt to “salvage autonomy and self-respect.”²¹⁴ Tears and screams, Hartman writes, “make manifest the latent rebellion simmering beneath the surface of things.”²¹⁵ Tears could be met with disdain. “Don’t be going on with any of your blubbing,” said one Irish District Justice to the crying girl before him.²¹⁶ Some people were better able to perceive what might lie beneath the surface. In 1937, Wendy O. was stealing bottles of milk from doorsteps. She was hungry, homeless and estranged from her parents. A woman called to give evidence against her, wept and said she could not testify against “a girl like that.” Wendy was sent to Bristol’s Good Shepherds. At this, she “burst into tears and another person in the well of the court also began to cry.”²¹⁷ This story suggests knowledge about institutionalization circulated among women, but courts did not recognize it.

Some judges characterized resistance as simple defiance. Croom-Johnson J. was a senior judge, but his attitude is instructive. In 1939 he dealt with Moira K. who refused to stay in a Liverpool Good Shepherd convent on probation. She had “indulged in bouts of screaming” and, a probation officer reported, had been “prepared to fight her way out.”²¹⁸ She came to court

²⁰⁸ *Evening Echo* October 22, 1932.

²⁰⁹ See e.g. *East Kent Times and Mail* July 1, 1931.

²¹⁰ *Lancashire Evening Post* July 23, 1953.

²¹¹ *Eastbourne Herald* May 19, 1956.

²¹² Daniel Grey, “‘Agonised Weeping’: Representing Femininity, Emotion and Infanticide in Edwardian Newspapers,” *Media History* 21, no. 4 (October 2, 2015): 468–80.

²¹³ Wildman, “An ‘Epidemic of Shoplifting’?,” 289–90.

²¹⁴ Tamara Myers and Joan Sangster, “Retorts, Runaways and Riots: Patterns of Resistance in Canadian Reform Schools for Girls, 1930–60,” *Journal of Social History* 34, no. 3 (2001): 669–97.

²¹⁵ Hartman, “The Anarchy of Colored Girls Assembled in a Riotous Manner,” 484. See e.g. *Marylebone Mercury* August 29, 1936.

²¹⁶ *Munster Express* March 14, 1952.

²¹⁷ *Western Daily Press* February 24, 1937.

²¹⁸ *Liverpool Echo* July 19, 1939.

head bowed and sobbing. Sending her to borstal, the judge berated her: “You appear to have treated the obligation you entered into as waste paper. You appear to have set the court at defiance. You appear to have determined to go to perdition in your own way...There were circumstances which made me think that yours was a case in which an effort to reclaim you from the vicious course upon which you embarked might be made. I wish people who talk so much about trying to reform people who come into the committal court had some appreciation of the difficulty of the task.”

This article cannot establish what individual judges knew of conditions in the convent institutions to which they sometimes sent women and girls despite their protests. What is clear is that courts paid limited heed to women’s and girls’ voices, or to their experiences of institutionalization, preferring discourses of reform and mercy which turned resistance into irrationality.

Conclusion

Some judges presented convent detention as an everyday practice of mercy. This attitude was not uniquely Irish; it was also compatible with liberal English welfarist approaches to “child protection” and “youth justice.” What does this mean for state efforts to address histories of abuse in religious institutions once part of the criminal justice system? I concentrate on Ireland since successive Irish governments have, in some respects, recognized convent detention as a grave wrong. Some Irish judges’ statements indicate enthusiasm for the convent system. Others may have been indifferent to or wilfully ignorant of its realities, or believed their role was to enforce the law, rather than to resist incarceration. For now, I set aside the question of their personal responsibility.²¹⁹ I share concerns, echoed in the transitional justice literature, around states’ framing of individual guilt.²²⁰ In particular, Irish state-commissioned histories often recognize it only where bad agents departed radically from the domestic legal “standards of the time.”²²¹ Fidelity to past standards is assumed to ensure fairness to alleged perpetrators and their institutional successors; shielding them from anachronistic blame. However, as Scott Veitch argues, a focus on compliance with law preserves law itself;

²¹⁹ An analysis could critique judges’ formalist adherence to prevailing standards; Paul Greedy and Lazarus Kgalema, “Magistrates Under Apartheid: A Case Study of The Politicisation of Justice and Complicity In Human Rights Abuse,” *South African Journal on Human Rights* 19, no. 2 (January 1, 2003): 141–88; Scott Veitch and Emiliios Christodoulidis, “Reflections on Law and Memory,” in *Legal Institutions and Collective Memories*, ed. S. Karstedt (Oxford: Hart, 2010), 67. Ari Hirvonen, “Total Evil: The Law under Totalitarianism,” in *Law and Evil*, eds. Ari Hirvonen and Janne Porttikivi (Abingdon: Routledge-Cavendish, 2009), 133.

²²⁰ See in particular, Honni van Rijswijk, “Complicity as Legal Responsibility,” *Law & Literature* 30, no. 1 (January 2, 2018): 149–65; Michael Rothberg, *The Implicated Subject: Beyond Victims and Perpetrators* (Stanford: Stanford University Press, 2019), 200. Matt James, “The Structural Injustice Turn, the Historical Justice Dilemma and Assigning Responsibility with the Canadian TRC Report,” *Canadian Journal of Political Science* 54, no. 2 (June 2021): 374–96.

²²¹ Katherine O’Donnell, “Commission to Inquire into Ireland’s Mother and Baby Homes: An Epistemology of Ignorance,” in *Epistemic Injustice and the Philosophy of Recognition*, eds. Paul Giladi and Nicola McMillan (Abingdon: Routledge, 2022), 234.

installing it as the sole arbiter of wrong-doing absolves it of violent associations.²²² Downplaying the role of the legal system except to criticise discrete acts of illegality forecloses any exploration of law's wider role in repression.²²³ In turn, this approach distracts from ordinary women's and girls' experience of oppressive legal processes, from their resistance and its punishment.

Ireland's McAleese report takes this approach, emphasizing that most women and girls came to convents by "non-state" routes; sent by families, charities or religious agents, without judicial oversight.²²⁴ McAleese does not criticize judges:²²⁵ in sending women and girls to convent institutions they adhered to the standards of their time. The McAleese Committee reports that no woman sent to a Magdalene laundry by the criminal courts participated in its research process.²²⁶ It matters then, that early in the report, readers are reminded that criminalized women and girls sent by the courts, like Molly M., were a minority. McAleese says it would be "an unforgivable injustice" to overlook the distinction between them and the majority of women and girls who committed no offence.²²⁷ The authors' intention here may have been to honour the majority of women sent to Ireland's Magdalene laundries. However, this reference to criminality implicitly immunizes law from any criticism; certain women's and girls' detention was legal and therefore legitimate, even if their subsequent suffering was not. It also means that some women and girls sent to Magdalene laundries still carry criminalization's stigma; one reinforced by comparison with the state's preferred survivors, who did not break its laws.²²⁸

Whereas mainstream transitional justice mechanisms like the McAleese inquiry assess past harm by foregrounding individual transgression, abolition, and critical transitional justice scholars demand "transformative justice," which decenters individual perpetrators, focusing instead on the unequal power structures within which they operated.²²⁹ That means attending to structural harms overlooked or legitimated at the time they took place,

²²² Scott Veitch, *Law and Irresponsibility: On the Legitimation of Human Suffering* (London: Routledge-Cavendish, 2007), 87–88.

²²³ Veitch, *Law and Irresponsibility*, 10, 12, 86, 93.; David Dyzenhaus, *Judging the Judges, Judging Ourselves: Truth, Reconciliation and the Apartheid Legal Order* (Oxford: Hart Publishing, 1998), 7; Zinaida Miller, "Temporal Governance: The Times of Transitional Justice," *International Criminal Law Review* 21, no. 5 (June 28, 2021): 857–58.

²²⁴ See echoes in the state apology, recognising state involvement, but foregrounding societal and familial responsibility; "Taoiseach Enda Kenny's Statement on Magdalene Report," accessed October 12, 2024, <http://static.rasset.ie/documents/news/kenny-magdelene-speech.pdf>.

²²⁵ McAleese, "Report of the Inter-Departmental Committee to Establish," 856.

²²⁶ McAleese, "Report of the Inter-Departmental Committee to Establish," vii.

²²⁷ McAleese, "Report of the Inter-Departmental Committee to Establish," xi.

²²⁸ On sidelined resistance and idealized victims, see Bronwyn Leebaw, "Lost, Forgotten, or Buried? Transitional Justice, Agency, and the Memory of Resistance," *Politica & Società* 2 (2013): 237–64.

²²⁹ See for example, James Gallen, *Transitional Justice and the Historical Abuses of Church and State* (Cambridge: Cambridge University Press, 2023), 55–80. Emily Jones, "Gender and Reparations: Seeking Transformative Justice," in *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity*, eds. Carla Ferstman and Mariana Goetz (Leiden, Netherlands: Brill, 2020).

including harms of gendered subordination within legal processes.²³⁰ Such analysis may disturb some Irish judges' reputational prestige. However, transformative justice always requires some disturbing encounter with those harmed by past abuse.²³¹ This means that transformative justice requires critical legal history. Critical legal history, as Christopher Tomlins writes, extracts historical objects from their past places and anchors them to the present, reconstructing them in terms of contemporary understandings, and emphasizing injustices which were once unrecognizable.²³² This article draws on abolition feminism to offer such a critical legal history. It shows that courts used convent detention to punish moral as well as legal transgression, and that they offered crucial support to convent institutions. In court, resistance to convent detention was pathologized or overlooked. Courts were entangled in wider gendered moral structures sustaining convent detention. In remembering these structures, this article attempts some justice to the memory of Molly M. and those like her; difficult and stubborn, immune to parental heartache, a mystery to policemen, unwilling to respect laws keeping wealth and pleasure out of their hands, resourceful, determined and often brave.

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Máiréad Enright is Professor of Feminist Legal Studies at the University of Birmingham.

²³⁰ Fionnuala Ní Aoláin, "Transformative Gender Justice?" in *From Transitional to Transformative Justice*, eds. Paul Gready and Simon Robins (Cambridge: Cambridge University Press 2019), 4.

²³¹ See e.g. Rosemary Nagy, "Settler Witnessing at the Truth and Reconciliation Commission of Canada," *Human Rights Review* 21, no. 3 (September 1, 2020): 219–41.

²³² Christopher Tomlins, "'Be Operational, or Disappear': Thoughts on a Present Discontent," *Annual Review of Law and Social Science* 12 (October 27, 2016): 19. See also Scott's notion of "reparatory history," written in recognition of ongoing injustice; David Scott, "Preface: A Reparatory History of the Present," *Small Axe* 21, no. 1 (2017): vii–x.

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