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‘Benefactors and Friends’

Charitable Bequests, Reparation and the Donnybrook Laundry¹

Máiréad Enright

Magdalene orders’ requests for public financial support were once a mundane part of Irish life. Raidió Éireann’s listeners, tuning in on Halloween evening, 1970,² would have heard Fr Phillip O’Driscoll’s appeal for donations to Donnybrook Magdalene Laundry (DML), in a five-minute slot between the Angelus and Sports Time.³ That ordinariness was mirrored in the law. Focusing on charitable bequests, this chapter uses DML to explore the concepts of charity central to the laundries’ operation. The first section explores how bequests both normalized and funded abuses in DML in the period 1922–72.⁴ The second examines how concepts of charity operating during this period are inherited in contemporary efforts at ‘redress’ and ‘restorative justice’. The chapter closes by showing how religious charity’s uses are revealed and refracted in the controversy over Ireland’s new National Maternity Hospital.

Past: Charity against abuse

DML, like other Magdalene Laundries and religious institutions, solicited and obtained bequests from Irish benefactors throughout the twentieth century. As discussed elsewhere in this collection,⁵ DML’s archives are not ordinarily open to researchers. This makes it difficult to analyse individual motivations for leaving money to the laundry, or to understand how bequests were treated once received. However, newspaper notices of these bequests give a sense of those leaving larger amounts. Some were priests. Most were lay people. They were generally men of the merchant, professional and landlord classes, their widows and their surviving daughters, who prospered as Ireland settled into independence. Some were strong farmers. Many lived in wealthier Dublin suburbs such as Rathgar, Dún Laoghaire, Terenure, Ballsbridge and Donnybrook itself. They include well-known Dubliners such as nationalist politician and industrialist Sir Joseph Downes,⁶ publican Davy Byrne,⁷ banker Thomas Patrick Morrissey,⁸ Senator George Nesbitt⁹ and his wife Enid¹⁰ and Kate Ellen

Malone,¹¹ widow of the brewer and distiller Laurence Malone. Testators tended to leave several charitable bequests to several religious institutions, rather than a single large donation. In 1924, for example, one John Dowling left his money to over thirty religious organizations.¹² Some left money to more than one Magdalene or rescue institution. Generally, bequests were in cash, but other gifts were possible. William James Devereux, a retired merchant from Wexford, bequeathed the Mother Superioress at Donnybrook £200 worth of 'guaranteed stock' in the Great Southern and Western Railway Company of Ireland.¹³ The Dublin grocer Philip Joseph Doyle directed that his properties at 73–77 Church Street should be sold and the proceeds divided equally between a number of religious organizations, including DML.¹⁴ Most testators included a gift in exchange for Masses for the repose of their souls, and some included gifts to their parishes of origin.¹⁵

In leaving money to DML, some testators may have been honouring care obligations.¹⁶ For instance, some widows who left such bequests had themselves lived in old age in the fee-paying institutions of the Religious Sisters of Charity (RSC), including St Monica's Widows' Home, Belvedere Place and St Mary's Home on Merrion Road.¹⁷ Others may have had relatives who were RSC sisters. For example, in 1934, the Wexford stockbroker James John Keating¹⁸ left £1,000 to DML 'for the charitable purposes of the convent as the superioress shall think fit'. He separately left £500 to the superioress of the Donnybrook convent at Floraville Road, where his sister, Ellen Mary, was a nun. Most people, however, left money for the laundry's charitable purposes.

Charitable bequests featured in discourses normalizing women's confinement in the Magdalene Laundries and legitimating their punishment. Although couched in the language of benevolence, charity rarely takes the form of pure gift.¹⁹ Mary Douglas cautions that: '[t]here are no free gifts: gift cycles engage persons in permanent commitments that articulate the dominant institutions.'²⁰ Critical scholars emphasize that giving charitably is an opportunity²¹ to cultivate compassion, good judgement and generosity, in the selection of favoured causes.²² As Nancy Goldfarb puts it, charity is a means both to assuage one's guilt and 'purchase a delicious self-approval.'²³ It is also an exercise of power; it affirms one's status as one of those able to give; a member of a charitable elite.²⁴ John H. Hanson explains the status compensations of charitable donation:

Charity is enacted through scripted activities, rituals, and social signals that co-opt class conflicts by the seeming surrender of resources. Gift giving, while overtly an act of voluntary loss, occurs within a covert framework of cultural compensation in which recognition, status affirmation, and other emoluments offset or negate that loss.²⁵

These motivations are especially powerful in the context of bequests, when testators think about the legacy they would like to leave after their deaths. A bequest carries an element of generativity; 'a desire to invest one's substance in forms that outlive the self.'²⁶ Bequests can ensure the continuity of important institutions, and communicate moral lessons to those left behind.²⁷ Intentions to mobilize these ambitions are apparent in the fundraising materials employed by the RSC and their advocates to provoke the consciences of wealthy readers: encouraging potential benefactors to imagine

themselves as agents of rescue.²⁸ They use hierarchical language, reinforcing moral and class divisions between benefactors and their imagined women beneficiaries.²⁹ In a Christmas newspaper appeal in 1916, the Donnybrook RSC wrote that:

Those who help in the salvation of souls will, undoubtedly get a rich reward from Him, Who, in the great accounting day will use these consoling words. 'Amen I say to you, Whatsoever who did to the least of My brethren, you did it unto Me.'³⁰

In a 1932 charity sermon, a Fr Harnett told listeners that 'the charitable public should show their love for Jesus by helping these poor lowly ones back to His feet.'³¹ Charity was understood as a tool of social reform; given subject to conditions related to character, deservingness and accountability. Because charity, by definition, is exceptional giving to those in need, charitable organizations like DML produced and reproduced theories of the origins of that need, whether of individual failing or social injustice. References here to the 'least' and the 'lowly ones' distinguish the 'fallen' women and girls in DML from their morally upstanding benefactors.

Many testators will have understood that the laundry's work would cease without their donations. In 1938, in a charity sermon on behalf of DML, Fr Simon Hayes told his audience that:

The main support of the institution was from the laundry work of the inmates but it was wholly inadequate and there were moments of gloom and almost despair in the lives of those who controlled the destinies of the refuge at the heartrending thoughts that after all their sacrifice they would have worked in vain. Worse still, that owing to the lack of material resources they might have to refuse some poor penitent whose only hope of salvation lay in such a home of innocence, and to whom the only other awful and appalling alternative was the certainty of perishing in sin in former haunts of shame.³²

This theme of institutional poverty as an obstacle to essential welfare work echoes across appeals for donations. In October 1947, Fr Colman O'Driscoll told radio listeners that:

[D]espite the spiritual importance of the social work done by the nuns in charge of the home, they received no assistance from the State and were dependent on the donations and legacies of the charitable and the small income derived from the laundry work. The home, however, even with the charity of the faithful and the industry of the penitents was under a heavy debt owing to the high cost of living.³³

One radio appeal informed listeners that improvements to the Donnybrook complex had strained the nuns' financial resources: 'The nuns had no grants and depended for their income on work done by the sisters and the girls and on voluntary donations. It was no easy task to provide for over 100 people.'³⁴ These claims reinforced the sense of the sisters' goodness and their honour and stature as charitable workers,³⁵ while allowing testators to establish themselves as key patrons of their essential work.

Some testators will have received their sense of purpose from advertisements and sermons. Others who gave to DML likely had intimate knowledge of its work and of the kinds of women affected. Here are three Dubliners who left money to DML. Con Kennedy was the owner of Kennedy's (later Kiely's) pub, a minute's walk from the laundry.³⁶ From 1899, he served as an elected Poor Law Guardian of the South Dublin Union at Pembroke West. He was also a councillor on Pembroke District Council. The barrister Lawrence William Raymond Murphy³⁷ was Registrar of the High Court for twenty-five years, only retiring shortly before his death, aged 72. He was a prominent member of the Society of St Vincent de Paul.³⁸ His obituary noted that he made seventy-five pilgrimages to Lough Derg and fifty-eight to Croagh Patrick.³⁹ Genevieve McDermott was an unmarried member of the Third Order of St Francis, attached to the Capuchin Friary on Church Street where members also included Frank Duff (founder of the Legion of Mary) and Matt Talbot (who is now a candidate for canonization).⁴⁰ These people were active in organizations having responsibility for the poor, and in Dublin Catholic charities. All would have had a clear sense of how DML would use their money.

Past: Gift economies?

Although the charitable bequest is formally a kind of gift, it is simultaneously rooted in a transaction. In medieval Catholic teaching, it was understood that a testator who did not fund 'works of great mercy' on his death placed his salvation at risk.⁴¹ This teaching remains at the root of charity law: one origin of the *cy-près* doctrine lies in the power of the Church authorities, and later the King, to correct a failed bequest, so that the testator's wealth would go to some suitable cause and his eternal reward would be assured.⁴² This idea was still at work in twentieth-century Dublin. A 1928 advertisement in the *Irish Times* promised that: 'These Souls, so dear to Christ, pray DAILY for their BENEFACTORS AND FRIENDS.'⁴³ At a 1922 charity sermon for DML, Fr Malachy Cranfield assured the congregation that:

By giving generously in aid of this most deserving charity they would be earning for themselves that reward which was promised to those who helped in such good works.⁴⁴

As Olivia Frehill has written, faithful Catholics living in Ireland at the time would have understood that giving to the poor in exchange for prayer was an investment in their own salvation. Indeed, the prayers of the poor purchased through charity were especially valuable, since the poor were closer to God.⁴⁵ Without this religious underpinning, the transaction made little sense. Testators made charitable gifts to DML. Women working in the laundry could not reciprocate their benefactors' 'gift' in ordinary financial terms. Within the 'divine economy', however, gift-giving produced symbolic capital for the benefactor; capital rooted in concepts of faith, gratitude and women's sinfulness and redemption.⁴⁶ The law on charitable giving, in turn, enabled religious congregations to convert religious belief and associated symbolic capital into material resources.

Charity inevitably involves something of the secular as well as the supernatural.⁴⁷ Bequests were a redistribution of community wealth. The MP Jeremiah McVeagh once said of Joseph Downes, who left a generous bequest to DML, that:

he posed as a philanthropist and from time to time gave generous subscriptions to charitable institutions; but . . . he should henceforth credit his subscriptions to his unfortunate tenants.⁴⁸

Through the bequests of wealthy citizens, the income of Dublin's lower-middle and working classes – the very classes regulated by institutions like DML – became part of its funding engine. Joseph Downes' tenants and those who bought his Butterkrust bread, those who drank pints at Davy Byrne's or Con Kennedy's pubs, those who kept accounts with the National Bank, indirectly funded the Magdalene institutions who benefited from the wills of these wealthy men.⁴⁹ That said, although their customers participated indirectly in the Magdalene economy, it was wealthy testators who directed this share of the city's wealth towards DML. The bequest was much more than an intimate spiritual transaction. It also demonstrated political commitment to the place of charity in the wider economic order. The benefits of charity can be bought cheaply; only token-giving is required.⁵⁰ As Maria Brenton wrote, charities enabled the 'control and patronage of the poor by the wealthy classes, for whom any more radical changes in the distribution of wealth would have been unthinkable'.⁵¹ At the same time, those who might give enough to direct the flow of charity might 'multiply their influence, guide the destiny of others, and co-opt redistribution'.⁵²

In the early decades of the State, papal encyclicals and the Irish Catholic hierarchy encouraged subsidiarity in welfare policy, with serious consequences for the poor.⁵³ Whereas socialists aim to change the hegemonic social structures which have made charity seem necessary, charity itself preserves those structures by making them bearable, or survivable for those who suffer most under capitalism. Charity establishes, reinscribes and naturalizes a hierarchical relationship between rich and poor. Hanson writes:

It sanctifies inequality by providing the ritual space in which ceremonial loss can take place without redistribution, allowing affluent chieftains, circumscribed with tribute gifts and alliances, to seemingly surrender wealth without the fear of direct expropriation, noblesse oblige preserving loss of face and loss of wealth.⁵⁴

There is also a clear sense in which, throughout the early life of the Irish state, private charity was a preferred mode of governing stigmatized people.⁵⁵ Each bequest and each donation to DML depended on the understanding that the women held in the Laundries would otherwise be destitute or put in danger, but that, at the same time, they deserved, not income or economic independence, but privately funded and inexpensive reformation. Reformation did not always mean a return to society. Claire McGettrick has shown that many women remained in DML for decades, ultimately dying there.⁵⁶

By and large, Irish charity law supported this mode of governing the poor within institutions such as DML. Charity law is 'power-conferring'; its purpose is to harness

individual autonomy and wealth towards preferred public and collective ends.⁵⁷ Charity law begins in the thirteenth century as the law of gifts given for 'pious causes'.⁵⁸ Pious causes honoured God and the Church.⁵⁹ As well as gifts funding acts of worship, they included gifts to organizations working with the poor and destitute.⁶⁰ In Britain and Ireland following the Reformation in the sixteenth century, as the state began to assume more responsibility for welfare, legally supported charity became secularized, and greater emphasis was placed on charity as a means of alleviating poverty.⁶¹ This is reflected in the Statute of Uses, 1601, which encouraged private contributions to purposes believed to be of general benefit to society.⁶² Charity law in twentieth-century Ireland was not concerned with how the subjects of charity experienced the activities funded by their 'benefactors'. Under Irish law, in the past as today, advancement of religion is recognized as a charitable purpose,⁶³ and a gift for the benefit of a religious organization is presumed to be for the public benefit.⁶⁴ This legal association of religious purposes and public benefit is deeply political. In Ireland it has a distinctive nationalist history. The right to channel money to religious orders was bound up with anti-Catholic laws in force before Ireland gained independence.⁶⁵ The Free State and its judiciary worked to ensure that the last remainders of these restraints were removed from Irish law.⁶⁶

Magdalene Laundries were rarely the subject of litigation under charity (or any other) law in the twentieth century. The few cases where bequests to Magdalene Laundries generated controversy concerned, not the legitimacy of funding a Magdalene institution per se, but questions around whether the testator's intention had been properly respected.⁶⁷ For instance, in a 1942 unreported High Court case, Mr Justice Gavan Duffy had to decide whether a solicitor's bequest 'for the Magdalen Asylum, Dublin' should go to Donnybrook or Gloucester Street, eventually determining that it should be split between them.⁶⁸ That Magdalene Laundries were brutal places did not affect the legality of transfers of property to their congregations. Where the law on donations to religious charities associated gender with vulnerability, it tended to focus on wealthy donors' autonomy and decision-making, rather than on how the power generated by their money would be applied to female 'beneficiaries'.⁶⁹ This inattention to the lived impact of charitable redistribution of wealth was reflected elsewhere in the law. In particular, the law on inspection of factories distinguished sharply between the state power to determine working conditions⁷⁰ and the religious orders' moral and charitable jurisdiction over living conditions.⁷¹ Similarly, in *Good Shepherd Nuns v. Commissioner of Valuation*,⁷² the High Court confirmed the state's power to charge rates on property used for a Magdalene laundry's profit-making⁷³ activities,⁷⁴ but did not interrogate how this profit derived from unpaid labour.⁷⁵

Before and after independence, Irish charity law supported flows of income to laundries like DML not only by permitting bequests without any substantive regard to the activities they would fund, but also by enabling laundries to receive them tax free, and by exempting them from the requirement to pay women who were confined to Magdalene Laundries for their work.⁷⁶ The Finance Act, 1921, exempted charities from income tax on the profits of trade 'if the work in connection with the trade is mainly carried on by the beneficiaries of the charity and the profits are applied solely to the purposes of the charity'.⁷⁷ Paid non-resident employees of a charity were not considered

'beneficiaries' but women confined to a Magdalene laundry were.⁷⁸ The Donnybrook laundry was first formally recognized for this purpose in 1921.⁷⁹ Here the law on income tax reinforced the exploitation of unpaid labour.

Present: Echoes of charity in responses to 'historical' abuse

Charity remains essential to our understanding of the wealth still held by the RSC in Ireland today and their entitlement to retain it. Bequests and small donations were not the only income generated by the DMLs 'charitable' work, or by the RSC's wider activities. The RSC were generally free to invest funds raised, particularly in property, amassing significant wealth over time.⁸⁰ Today, much of their money is held in charitable trusts. Apart from direct income, the congregation's involvement in charity afforded them significant social capital that could later be put to work for other purposes. Today, although DML is closed, the RSC retain roles as providers of health and 'welfare' services and the congregation retains its charitable status. Its portfolio of charitable work includes, not only activities connected to survivors of abusive religious-run institutions in Ireland, but projects relating to sex work (Ruhama), immigration (Immigrant Council of Ireland), healthcare (St Vincent's University Hospital) and homelessness (Focus Ireland).⁸¹ These echo the congregation's participation in older 'destitution economies'⁸² and allows it to retain outside influence over matters of social policy.

To some extent, the state now recognizes that laundries like DML were sites of human rights abuse. However, the notion that the RSC were, and are, engaged in charitable work dramatically curtails responsibility – theirs and the state's – to survivors of that abuse. The sense that religious-owned property is the fruit of charitable endeavour may immunize it from demands for redistribution via state-administered redress.⁸³ There are traces of this in the *Report of the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries (IDC Report, 2013)*. For example, the Report constructs the income from women's unpaid laundry work as an essential support to the Magdalen Laundries' operations when charitable funding waned.⁸⁴ In correspondence with the IDC Inquiry on behalf of the Sisters of Mercy, a representative of the financial services firm L&P Cantor Fitzgerald notes that the orders' accounts did not impose charges for the 'services provided by [religious sisters] in the management and operation of the Home and Laundry and the use of its premises'.⁸⁵ The implication here is that it would be unjust to expect the congregation to part with assets derived from voluntary and charitable labour. The congregations are still positioned, not only as altruists, but as authoritative, prudent managers of collective wealth, entitled to prioritize other projects over survivors' claims. The state's continuing dependence on private charity and individual reform in addressing deprivation means that it can be difficult to unsettle that hierarchy. In recent years, some congregations have also argued that there is a tension between contributing to compensation schemes for victims of institutional abuse and pursuing their contemporary charitable mission.⁸⁶ In 2013, the then Minister for Justice, Alan Shatter, said that he could not strip orders formerly involved in running Magdalene Laundries of their charitable status to punish

their refusal to contribute to redress funds because they were still involved in charitable work. In practical terms, charitable work today insulates the orders from responsibility for the harms of charity yesterday.⁸⁷

Charity also continues to shape state understanding of survivors as legal subjects; they remain, to some extent, objects for generosity rather than rights-bearing subjects entitled to full reparations.⁸⁸ The state's redress schemes do not alter that position. Funds are administered on an *ex gratia* basis.⁸⁹ Stephen Winters argues that *ex gratia* payments and charity have much in common. Like charity, an *ex gratia* scheme does not recognize any right of relief; whether a right to compensation for a specific wrong, or a more general right as a citizen to healthcare, housing or social support.⁹⁰ Like charity, the Irish *ex gratia* redress scheme for women formerly held in Magdalene Laundries did not acknowledge liability for harms suffered in the laundry. It did not acknowledge that these women were entitled as citizens to financial supports other than the private provision they had received from the RSC via their benefactors and funders. *Ex gratia* schemes keep applicants in a subordinate position both to the state and to the religious orders.⁹¹ Women were required to waive any right of action against the state or any other public or statutory body, as a condition of participation in the scheme. In determining how much money each applicant deserved, the state relied on the religious orders' records, even where those were contradicted by women's oral testimony or witness evidence. Many applicants to the scheme were living in the poverty and deprivation which commonly followed time in a laundry. Some were still living in institutions run by the orders. For these women in particular, the marginalization and exclusion that legitimated their abuse in the first place now determined how that abuse could be redressed.⁹² There is, perhaps, a hint of testators past in shaping the purposes of the redress scheme. The Ombudsman described it as an effort 'to reflect the shame of the nation.'⁹³ Unlike charitable bequests, *ex gratia* redress does not promise a place in heaven, but it may promise the relief of quick release from our obligations to those once held in places like Donnybrook.

Politicizing charity

The state's approach to redress repeats aspects of an older politics of charity in three ways. It leaves the RSC's essential 'ownership' of long-held wealth unquestioned. It excuses (even if it can no longer normalize) the harms women suffered under the guise of charity. It reinscribes unequal social relationships between religious congregations and the women confined in their institutions, privileging private respectability over the public good. However, recent struggles over the RSC's properties in Dublin city, including in Donnybrook,⁹⁴ suggest the emergence of new, and potentially transformative, Irish politics of reparation, underpinned by a different account of charity. The best known is the ongoing dispute over the new state-funded National Maternity Hospital (NMH), planned for a site near the RSC's existing St Vincent's University Hospital complex at Elm Park.⁹⁵

Following merger negotiations, the NMH⁹⁶ will become part of St Vincent's Healthcare Group (SVHG), currently owned by the RSC. The RSC's holdings in

SVHG were valued at €661 million in October 2018. They also own the land on which the new hospital is proposed to be built. In May 2017 and October 2018, reproductive rights activists and campaigners for survivors of institutional abuse⁹⁷ organized a mass petition and protest against this deal, which they characterized as 'gifting' a state-funded hospital to the RSC.⁹⁸ They objected to the deal because the RSC had refused to contribute to a redress fund for women who had been in institutions like DML, and because they had not met their redress obligations to survivors of abuse in their industrial schools. Campaigners argued that the RSC's autonomy in dealing with their property was constrained by their duty to atone for their past actions. They should not benefit financially from a new hospital because they had not made adequate reparation for the harm done in places like DML.⁹⁹

The RSC eventually responded by removing its members from all formal involvement in governing St Vincent's and promising to 'gift' both the hospital land and the RSC's shareholdings in SVHG to the Irish people.¹⁰⁰ The government welcomed this decision as 'historic'.¹⁰¹ However, the 'gifts' were never made. Instead, the shares and the land were transferred to a new charity, St Vincent's Holdings. The taxpayer will pay the NMH's running costs, in perpetuity. The state did not attempt to purchase the hospital land compulsorily, agreeing to enter into a long-term lease instead.¹⁰² This would be nothing new; Irish governments have often gifted assets to voluntary hospitals run by private boards, and private owners have been permitted to profit from those assets. Speaking on a private members' motion on the National Maternity Hospital in 2018, Deputy Róisín Shortall reminded Dáil Éireann that:

When the sisters built St. Vincent's University Hospital at Elm Park, they did so with public money. Not only did they use public money for it, they negotiated a deal whereby the State would have no involvement in the control and management of the hospital, despite the more than £5 million the order received between 1934 and 1969 when Elm Park opened. There was also another proviso, that if the sisters sold their old hospital at St. Stephen's Green, the proceeds would be given to the State via the hospital trust fund. Predictably, that never happened. The sisters sold the old hospital, but the proceeds were never handed over.¹⁰³

The RSC subsequently used the state-funded St Vincent's building to secure loans to fund construction of a private hospital. The hospital rents land from the RSC, and this is an important source of income for the congregation, totalling millions of euro.¹⁰⁴ Feminist campaigners still reject the NMH deal, demanding that a publicly funded hospital should be publicly owned.

Since the 2017 protests, Ireland has partially legalized abortion. More recent campaigning has centred on concerns that a new NMH, forming part of the SVHG, will not be free to perform medical procedures, including abortion, which are contrary to the RSC ethos. In many ways, this emphasis on abortion is a continuation of the earlier argument about redress; both abortion restrictions and Magdalene Laundries symbolize religious control of women's reproductive and sexual lives.¹⁰⁵ The argument about property and reparation was now overlaid with a more explicit argument about institutional power in the present. St Vincent's University Hospital has required its

employees to practice in accordance with an ethical code that prohibits abortion,¹⁰⁶ and there is concern that this arrangement may extend to the new NMH. Campaigners insist that the governance arrangements for the NMH are ambiguous on religious ethos.¹⁰⁷ Advocates for the transfer of the NMH to St Vincent's insist that the NMH will preserve its 'clinical independence', ensuring that abortions can be provided there in accordance with Irish law. Here, they point to the 'triple lock' within the draft 'legal framework' proposed to govern the hospital.¹⁰⁸ This consists of: (i) the constitutions of the St Vincent's charities which have been drafted to avoid direct reference to Catholic medical ethics, (ii) the new NMH constitution and the 'reserved powers' it confers on the Minister for Health and (iii) the hospital's agreement with the Irish health service (the HSE).¹⁰⁹ We do not know how useful these documents will be to individual abortion-seeking patients. Neither do we know whether the state can compel a Catholic hospital to provide healthcare incompatible with its ethos.¹¹⁰ Key St Vincent's directors, though lay people, were appointed because of their commitment to continuing the congregation's religious mission.¹¹¹ Opaque references to that mission persist in the constitutions of St Vincent's charities. Campaigners are also adamant that the Vatican would not have permitted the RSC to transfer their shares, and associated governance powers,¹¹² if it meant abortions were going to be permitted in the new NMH.¹¹³ At best, in cases where the law allows for exercise of medical discretion in the provision of abortion services, there is a real risk that they will not be provided at the new NMH.

Prominent public advocates for the deal included Nicholas Kearns (former President of the High Court and former Chairman of the NMH), Rhona Mahony (first woman Master of the NMH) and James Menton (businessman, Chair and Director of SVHG). They present the deal as an instrument of transition, from a religious past to a secular, charitable and commercial present. To campaigners, however, the deal is more akin to a bequest; intended to secure the RSC's legacy now they no longer govern the hospital. In ensuring that legacy, in this dispute as elsewhere, charity is used to distract from the RSC's accountability for past harm.

Conclusion

Many of those defending the proposed arrangements for the NMH respond by insisting again that the RSC's history of charitable endeavour should shield them from critique, just as it preserved them from obligations to pay redress.¹¹⁴ For example, confirming that the RSC would profit from the hospital deal through the sale of land, James Menton said the profit was 'a very modest amount when you think of the number of religious sisters who worked without remuneration.'¹¹⁵ Equally striking, however, is the continuing claim to collectively generated wealth. Exploring the history of individual bequests as it appeared in the public archive of DML allowed us to foreground old relationships between wealth, law, charity and gender. This inquiry unsettles charity as a static legal form, showing it instead as part of a web of ongoing secular and religious relations, redistributing and determining the inheritance of the privately controlled wealth of Dublin city and its hinterland. Thinking of the NMH dispute through the lens of bequest draws us back to those same issues. The campaign

for public ownership of the NMH asks questions about the role of a new generation of wealthy and influential Dubliners in buttressing dwindling religious institutional power, enabling the RSC's gradual transformation into a plainly commercial, if charitable, entity¹¹⁶ and protecting it against demands to divest itself of publicly generated assets. Part of the RSC's legacy in Dublin is its insistence that the state must compromise with religious interests, rather than disentangle itself from old charitable expectations.¹¹⁷

Charity is sometimes presented as a form of struggle against exploitative capitalism. Indeed, within Catholic social teaching, charity can be a dual concept; a loving relationship with God performed in a loving relationship with others.¹¹⁸ Antonio Negri writes that charity can be 'a praxis that, in the communion of goods and wealth, struggles for the appropriation of the common and against the expropriation of work and production.'¹¹⁹ Some liberation theologians¹²⁰ argue that whatever is given in charity to exploited people was already their property – challenging the exclusive entitlement of those who control available wealth to determine how it should be used. In Ireland, disputes around the NMH may disrupt established legacies of charity, interrogating the RSC's entangled capitalist and religious roles in Irish society, exposing class hierarchy behind the language of charity.

Notes

- 1 My thanks to Sheila Killian, Mary Cosgrove, Sonia McEntee, Mary Gaynor (Law Society of Ireland Library), Mark Coen, Katherine O'Donnell and Lisa Godson for their research advice and assistance. This chapter was written while I was a Leverhulme Research Fellow, 2020–2.
- 2 In the 1940s, Radio Éireann would accept public donations intended for the laundry. See 'Appeal on Behalf of Dublin Asylum', *Irish Independent*, 27 October 1947, 5.
- 3 See radio schedule in *Irish Press*, 31 October 1970, 19.
- 4 The requirement to publish advertisements of charitable devises and bequests was amended by s. 16 of the Charities Act, 1973, which exempted most bequests from this requirement.
- 5 See the Introduction to this volume.
- 6 'Will of Sir Joseph Downes', *Irish Times*, 6 February 1926, 15.
- 7 Byrne left £500 to Donnybrook from a total estate of £48,520. He left similar amounts to his cousins and for Masses for the repose of his soul. See 'Dublin Vintner's Bequests', *Irish Independent*, 10 May 1939, 12.
- 8 Morrissey died in Dún Laoghaire in August 1928, leaving money to a range of charitable causes, including £200 to the Magdalene Asylum Donnybrook, 'Recent Will', *Cork Examiner*, 11 December 1928, 8. John Farrelly, the former manager of the Hibernian Bank on College Green, died in 1949, leaving a large estate, including £1,000 to the Superioress of Donnybrook, 'Legal Notices', *Irish Independent*, 4 November 1949, 2.
- 9 'Legal Notices', *Irish Independent*, 15 September 1955, 13.
- 10 'Notice of Charitable Donations and Bequests', *Irish Independent*, 4 October 1963, 22.
- 11 'Bequests to Charities', *Irish Press*, 14 March 1938, 5.
- 12 *Dublin Evening Telegraph*, 28 April 1924, 4.

- 13 Ibid., 10 January 1920, 7.
- 14 'Legal Notices', *Irish Press*, 22 June 1935, 2.
- 15 See, for example, Isabella Kelly McDonnell, Dún Laoghaire, from a Roscommon horse-racing family (Lacken House); *Westmeath Independent*, 5 March 1938, 2.
- 16 On testamentary intention in sociolegal studies, see Daniel Monk, 'EM Forster's Will: An Overlooked Posthumous Publication', *Legal Studies* 33, no. 4 (2013): 572.
- 17 For example, see Elizabeth Nealon, the widow of Michael Peter Nealon, formerly of the National Bank, Drumcondra; 'Legal Notices', *Irish Times*, 5 February 1957, 6. Bequests also came from women living in religious nursing homes in London; for example, Anna Kane, who died in Eastbourne; *Irish Times*, 20 December 1922, 14. Anna Kane's executor was Sir George Roche, a former President of the Law Society.
- 18 'Notice of Charitable Bequests', *Irish Times*, 15 March 1934, 1.
- 19 Scott Cutler Shershow, *The Work and the Gift* (Chicago, IL: University of Chicago Press, 2005), 133.
- 20 Cited in John H. Hanson, 'The Anthropology of Giving: Toward a Cultural Logic of Charity', *Journal of Cultural Economy* 8, no. 4 (23 September 2014): 507. She is writing here about the work of Marcel Mauss.
- 21 On the agency of those donating to the Catholic Church in nineteenth- and twentieth-century Ireland, see Patrick Doyle and Sarah Roddy, 'Money, Death, and Agency in Catholic Ireland, 1850–1921', *Journal of Social History* 54, no. 3 (2021): 799.
- 22 See Bernard Harris, 'Charity and Poor Relief in England and Wales, circa 1750–1914', in *Charity and Mutual Aid in Europe and North America Since 1800*, ed. Bernard Harris and Paul Bridgen (New York: Routledge, 2007), 31, discussing the nineteenth century.
- 23 Nancy D. Goldfarb, 'Charity as Purchase', *Nineteenth-Century Literature* 69, no. 2 (1 September 2014): 247, 257, 259.
- 24 Hanson, 'The Anthropology', 507.
- 25 Ibid.
- 26 John N. Kotre, *Outliving the Self: How to Live on in Future Generations* (New York: W. W. Norton, 1996), 10.
- 27 Claire Routley and Adrian Sargeant, 'Leaving a Bequest', *Nonprofit and Voluntary Sector Quarterly* 44, no. 5 (2014): 881–2.
- 28 Sarah Brouillette, 'Human Rights Markets and Born into Brothels', *Third Text* 25, no. 2 (March 2011): 169.
- 29 Daniel Siegel, *Charity and Condescension: Victorian Literature and the Dilemmas of Philanthropy* (Athens, OH: Ohio University Press, 2012), 32.
- 30 *Freeman's Journal*, 23 December 1916, 1.
- 31 'A Deserving Charity', *Evening Herald*, 8 February 1932, 4.
- 32 *The Standard*, 4 March 1938, 1.
- 33 'Appeal on Behalf', *Irish Independent*, 5.
- 34 'Depends Entirely on Charity', *Irish Independent*, 25 May 1961, 10.
- 35 For an overview of women and the history of charitable work, see Maria Luddy, 'Women and Charitable Organisations in Nineteenth Century Ireland', *Women's Studies International Forum* 11, no. 4 (1988): 301.
- 36 'Notice of Charitable Bequests', *Irish Independent*, 22 November 1932. For examples of other Donnybrook residents who made bequests to DML, Mary Fitz-Gibbon of Eglington Road in Ballsbridge left £300 to the Superioress of Donnybrook, 'Recent Irish Wills', *Irish Press*, 24 July 1937, 3; Kathleen Barker of Anglesea Road left the Superioress £25, 'Legal Notices', *Irish Times*, 29 August 1949, 7.

- 37 'Legal Notices,' *Irish Times*, 10 December 1962.
- 38 There are strong connections between the Dublin legal community and the Society of St Vincent de Paul, which was founded in St Michan's parish. It was (and remains) customary for many court-ordered payments to the court poor box to go to St Vincent de Paul.
- 39 'Obituary,' *Irish Press*, 28 July 1961, 5.
- 40 'Dublin Woman Leaves £68,788,' *Sunday Independent*, 19 May 1968. Her will included multiple charitable bequests, and she revised it five times.
- 41 Michael Jones (ed.), *Gentry and Lesser Nobility in Late Medieval Europe* (New York: St. Martin's Press, 1986) 3.
- 42 Edith L. Fisch, 'The Cy Pres Doctrine and Changing Philosophies,' *Michigan Law Review* 51, no. 3 (1953): 375, 377. The power applies where a gift is made without designating an appropriate trustee, or where a gift is made for an illegal purpose, or a purpose contrary to public policy. The latter power was historically important in voiding gifts made for Catholic charitable purposes. See further Caroline R. Sherman, *The Uses of the Dead: The Early Modern Development of Cy-Près Doctrine* (Washington, DC: Catholic University of America Press, 2018).
- 43 *Irish Times*, 17 December 1928, 16.
- 44 'Will You Help?,' *Evening Telegraph*, 27 February 1922, 1.
- 45 Olivia Frehill, 'Serving the "Divine Economy": St Joseph's Asylum for Aged and Virtuous Females, Dublin, 1836–1922,' *Irish Economic and Social History* 48, no. 1 (September 17, 2020): 78.
- 46 Julie McGonegal, 'The Tyranny of Gift Giving: The Politics of Generosity in Sarah Scott's Millenium Hall and Sir George Ellison,' *Eighteenth-Century Fiction* 19, no. 3 (2007): 294–7, 304–5.
- 47 Joanne E. Myers, "'Supernatural Charity": Astell, Shaftesbury and the Problem of Enthusiasm,' *Journal for Eighteenth-Century Studies* 37, no. 3 (23 May 2014): 299–314.
- 48 Town Tenants, (Ireland) Bill, Second Reading, 4 March 1904, Hansard, vol. 134, col. 212.
- 49 A similar argument could be made about the funding of religious healthcare premises (and mother and baby 'homes') through the Hospitals Sweepstakes. See generally Marie Coleman, *The Irish Sweep : A History of the Irish Hospitals Sweepstake, 1930–87* (Dublin: University College Dublin Press, 2009).
- 50 Hanson, 'The Anthropology', 514.
- 51 Maria Brenton, *The Voluntary Sector in British Social Services* (Harlow: Longman Publishing, 1985), 16.
- 52 Hanson, 'The Anthropology', 516.
- 53 See more broadly Fred Powell, *The Political Economy of the Irish Welfare State: Church, State and Capital* (Bristol: Policy Press, 2017).
- 54 Hanson, 'The Anthropology', 516; see similarly Steven Engler, 'Modern Times: Religion, Consecration and the State in Bourdieu,' *Cultural Studies* 17, no. 3–4 (2003): 445, 459, writing about early modern charity as a 'paradigmatic act of consecration' which 'invested social hierarchy with the cachet of eternal order'.
- 55 See, for example, Department of Justice, *Report of the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries* (Dublin, January 2013, aka *McAleese Report*, hereinafter *IDC Report*), 367, quoting a 1942 Department of Education memorandum describing arrangements for the committal of girls to Limerick Magdalene Laundry as 'a fortuitous arrangement made possible by the good will and charitable disposition of the Religious Order concerned'. See similarly *IDC*

- Report*, 404, quoting the Minister for Education in 1940, describing the religious orders as ‘animated by a spirit of Christian charity’.
- 56 See Claire McGettrick, Chapter 11, this volume.
- 57 Nancy Harding, *On Being at Work: The Social Construction of the Employee* (New York: Routledge, 2013), 22–3, 47–8, 119–20, 188.
- 58 Jones, *Gentry and Lesser Nobility*, 3.
- 59 *Ibid.*
- 60 *Ibid.*, 4.
- 61 Ann O’Connell and Joyce Chia, ‘The Advancement (or Retreat?) of Religion as a Head of Charity: A Historical Perspective’, in *Studies in the History of Tax Law, Volume 6*, ed. John Tiley (London: Bloomsbury Publishing, 2013), 367.
- 62 *Ibid.*, 374.
- 63 In the case of *Pemsel* [1891] AC 531, Lord Macnaghten recognized ‘the advancement of religion’ as a charitable purpose. In Ireland, the testator’s subjective view of whether an activity is for a recognized ‘public benefit’ is definitive (*In re Worth Library* [1994] 1 ILRM 161). On related debates in law, see Matthew Harding, ‘Trusts for Religious Purposes and the Question of Public Benefit’, *Modern Law Review* 71, no. 2 (2008): 159.
- 64 In Ireland, according to Keane J. (*Campaign to Separate Church and State* [1998] 3 IR 321, 362), religion is so central to public life that a presumption of public benefit applies in relation to religious charities. This is reinforced by s. 45 of the Charities Act, 1961. Gifts for religious purposes that might not have passed the public benefit test in England could be treated as charitable gifts in Ireland (*In re Howley*, [1940] I. R. 109; *Maguire v AG* [1943] 1 IR 238; *Bank of Ireland v. Attorney General* [1957] IR 257; *O’Hanlon v. Logue* [1906] 1 IR 247. Contrast *Gilmour v. Coats* [1949] AC 426).
- 65 Kerry O’Halloran, *Human Rights and Charity Law: International Perspectives* (Abingdon: Routledge, 2016) notes that Irish charity law, unlike that of other common law jurisdictions, originates with the Statute of Pious Uses, rather than with the Statute of Charitable Uses. As such, the link with religion is fundamental to Irish charity law.
- 66 Leaving donations in wills to male religious orders was specifically void from the passage of the Catholic Emancipation Act in 1829. Although restrictions on bequests to the Catholic clergy were largely lifted when Robert Peel introduced the Charitable Donations and Bequests (Ireland) Act, 1844, the issue of bequests to male religious orders was not fully addressed in Ireland until the Emancipation Act was repealed in 1922. Donations to religious communities of women were never void outright, and indeed were often essential to the foundation of the institutions of congregations. However, they had to be made to fund specific charitable works or to benefit individual members of the order, or those members of the order inhabiting a particular convent at the time of the testator’s death. See Vincent Delany, ‘The Development of the Law of Charities in Ireland’, *International & Comparative Law Quarterly* 4, no.1 (1955): 30, 41.
- 67 For example, Our Lady’s Home, Henrietta Street, was the subject of litigation around the will of Eliza Walsh. Miss Walsh’s will directed that the proceeds of her estate should be used to construct a church. The executor, a priest, had attempted to use the bulk of the estate to fund what became Our Lady’s Home. He was not permitted to do so, ‘In the Law Courts’, *Evening Herald*, 10 July 1899, 3.
- 68 ‘Cavan Solicitor’s Will’, *Irish Times*, 26 March 1942, 3. This is an application of the *cy-près* doctrine, discussed further within. Gloucester Street is now called Sean McDermott Street.

- 69 See, for example, *Allcard v. Skinner* (1887) 36 Ch D 145, discussed in Richard Hedlund, ‘Undue Influence and the Religious Cases that Shaped the Law’, *Oxford Journal of Law and Religion* 5, no. 2 (2016) 298.
- 70 Institutions performing ‘charitable or reformatory purposes’ but offering laundry services to the public were subject to regulation under the Conditions of Employment Act, 1936, and the Factories Act, 1955, as discussed in the *IDC Report*. Until 1907, compliance with inspection regimes was voluntary, albeit several laundries formally agreed to be inspected. After 1907, institutional laundries carried on for the purposes of trade were included in the mandatory inspection regime. See *IDC Report*, 129, 531, 534, 545.
- 71 *Ibid.*, 552, 555. Charitable institutions could also apply for modifications to the applicable regulations, but these modifications were not intended to lead to worse conditions than applied to factories under the default regime.
- 72 [1930] 1 I.R. 646. This issue is now regulated by s. 49 of the Charities Act, 1961. This case is discussed in *IDC Report*, 758–62. Unlike the law on income tax, the law on rates allowed the state to levy some charges on the income of Magdalene laundries.
- 73 The emphasis on profit comes from section 63 of the Poor Relief (Ireland) Act, 1838.
- 74 DML was subject to rates on this basis, from 1910 onwards. See *IDC Report*, 760.
- 75 For a more complete analysis of this failure to account for women’s unpaid labour, see Sheila Killian, ‘“For lack of accountability”: The Logic of the Price in Ireland’s Magdalene Laundries’, *Accounting, Organizations and Society* 43 (2015): 17–32, 26.
- 76 The British Ministry of Labour considered that women working in a Magdalene laundry, though unpaid, could ‘determine their relationship’ with the order ‘at will’, just as the order could determine its relationship with them. See *IDC Report*, 589.
- 77 Section 30 remains in place via s. 208 of the Taxes Consolidation Act, 1997. Prior to October 1996, there was no formal process for seeking a tax exemption, unless an organization applied for repayment of tax. The *IDC Report* cites the Office of the Revenue Commissioners asserting that the risk of tax evasion by charities was perceived to be minimal. See *IDC Report*, 750, 752.
- 78 *Ibid.*, 753–4.
- 79 *Ibid.*, 751.
- 80 Claire O’Sullivan and Conor Ryan, ‘Substantial Assets, but No More Cash for Redress’, *Irish Examiner*, 7 February 2013.
- 81 Sr Stanislaus Kennedy (RSC) is ‘Founder and Life President’ of Focus Ireland, one of the largest and most respected housing organizations in the country. Focus Ireland receives approximately 50 per cent of its funding from the Irish Exchequer and the rest from charitable donations. In 2018, Focus Ireland had funds in excess of €25 million to spend on its activities and properties, estimated to be worth over €102 million; Claire McGettrick, Katherine O’Donnell, Maeve O’Rourke, James M. Smith and Mari Steed, *Ireland and the Magdalene Laundries: A Campaign for Justice* (London: I.B. Tauris, 2021), 29–30.
- 82 This phrase is from Kate Coddington, Deirdre Conlon and Lauren L. Martin, ‘Destitution Economies: Circuits of Value in Asylum, Refugee, and Migration Control’, *Annals of the American Association of Geographers* 110, no. 5 (2020): 1425.
- 83 This is a wider theme in Irish politics; see, for example, Leo Vardakar, ‘Speech of An Taoiseach, Leo Varadkar, on the Occasion of the Visit of Pope Francis’, juxtaposing the history of Church provision of social services in early-twentieth-century Ireland with histories of institutional abuse, but never suggesting that one enabled the other, 25 August 2018, available online: <https://www.merrionstreet.ie/en/news-room/>

- speeches/speech_of_an_taoiseach_leo_varadkar_on_the_occasion_of_the_visit_of_pope_francis.html (accessed 1 August 2022).
- 84 *IDC Report*, 40, citing Maria Luddy's work.
- 85 *IDC Report*, 1014.
- 86 The question of whether a contribution to funding payments made by the Residential Institutions Redress Board is consistent with the purposes of a charitable trust (as required by s. 3 of the Charities Act 2009) was dealt with in section 42 of the Residential Institutions Statutory Fund Act 2012. No similar provision has been made in respect of Magdalene laundries because the relevant orders refused to contribute to the scheme.
- 87 Christina Finn, 'Shatter: Religious Orders Have a Moral and Ethical Obligation to Contribute to Magdalene Survivors', *The Journal.ie*, 17 July 2013.
- 88 Maeve O'Rourke, 'The Manipulation of "Vulnerability": State Responses to So-Called "Historical" Abuses in Ireland', *Human Rights Quarterly* 43, no. 3 (2021): 435, 436.
- 89 *Ex gratia* schemes and charity law are indirectly connected via the royal prerogative, including the powers which the Crown enjoys as *parens patriae*. The power to establish *ex gratia* schemes is originally a prerogative power; Margit Cohn, 'Medieval Chains, Invisible Inks: On Non-Statutory Powers of the Executive', *Oxford Journal of Legal Studies* 25, no. 1 (2005): 97. The same is true of the power to alter the purpose of charitable property (*cy-près*); Fisch, 'The Cy Pres Doctrine and Changing Philosophies'.
- 90 Stephen Winter, 'Australia's *Ex Gratia* Redress', *Australian Indigenous Law Review* 13, no. 1 (2009): 49.
- 91 McGettrick et al., *Ireland and the Magdalene Laundries*, 127.
- 92 Máiréad Enright and Sinéad Ring, 'State Legal Responses to Historical Institutional Abuse: Shame, Sovereignty and Epistemic Injustice', *Éire-Ireland* 55, nos 1–2 (2020): 68, 80.
- 93 *Opportunity Lost: An Investigation by the Ombudsman into the Administration of the Magdalen Restorative Justice Scheme* (Dublin: Office of the Ombudsman, November 2017), 4.
- 94 In 2020, the RSC suddenly began proceedings to liquidate St Monica's home in Dublin city centre, and St Mary's Home and the Caritas convalescent centre near the former DML. St Mary's is on land adjoining the proposed NMH site. All were run by charitable bodies created by the RSC to ensure their legacy in healthcare provision. Residents were required to move, and staff were not guaranteed statutory redundancy payments. See Shamim Malekmian, 'The Controversial Closure of St Mary's (Telford): New Allegations of Abuse Levelled at Sisters of Charity', *Hotpress*, 20 October 2020; Shamim Malekmian, 'Examinership Controversy: Firm Owned by the Sisters of Charity Forces Residents Out of St Mary's Nursing Home', *Hotpress*, 26 September 2020.
- 95 The St Vincent's Healthcare Group Memorandum of Association opens with the statement that the original building for St Vincent's, then in Dublin city centre, was purchased with the dowry of an early member. The sister concerned was Letita More-O'Ferrell (later Sister M. Teresa), the daughter of an aristocratic land-owning family. See Mary Peckham Magray, *The Transforming Power of the Nuns* (Oxford: Oxford University Press, 1998), 30.
- 96 Run by a new, designated activity company; NMH DAC. The NMH and St Vincent's are independent voluntary hospitals, state-funded but with private governance arrangements.

- 97 Known as ‘Our Maternity Hospital’ or the ‘Campaign Against Church Ownership of Women’s Healthcare’.
- 98 Ellen Coyne, ‘Nuns Who Owe Millions in Abuse Reparations Given Hospital’, *The Times*, 24 March 2017. The state’s commercial interests would be protected by maintaining a lien over the property.
- 99 Although this argument emphasizes the RSC, the NMH is not innocent of involvement in abuses of women and children; its history includes obstetric violence and illegal adoption. Marie O’Connor, ‘Rolling Back the Eighth Amendment: The Church’s Power Grab for the New National Maternity Hospital – Backed by Government’, *Village Magazine*, 5 December 2021.
- 100 Ailbhe Conneely, ‘Sisters of Charity “Gift” St Vincent’s to Irish Public’, RTÉ News, 8 May 2020.
- 101 Ibid.
- 102 A compulsory purchase order is unattractive because it would further delay the project’s progress. There are commercial reasons for refusing to give the land outright to the state. Doing so might diminish the value of the remainder of the campus; the land may be tied up in borrowing; another owner might object to future efforts to obtain planning permission. Campaigners, however, associate ownership with practical control of the property and the activities on it, and SVHG has said that it must own the property in order to guarantee continuity of care. Church property can be acquired by the state for ‘necessary works of public utility’ with full compensation but the scope of that power is unclear; Rachael Walsh, ‘There is Legal Room for CPO of the National Maternity Hospital Site by the Government’, *The Journal.ie*, 24 June 2021.
- 103 Houses of the Oireachtas, ‘National Maternity Hospital: Motion [Private Members]’, *Dáil Éireann Debate*, Wednesday, 23 June 2021, vol. 1009, no. 2, available online: www.oireachtas.ie/en/debates/debate/dail/2021-06-23/8/ (accessed 1 August 2022). See further Elizabeth Fitzgerald, ‘There is a Long History of Intermingling of Church and State funds with Respect to St Vincent’s’, *The Journal.ie*, 4 May 2017. For a survey of the role of Catholicism in preserving the autonomy of religious hospitals, see Geraldine Robbins and Irvine Lapsley, ‘Irish Voluntary Hospitals: an Examination of a Theory of Voluntary Failure’, *Accounting, Business & Financial History* 18, no. 1 (2008): 61.
- 104 Eilish O’Regan and Cormac McQuinn, ‘Nuns Will Get Millions from Sale of Former Hospital Land’, *Irish Independent*, 30 May 2017.
- 105 For other invocations of religion and women’s history in Ireland in the context of this debate, see Houses of the Oireachtas, ‘National Maternity’, *Dáil Éireann Debate*, Wednesday, 23 June 2021, vol. 1009, no. 2.
- 106 O’Connor, ‘Rolling Back the Eighth Amendment’.
- 107 Ibid.
- 108 Kieran Mulvey, *Report to the Minister for Health Simon Harris, T.D. on the Terms of Agreement between the National Maternity Hospital (Holles St.) and St. Vincent’s Hospital Group Regarding the Future Operation of the New Maternity Hospital – ‘The National Maternity Hospital at Elm Park DAC’* (21 November 2016).
- 109 St Vincent’s Hospital Group, *Briefing Paper – NMH Project*, 2021.
- 110 *Report of the Independent Review Group Established to Examine the Role of Voluntary Organisations in Publicly Funded Health and Personal Social Services* (2018), 81, available online: <https://assets.gov.ie/9386/6d02f4a9fb554e30adb3e3e35091d9.pdf> (accessed 1 August 2022).

- 111 Some Catholic voluntary hospitals in Ireland are run by companies which are also public juridic persons (PJP) under Canon Law. Public juridic persons are companies in civil law, with a 'sponsoring' religious congregation, or diocese, which may 'reserve' certain governance powers to itself, so that it can discharge key faith-based responsibilities. Healthcare is considered an apostolic activity, and public juridic persons have been used across the world to ensure that the Catholic legacy of a hospital's religious founders persists, even when lay people come to manage the hospital. Juridic status is sometimes granted by the Vatican and sometimes by diocesan bishops, and public juridic persons are ultimately under the control of the relevant diocesan bishop. In the United States, juridic persons have been associated with denial of women's healthcare; Brooke Raunig, 'Is this Hospital Catholic? Assessing the Legality of Merger Contracts that Demand Adherence to Religious Doctrine', *California Western Law Review* 54, no. 1 (2018): 152. The St John of God hospitals and community services in Ireland are part of the St John of God Hospitaller Services Group. This is a company in civil law. All members of the company are also part of St John of God Hospitaller Ministries, which is a PJP. The Mercy University Hospital in Cork is a wholly owned subsidiary of a holding company called Mercy Care South. The members of the company are also all members of a PJP, also called Mercy Care South. St Vincent's Hospital Group is not, in itself, a PJP; Paul Cullen, 'National Maternity Hospital: Has Threat of Church Influence Been Removed?', *Irish Times*, 2 June 2020.
- 112 In May 2020, the RSC received approval from the Vatican Congregation for the Doctrine of the Faith to transfer their shareholding in SVHG. Permission is given subject to the observance of Canon Law. For a detailed account of the approval process see Sharon Holland, 'Vatican Expert Unpacks Canonical PJP Process', available online: <https://www.chausa.org/publications/health-progress/article/september-october-2011/vatican-expert-unpacks-canonical-pjp-process> (accessed 1 August 2022). The Vatican approved the transfer in accordance with Canons 638–9 and 1292–4. Canon 1293 requires the RSC to avoid harm to the Church and its teachings.
- 113 In 2020, the Congregation for the Doctrine of the Faith ruled that the hospitals of the Brothers of Charity in Belgium could no longer be considered Catholic, when their (largely lay) governing body permitted patients to access euthanasia in accordance with Belgian law, but against the teachings of their founding religious congregation; Luis Ladaria, 'Letter to the Superior General of the Congregation of the "Brothers of Charity", Regarding the Accompaniment of Patients in Psychiatric Hospitals of the Congregation's Belgian Branch', March 2020, available online: https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20200330_litterafratellidellacarita-belgio_en.html (accessed 1 August 2022).
- 114 Breda O'Brien, 'Time to Defy Mob Mentality Over Religious Orders', *Irish Times*, 6 May 2017; Victoria White, 'Modern Habit of Blaming Nuns is Completely Counter to the Facts', *Irish Examiner*, 4 June 2017; John Scally, 'Rite & Reason: Is Ireland No Country for Old Nuns?', *Irish Times*, 12 October 2021; Sarah McDonald, 'National Maternity Hospital: Nuns are Being "Bullied" Over Land for New National Maternity Hospital, Says Prominent Priest', *Irish Independent*, 19 July 2021; David Quinn, 'Uncharitable to Attack Sisters for Hospital Gift', *Sunday Times*, 17 June 2021.
- 115 O'Regan and McQuinn, 'Nuns Will Get Millions.'
- 116 The congregation began the process of transferring its assets and social functions to corporations in the 1990s.

- 117 Fintan O'Toole, 'A Real Republic Should Not Have Charity Delivering Public Welfare', *Irish Times*, 14 December 2021.
- 118 Matthew S. Holland, *Bonds of Affection: Civic Charity and the Making of America: Winthrop, Jefferson, and Lincoln* (Washington, DC: Georgetown University Press, 2007) 7; Andrea Muehlebach, 'The Catholicization of Neoliberalism: On Love and Welfare in Lombardy, Italy', *American Anthropologist* 115, no. 3 (2013): 452.
- 119 Antonio Negri and Gabriele Fadini, 'Materialism and Theology: A Conversation', *Rethinking Marxism* 20, no. 4 (2008): 665, 669.
- 120 Cihan Tuğal, 'Faiths with a Heart and Heartless Religions: Devout Alternatives to the Merciless Rationalization of Charity', *Rethinking Marxism* 28, nos 3–4 (2016): 418.

