

University of Exeter

Human Rights and Democracy Forum Episode II: 'Celebrating International Women's Day' 8 March 2024

Christopher Stanley, KRW LAW LLP

Could you describe how you came to the law and your main practice areas now.

Academic Lawyer – Refugee Case Worker (*within* a detention centre) – NGO Legal Officer working on the Human rights and the Conflict in NI – Litigation Consultant for NI leading HR firm working on litigation arising from the Legacy of the Conflict and institutional abuse (the latter starting from a particular aspect of the Conflict). Specifically civil actions, public law Judicial Review applications, complex inquest and inquiries. (From civil liberties to human rights – including the Miner's Strike and the role of women during that *Conflict*).

Could you outline for our listeners, what the Mother and Baby Home tragedy was in Ireland?

It is whether to describe institutional abuse across Ireland – clerical abuse - as a tragedy, scandal or *a crime against humanity* - acts committed as part of a widespread or systematic attack directed against any civilian population, such as murder, deportation, torture and rape.

I describe it as systemic-systematic institutional clerical abuse of human rights violations across 70 decades within (predominantly) church administered by state-sponsored-regulated (including by the medical profession and social services) institutions including Mother and baby Homes Magdalene Laundries, Industrial Schools and sites/places such as the Kincora Boys' Home in Belfast (as I said a - direct relation to the Conflict).

In recent years what has been exposed across Ireland are multiple human rights abuses against thousands of women and children involving breaches of Articles 2, 3,5, 8 ECHR (amongst others), torture, inhuman and degrading treatment, unlawful deprivation of liberty, slavery, enforced disappearance and civil wrongs on a massive scale including misfeasance in public office, destruction of documentation, tortious acts include assault and battery and conspiracy.

How was this issue discovered and brought to light?

796 bodies of infants and children were interned between 1926 - 1961 and discovered on the site of the MBH at Tuam in County Galway. *This is one site.*

It lead to a state sponsored Commission of Inquiry which has been widely criticised in terms of its ToR, scope, treatment of witnesses (effective participation) and human rights compatibility in term of standards of investigation.

That lead to an apology (see below)

Discussion of work on this issue

What can the law 'do'?

The distinction between Particles and the Plumber - as my law teacher William Twining defined it - between the Noble law giver or the practical legal technician - foolishly/foolhardy I try to encompass both:

- 1) To assist in the exposure and delivery of truth by/through legal mechanisms - ensuring the right to truth by effective participation by the enabling of voices without speaking for others (dignity)
- 2) To use the legal tool box - understanding the grounds for Judicial Review, the rules of civil litigation, the parameters of limitation, to 'think outside the tool-box' which is what we do in Conflict-related Legacy litigation - through my colleague Kevin Winters
- 3) And to be able to achieve justice - the voice of those denied or stolen of dignity - by legal means - which becomes legal activism (being political without *them* seeing - or *them* seeing too late).

These women were treated in an undignified way. How do you understand the concept of dignity?

As a human rights lawyer my life in the life (in 'a field of pain and death' - Cover) has been 'protecting' or enabling dignity but is it not a concept/idea I think about or work with - somewhat like justice - as it is not for me to define the dignity of the individual which would be an imposition or prohibition.

I find it politically/ethically/morally/legally to work within the term/remit of rights - including a right to be accepted/recognised with dignity (*note* - not treated with which appears to be a power-relation).

This probably stems from my experience of working with those seeking asylum - protection - *within* detention (a 'hostile environment' from which to give to voice dignity whilst pleading for sanctuary - in a clerical sense).

"What can be said at all can be said clearly, and whereof one cannot speak, thereof one must be silent." Ludwig Wittgenstein *Tractatus Logico-Philosophicus* (International Library of Psychology, Philosophy and Scientific Method.) pp. 189. (London: Kegan Paul and Co., Ltd 1922.) .

What does this say about women's dignity in Ireland?

(A) Taoiseach apologised on behalf of Irish society - including the woman and children who suffered by way of their own volition as being non-members of that society? Ireland has worked to achieve an admirable new social identity in terms of individual rights, including the rights of women, but this recent historic (not for those who suffered) *stain* reveals something ingrained regarding church and state patriarchy and patriarchy which continually throws Ireland resentfully backwards.

'Can I refuse your apology?'

This is a question of the role, status, value of symbolic reparation.

Ressentiment - hostility directed toward an object that one identifies as the cause of one's pain - what right do I have to forgive you for my suffering? To give you absolution for your sin. As if you understood what you are sorry for.

Do you believe this issue is live in terms of public knowledge/ understanding?

No. *Avoidance* within Irish society save for those who suffered and *continue* suffer.

Question to Self: Why have so few victims (however defined) pursued individual legal claims? – right to silence, right to forget right to be forgotten? Out-with the barriers erected by the State to prevent reparation and redress for wrongs suffered (too late – ‘out of time’ - you are dead). Shame and Guilt.

Should this issue exist on a legal curriculum?

It is not an an issue. It might be a case study in the way I have described ‘the activist lawyer tool box’ – depends on what you perceive the study of law to look like. Or rather, those who seek to teach you think it should look like. Or rather, those who determine how you will practice and you will be taught. (Kafka’s Harrow).

I failed by once opening a seminar to undergraduates with the remark/question

“Why we cannot and should not ask the question what is justice?”

Concluding remarks

Do you have any key-takeaways to highlight to student listeners?

Law-student listeners?– I sometimes think that in the UK law should not be an undergraduate course *at all*. But that is hindsight and demonstrates my life in the law as a life of ingratitude that a) I went through the state education system b) I had a full grant to go to university c) I studied law in context – social welfare not tax, housing not property d) I had a full grant to attend Bar School.

Reason for chosen song

Both Sides Now by Joni Mitchell – it is a beautiful song. It is both simple and complex. It is the voice of a women writing/singing about innocence and experience, the passage of time and the acquisition and loss of understanding, about love and life. Joni Mitchell is a significant cultural and political figure whilst still standing on the margins. **ENDS**

References

Minkinen, Panu *Ressentiment as Suffering: On Transitional Justice and the Impossibility of Forgiveness* Law and Literature Vol. 19, No. 3 (Fall 2007), pp. 513-532

Anne-Marie McAlinden *From shame to guilt: negotiating moral and legal responsibility within apologies for historical institutional abuse* Journal of Law and Society, 49(3) pp 470-494.

Twining, W.L. (1967) *Pericles and the plumber*. Law Quarterly Review 83, pp 396–426