

Evil brought to light must not be hidden away again

Monday, March 04, 2019 - 12:00 AM

The State's proposal to seal the records of the Laffoy/Ryan commission of inquiry and its associated bodies for 75 years is unjustified and wrong, writes **Caitriona Crowe**.

Last Thursday, I had the privilege of seeing Mannix Flynn's autobiographical film, *Land Without God*, a powerful evocation of an individual and a family harrowed by the suffering they endured in various institutions in Ireland.

Mannix Flynn was the person who first broke the wall of silence about industrial schools and what went on in them, with his book *Nothing to Say*, published in 1983.

That breach led to others, and eventually to *States of Fear*, Mary Raftery's and Sheila Ahern's explosive documentary on the subject, leading in turn to the establishment of the Laffoy/Ryan commission of inquiry, which revealed widespread and appalling abuse and neglect of children in the country's industrial schools.

We now have the Retention of Records Bill, which proposes to "seal" the records of that commission and its associated bodies for 75 years, with a provision to review that arrangement after 25 years.

In Flynn's film, he refers to this proposal at one point, saying that "they now want to lock up our testimonies for 75 years".

The National Archives was, properly, consulted when this proposal was being first considered. Their advice was to add the two redress agencies to the schedule to the National Archives Act 1986 (Commissions of Inquiry are already covered by the act), thus making all of these records subject to the provisions of the act.

They did not see a need for a new piece of legislation which proposes to bypass the National Archives Act with regard to access, with no provision for appeal

The National Archives Act has served the country perfectly well since its passage in 1986, as regards the withholding of records from public inspection ('sealing', the terminology used in the bill, has no legal meaning in Irish archival law).

The precedent set by this bill, in disregarding and disabling the main piece of legislation dealing with Irish archives, is ill-considered and dangerous. What other sets of records exist to which the State would prefer its citizens not to have access?

The section of the act which provides for withholding of records provides for officers of government departments, with the consent of the Department of the Taoiseach, to certify that the release of departmental records which are more than 30 years old would, in certain circumstances, be contrary to the public interest, or would or might constitute a breach of statutory duty, or a breach of good faith on the ground that they contain information supplied in confidence or would or might cause distress or danger to living persons. Why that is not seen as adequate protection by the proposers of this bill is unclear.

Are there reliable statistics on what proportion of those who gave testimony to the Commission require?

- Destruction of the records;
- Retention of the records with access under the terms of the National Archives Act;
- Retention of the records with stricter rules of access than those of the National Archives Act;
- Immediate access to the records.

It is probable that some proportions of survivors cleave to each of these options.

It is possible that their issues could be addressed by giving each person who gave testimony a copy of their submission/testimony, with which they could do as they wished, including, if desired, placing them in public archives for consultation by the public.

It seems that people who gave testimony to the Ryan Commission, to the McAleese Committee, and who are giving

testimony to the current Mother and Baby Homes Commission have been and are being refused a copy of their testimony for their own information and use.

The reasons for this are unclear. Why should people be denied access to copies of their own information?

The Military Service Pensions Acts 1924-50 required applicants to submit detailed information on military actions in which they were involved in the period 1916-23. In every case, a copy of his/her application was given to the applicant.

These records dealt with highly sensitive violent activities during such awful conflicts as our civil war

It would seem to be plain common sense as well as respectful treatment of those who gave testimony to the Ryan Commission to allow them the same courtesy.

The bill proposes to put the records beyond the scope of the Freedom of Information Act, a very serious step which weakens citizens' rights to access vital information pertaining to themselves.

Have the information commissioner and the data protection commissioner been formally consulted with regard to this bill? If so, what were their responses?

This bill proposes to disable portions of the National Archives Act, to definitively close down important records from public scrutiny with no room for appeal, and to deny recourse to the Freedom of Information Act by those who may seek access to their own records.

There is no need for any of this.

If every person who gave testimony to the commission were given a copy of that testimony, any possible demand for access by those who should be, after all, at the centre of these deliberations would be obviated.

The existing provisions of the National Archives Act are more than adequate to cover access to these records, which will presumably also contain administrative records which should be in the public domain in the ordinary way after 30 (soon to be 20) years.

These records are vital for an understanding of the policies and operations of the commission, and there is no reason at all why they should be closed for 75 years.

We should all remember that survivors should be the primary consideration with regard to these records.

They were brave enough to give testimonies about their shocking treatment to the commission, and the emphasis now should be on establishing what they want, and as far as practicably possible, meeting their wishes.

The value of the records for future scholarly research must also be understood and protected.

They are vital primary sources for the study of how mainly poor children were treated in Ireland in the 20th century.

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