



Justice for Magdalenes Research
Crocknahattina
Bailieborough
Co Cavan
info@jfmresearch.com

Emer Doyle
Office of the Ombudsman
18 Lower Leeson Street
Dublin 2
By post and email to emer.doyle@ombudsman.gov.ie

15th February 2017

Re: Ombudsman investigation into administration of Magdalene ‘ex gratia’ scheme

Dear Ms Doyle,

We write regarding the Office of the Ombudsman’s investigation into the Department of Justice’s administration of the Magdalene ‘ex gratia’ scheme (‘the Scheme’). Justice for Magdalenes Research (JFMR) was established in 2013, following a successful campaign by its predecessor organisation, Justice for Magdalenes, for a State apology and redress scheme for Magdalene survivors. Since 2013, the individual members of JFMR have been voluntarily assisting several Magdalene survivors with their applications to the Scheme. JFMR, as a group, has been actively involved in disseminating information regarding the Scheme to Magdalene survivors and their families¹ and in informing the public and elected representatives about the contents of the Magdalen Commission Report (‘the Quirke Report’) and the government’s implementation of the Scheme.

We welcome the Ombudsman’s investigation and urge the Office of the Ombudsman to publicise the investigation widely, and to request that the Department of Justice contacts all women who applied for inclusion in the Scheme to inform them of the investigation.

¹ See, for example, JFMR, *Survivor Guide to the Magdalene Restorative Justice Scheme* (2013); JFMR, *Supplementary Survivor Guide to the Magdalene Restorative Justice Scheme* (2014).

The remainder of this letter is intended to inform the Office of the Ombudsman of our primary concerns regarding the Department's administration of the Scheme. We would welcome the opportunity to meet with the Office of the Ombudsman to discuss these issues further, if that would be helpful to the investigation.

JFMR and individual members of JFMR have been expressing concerns regarding the administration of the Scheme since 2014, including in newspaper opinion editorials,² public reports to United Nations bodies,³ briefing notes to all TDs and Senators,⁴ correspondence to the Department of Justice⁵ and correspondence to Dublin City Council.⁶ These documents are appended to this letter.

In summary, we have the following concerns regarding the Department's administration of the Scheme:

(a) Failure to provide the full range of health and community care services recommended by Mr Justice Quirke in 2013

RWRCI Act 2015

In June 2013, the government agreed in a press statement and on the Dáil record to accept "in full" all of Mr Justice John Quirke's recommendations for the Scheme.⁷ Mr Justice Quirke's very first recommendation was that 'Magdalen women should have access to the full range of services currently enjoyed by holders of the Health (Amendment) Act 1996 Card ("the HAA card")'.

The HAA card was created in 1996 for those who contracted Hepatitis C through State-provided blood products. It gives access to numerous private and public healthcare services and wide-ranging access to medicines, drugs and appliances. Mr Justice Quirke

² O'Rourke & Smith, 'Magdalene survivors are still waiting for restorative justice', *Irish Times* (6 February 2014); McGettrick, Steed, Smith, O'Rourke, O'Donnell, 'Restorative Justice for Magdalenes', *Irish Examiner* (19 February 2014); James Smith, 'Rite & Reason: Death of an inspirational Magdalene survivor' *Irish Times* (29 March 2016).

³ JFMR, Follow-Up Report to United Nations Human Rights Committee (2015); JFMR, Report to United Nations Committee on Economic, Social and Cultural Rights (2015); JFMR, Report to the United Nations Committee on the Elimination of Discrimination Against Women (2015); JFMR, Report to United Nations Committee on the Elimination of Discrimination Against Women (2017).

⁴ JFMR, Briefing note on the Redress for Women Resident in Certain Institutions Act 2015; JFMR, Revised briefing note on the RWRCI Act 2015

⁵ Letter from Maeve O'Rourke on behalf of JFMR to Layla de Cogan Chin, 27 July 2016; Email from Maeve O'Rourke to Anne Ferris TD, 2 February 2015; Letter from Frances Fitzgerald TD to Anne Ferris TD, 23 February 2015; Email from Maeve O'Rourke to Anne Ferris TD, 28 February 2015; Email from Anne Ferris TD to Maeve O'Rourke, 23 March 2015)

⁶ JFMR Submission to Dublin City Council regarding the proposed property development at the former Magdalene Laundry at Donnybrook, Dublin 4, 4 October 2016.

⁷ See Department of Justice, Press Release, 26 June 2013, <http://www.justice.ie/en/JELR/Pages/PR13000256>; Alan Shatter, TD, in response to PQ from Eamonn Maloney, TD, on 27 June 2013, <https://www.kildarestreet.com/debates/?id=2013-06-27a.384&s=alan+shatter+maloney+magdalen#g389>

included a guide to the full range of services available to HAA cardholders at Appendix G of his report. His first recommendation continues: “*Details of the range, extent and diversity of the community services to be provided to the Magdalen women are described within Appendix G*”.⁸

JFMR voiced its concerns at the time that the *Redress for Women Resident in Certain Institutions Act 2015* (‘RWRCI Act’) was being debated in the Dáil and Seanad that it did not provide for healthcare equivalent to the HAA card standard, as recommended by Mr Justice Quirke.

In August 2015, several dentists confirmed publicly that, instead of receiving HAA-standard services as recommended by Judge Quirke and agreed by the government in 2013, Magdalene survivors have been given a card that entitles them only to the ‘limited and incomplete treatment...for most medical card holders.’ The dentists called on the Council of the Irish Dental Association ‘to publicly disassociate itself from this act by the Government and to speak out publicly on behalf of its members who do not accept the injustice we are expected to support.’⁹

JFMR wrote to the National Director of Primary Care at the HSE on 25 February 2016 to ask for clarification regarding all ways in which the women’s entitlements under the RWRCI card differ from those already available under the standard medical card, as many women in contact with JFMR – and indeed JFMR – are still struggling to understand this fully. JFMR asked for a written response so that the information can be easily disseminated to survivors and also for a meeting with the National Director. JFMR received an acknowledgement letter from the National Director’s office on 15 March 2016 but has received no subsequent, substantive, response to date.

Complementary therapies

HAA cardholders are entitled to complementary therapies (massage, reflexology, acupuncture, aromatherapy and hydrotherapy), and Mr Justice Quirke recommended HAA-standard healthcare for Magdalene survivors under the Scheme. However, Magdalene survivors in possession of an RWRCI card are not entitled to complementary therapies. In 2015, the Minister for Justice promised to establish a fund to provide access to complementary therapies under the Scheme.¹⁰ To JFMR’s knowledge, the Minister has not established this fund.

⁸ Report of Mr Justice John Quirke on the establishment of an ex gratia Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries (May 2013) (‘Magdalen Commission Report’), <http://www.justice.ie/en/JELR/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf/Files/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf> p7

⁹ Letter to the Editor, Journal of the Irish Dental Association, Aug/Sept 2015: Vol 61(4), p 164

¹⁰ Written Reply from Frances Fitzgerald, TD, Minister for Justice, to Joan Collins, TD, 24 March 2015, <https://www.kildarestreet.com/wrans/?id=2015-03-24a.951&s=magdalen+complementary+therapies+frances+fitzgerald#g953.r> ; See also <http://www.rte.ie/news/2015/0219/681413-magdalone-women/>

Health and community care for women abroad

JFMR notes from the Minister for Justice's reply to a Parliamentary Question on 2 February 2017 that, according to the Minister, "[t]he HSE has administrative arrangements in place for health and social services for women living outside Ireland".¹¹ JFMR is not aware of such arrangements but welcomes this development if such arrangements have finally been made.

JFMR draws to the Ombudsman's attention that the Department of Justice announced on 24 June 2014 that 'access to equivalent medical services for participants living abroad will be dealt with on an administrative basis by the HSE'.¹² Furthermore, the Irish Independent reported on 25 June 2014 a spokesperson for the government stating that the State would pay for health insurance for Magdalene survivors living abroad.¹³ Mr Justice Quirke's report is explicit that his recommendation regarding health and community care should apply to 'each of the women who were admitted to and worked in a designated Magdalen laundry'.¹⁴

(b) Failure to back-date pension payments to retirement age

Mr Justice Quirke recommended that, under the Scheme, Magdalene survivors should be 'put...in the position that they would have occupied had they acquired sufficient stamps to qualify for the State Contributory Pension'.¹⁵ JFMR submits that the Department should have read this recommendation as requiring the backdating of pension payments to retirement age, rather than to the beginning of the Scheme's administration.

(c) Lack of assistance for particularly vulnerable Magdalene survivors

JFMR is concerned that the Department of Justice has deemed at least 40 women to lack sufficient capacity to apply to the Scheme and that these particularly vulnerable Magdalene survivors are being prevented from benefitting from the Scheme. The Minister for Justice chose not to legislate to provide these women with assistance and advocacy in applying to the Scheme, preferring to delay the processing of their applications until the Assisted Decision-Making (Capacity) Act 2015 is in operation. JFMR has requested that these women, and all those currently living in the custody or care of the religious congregations responsible for operating the Magdalene Laundries (many of whom do not have close family members), be provided with personal advocates under the Scheme.

¹¹ Written answer of Frances Fitzgerald, TD, Minister for Justice, to Clare Daly, TD (Question 4964/17), 2 February 2017, <https://www.kildarestreet.com/wrans/?id=2017-02-02a.98&s=magdalene#g100.r>

¹² Department of Justice and Equality, Press Release, 'Minister Fitzgerald announces Government approval for legislation to provide for women who worked in Magdalen Laundries', 24 June 2014, <http://www.justice.ie/en/JELR/Pages/PR14000170>

¹³ Niall O'Connor, 'Medical cover for Magdalene survivors' *Irish Independent* (25 June 2014), <http://www.independent.ie/irish-news/health/medical-cover-for-magdalene-survivors-30381975.html>

¹⁴ Magdalen Commission Report, para 2.07.

¹⁵ Magdalen Commission Report, p40.

(d) Failure to establish important aspects of the recommended ‘Dedicated Unit’

The following aspects of the ‘Dedicated Unit’ recommended by Mr Justice Quirke have not been implemented:

- (a) practical and, if necessary professional, assistance to enable those women who wish to do so to meet with those members of the Religious Orders who have similar wishes to meet and interact;
- (b) similar practical assistance to meet and interact with other Magdalen women;
- (c) the acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme’s administrator, after consultation with an advisory body or committee, has decided to construct or establish;
- (d) investigative and other help and assistance in obtaining such sheltered or other housing as they may be entitled to; and
- (e) investigative and other help and assistance in obtaining such educational assistance as they may be entitled to.¹⁶

Donnybrook Magdalene Laundry building planning permission application

While the Department of Justice is failing to implement the aspect of the Scheme concerning a memorial, the last Magdalene Laundry building in Ireland with its contents largely intact is currently subject to a planning permission application for demolition by a commercial property developer. Recent video footage of the interior of the Donnybrook Magdalene Laundry building¹⁷ suggests that a large volume of paperwork remains inside, alongside artefacts from its time as a Magdalene Laundry before the Religious Sisters of Charity sold the building in 1992. JFMR has made detailed submissions to Dublin City Council, calling for consultation with Magdalene survivors regarding the fate of the building and its contents.¹⁸ The Archaeological Assessment accompanying the planning permission application cautions that women’s remains may be buried, unmarked, on the site. It further notes the heritage significance of the laundry site, including the building’s internal features and machinery relevant to its past use.

Sean McDermott Street Magdalene Laundry building for sale by Dublin City Council

JFMR is deeply concerned that Dublin City Council has put the former Sean McDermott Street Magdalene Laundry building up for sale¹⁹ while the Department of Justice is failing to establish a memorial in consultation with Magdalene survivors.

¹⁶ Magdalen Commission Report, pp 11-12.

¹⁷ <https://www.youtube.com/watch?v=YETH7W0yCBg&t=165s>

¹⁸ Justice for Magdalenes Research, Submission to Dublin City Council regarding the proposed property development at the former Magdalene Laundry at Donnybrook, Dublin 4, 4 October 2016

¹⁹ Ellen Coyne, ‘Kenny ‘broke promise’ on Dublin arts centre’, *The Times* (6 February 2017), <http://www.thetimes.co.uk/article/kenny-broke-promise-on-dublin-arts-centre-h0xzscf2h?shareToken=bcebae924016980a175881f8c42f1bdd>

(e) Lack of fair procedures and/or transparency regarding the duration of time assessment

JFMR is concerned that the Department of Justice has not been providing applicants to the Scheme with sufficient opportunity to be heard regarding their claimed duration of time spent working in a Magdalene Laundry. Conversations with several Magdalene survivors have led us to believe that the Department did not make available a proper mechanism for receiving and evaluating the women's own testimony and corroborating testamentary evidence regarding their duration of time in a Magdalene Laundry. Rather, the Department appears to have afforded undue or even sole weight to documentary records, including recently written letters from the relevant religious congregations. This is despite the fact that the *Report of the Inter-departmental committee to establish the facts of State involvement with the Magdalen Laundries* demonstrates that 58% of the entry records for eight Magdalene Laundries have insufficient information to determine length of stay²⁰ and there are scant surviving records for the Galway and Dun Laoghaire Magdalene Laundries.

JFMR has seen documentary records produced by the religious congregations in relation to Magdalene survivors which contain serious discrepancies. An example, redacted to protect the identity of the woman in question, is attached.²¹

JFMR draws attention to two newspaper reports which document the fact that numerous Magdalene survivors felt compelled to accept payments reflecting less time than they state they spent in Magdalene Laundries due to the Department's over-reliance on documentary materials and failure to properly seek and evaluate the women's own evidence.²²

(f) Unreasonable exclusion of women who worked as children in Magdalene Laundries on the basis of an irrationally narrow interpretation of the 'admitted to' criterion

JFMR is deeply troubled that the Department has excluded from the Scheme women who were forced into unpaid labour in Magdalene Laundries as children, while registered on the rolls of children's residential institutions located in proximity to Magdalene Laundries. While accepting that these women worked in Magdalene Laundries, the Department rejects their applications on the basis that the Scheme is for women who 'were admitted to and worked in' Magdalene Laundries and, according to the Department, these children were not 'admitted to' the Laundries. The Department's decision is based on an irrationally narrow interpretation of the meaning of the words 'admitted to'. These women have

²⁰ Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen laundries (February 2013) (hereafter 'IDC Report'), Chapter 8, para 29 states that duration of stay was known for 6,151 women and unknown for 5,047 women. However, these numbers must in fact refer to 'admissions' rather than 'women', because they total 11,198. Chapter 7, para 34 states that "10,012 or fewer women are known to have entered the Magdalen Laundries between 1922 and 1996" because out of a total of "14,607 known admissions" at least 3,409 of these were repeat entries and at least 1,186 of these were transfers of the same woman from another Magdalene Laundry.

²¹ 'Kathleen R', Evidence of inaccuracies in Good Shepherd records, prepared by JFM Research.

²² Sorcha Pollak, 'Magdalene survivor: They're ignoring my basic human rights', *Irish Times* (19 January 2015); Niall O'Sullivan, 'Only 67 British-based Magdalene survivors seek redress despite 'majority' claim', *Irish Post* (21 July 2014).

suffered doubly as a result of their experiences in both the children's institutions and the Magdalene Laundries. The fact that children were transferred on a daily, or otherwise repeated temporary, basis to Magdalene Laundries when they should have been receiving education and care in children's institutions was not acknowledged in the *Ryan Report* or in the matrix used by the *Residential Institutions Redress Board*.²³ Nor was this practice acknowledged in the *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* ('the IDC Report'). The women who are continuing to seek inclusion in the Scheme on the basis of this practice are drawing attention to previously hidden systematic forced labour, denial of education and inhuman or degrading treatment of children. Their exclusion from the Scheme amounts to wilful ignorance of their experiences – in direct contravention of the intent behind the Taoiseach's and Tánaiste's apologies on 19 February 2013.

(g) Lack of public access to the archive of State records which informed the IDC Report

JFMR highlights that neither the Department of Justice nor the Department of the Taoiseach has taken steps to release State records regarding the Magdalene Laundries' operations to the public from the archive of the *Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* ('the IDC'). These records could be of use to women seeking to challenge their exclusion from the Scheme and their production is an important aspect of the State's obligation to ensure reparation – including access to the truth – following systematic human rights violations in the Magdalene Laundries.

Chapter 6 of the IDC Report is devoted to the subject of the IDC's archive. The Chapter emphasises the 'scattered nature' of the State records regarding the Magdalene Laundries and states that 'maintenance of these copies together in a single location will be a concrete outcome to the Committee's work and may be a resource for future research.' The Chapter discusses the inclusion of some anonymised data from the religious congregations' archives, noting that 'these records would also be of interest to researchers and historians, now and in the future'. It states that the IDC archive will be held in the Department of the Taoiseach and that access will be subject to restrictions on the basis that a number of the records contain 'sensitive personal data'.

Contrary to what Chapter 6 of the IDC Report suggests, the Department of the Taoiseach appears to have adopted a policy of blanket secrecy regarding the entire IDC archive, which is unnecessary as not all of the archive's contents contain sensitive personal data, and which fails to respect Magdalene survivors' right to know the truth. In March 2016, Claire McGettrick of JFMR applied under the Freedom of Information Act to the Department of the Taoiseach for access to records held by the Department in relation to the IDC's investigation of various issues. The request was refused. The refusal was upheld by the internal reviewer on 17 May 2016 on the basis that:

...The archives of the Inter Departmental Committee are in the Department for safe keeping in accordance with the wishes of the Committee. They were not created by

²³ Residential Institutions Redress Board, *A Guide to the Redress Scheme under the Residential Institutions Redress Act, 2002* (3rd Ed., December 2005).

*this Department; the Department was not represented on the Committee; and the work of the Committee is not connected with the functions or business of the Department. I am upholding this decision, as I consider the records are not held by the Department within the meaning of section 2(5) of the Act...the archive comprises copies of material from other Departments and agencies as well as material generated by the Committee...You ask about the archive being made available in the future...From the point of view of good practice, the arrangements will be reviewed in about five years.*²⁴

(f) Refusal to accept State responsibility for forced labour or other abuse in Magdalene Laundries

JFMR is disappointed in the extreme that, since the Taoiseach's State apology, the Minister for Justice and her Department have issued numerous public statements denying any State responsibility for human rights abuses in the Magdalene Laundries. The government has never established an independent investigation into abuse in the Magdalene Laundries (the IDC's remit was limited to investigating State interaction with the institutions). The Minister and Department for Justice now rely on the State's own failure to investigate in order to justify their false claim that there is no publicly available evidence of State responsibility for systematic abuse in the Magdalene Laundries.

Only last week, the Minister for Justice stated on the Dáil record, while responding to a Parliamentary Question concerning the Ombudsman's investigation into the Department's administration of the Scheme, that:

*Although there was no finding in the McAleese Report which indicated that the State had any liability in the matter, following the report's publication the Taoiseach issued a State apology to the women.*²⁵

Ireland is being examined by the United Nations Committee on the Elimination of Discrimination Against Women this week. In its report to the Committee, the government (led by the Department of Justice) has stated that it knows of 'no factual evidence to support allegations of systematic torture or ill treatment of a criminal nature' in Magdalene Laundries.²⁶ The government has repeatedly stated to UN human rights bodies in the years since the Taoiseach's apology that there is '[n]o factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions', and that the facts uncovered by the IDC 'do not support allegations that women were systematically detained unlawfully in these institutions or kept for long periods against

²⁴ Letter from Philip Hamell, Assistant Secretary General, Department of the Taoiseach, to Claire McGettrick, dated 17 May 2016.

²⁵ Written answer of Frances Fitzgerald, TD, Minister for Justice, to Clare Daly, TD (Question 4964/17), 2 February 2017, <https://www.kildarestreet.com/wrans/?id=2017-02-02a.98&s=magdalene#g100.r>

²⁶ Ireland, Combined sixth and seventh periodic reports to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, 30 September 2016, p8 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIRL%2f6-7&Lang=en

their will'.²⁷

JFMR's report to the UN Committee on the Elimination of Discrimination Against Women²⁸ contains a summary of the substantial evidence of gross and systematic human rights violations contained in both the IDC Report and Mr Justice Quirke's Report. In its recent report to the UN Committee on the Elimination of Discrimination Against Women, the Irish Human Rights and Equality Commission stated that:

*The IHREC is concerned that the rights of more than 11,000 women were systematically violated while living in institutions known as Magdalen Laundries. The IHREC is of the view that these women and girls were subjected to mistreatment and were victims of forced or compulsory labour in contravention of Ireland's obligations under the International Labour Organisation (ILO) Forced Labour Convention and, as a result, were denied their basic rights to education, fair wages and social security. The IHREC also notes that while an Inter-Departmental Committee (IDC) to establish the facts of the State involvement with the Magdalen Laundries, was established in 2011 on foot of a recommendation by the UN Committee Against Torture, it fell short of the full independent statutory mechanism to investigate the State's role in the Laundries as recommended by the former IHRC in its initial assessment of the system.*²⁹

Regarding forced labour, it is indefensible for the Minister for Justice, her Department or the government as a whole to claim that they know of no factual evidence that would give rise to the belief that the State has any legal liability for forced labour in Magdalene Laundries, because:

- (a) The Department of Justice accepts that children and women worked in Magdalene Laundries. The Taoiseach and Tánaiste also acknowledged this fact in their apologies on 19 February 2013.³⁰
- (b) The IDC Report, Chapter 19, contains evidence of girls and women being forced constantly to carry out 'heavy and difficult' work at commercial laundering, sewing and making handcrafts, including rosary beads and clothing.³¹ Chapter 19 cites women's complaints of being tired, 'soaking wet' and too small to operate laundry

²⁷ See e.g. replies of Ireland to the list of issues in relation to the fourth periodic report of Ireland, Addendum, CCPR/C/IRL/Q/4/Add.1, 5 May 2014, paras 52-57. See also letter of 8 August 2013 from Permanent Representative of Ireland to Felice D. Gaer, Rapporteur. See also Ireland's second periodic report to the Committee Against Torture, 20 January 2016, UN Doc CAT/C/IRL/2, paras 235-268.

²⁸ JFMR, Report to the UN Committee on the Elimination of Discrimination Against Women, January 2017, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fIRL%2f26310&Lang=en

²⁹ Irish Human Rights and Equality Commission, Submission to the UN Committee on the Elimination of All Forms of Discrimination Against Women, List of Issues Prior to Reporting on Ireland's Combined 6th and 7th Report under CEDAW, p7.

³⁰ Dáil Éireann, Magdalen Laundries Report: Statements (19 February 2013), <https://www.kildarestreet.com/debates/?id=2013-02-19a.387>

³¹ IDC Report, Ch 19, paras 35, 39, see also para 131.

machinery safely.³²

- (c) The IDC Report clarifies that girls and women were not paid wages for the work they were forced to carry out. Chapter 20 states that '[w]ages were not paid either to the girls or women who worked in the Laundries or to the members of the Religious Congregations who also worked there.'³³ The Chapter also notes that the Conditions of Employment Act, 1936, exempted the religious congregations from the legislative requirement to pay wages to the girls and women working and living in Magdalene Laundries.³⁴
- (d) The IDC Report provides clear evidence that girls and women were not free to leave Magdalene Laundries while they were being forced to work. Chapter 19 states that 'a large number of the women spoke of a very real fear that they would remain in the Magdalen Laundry for the rest of their lives' and the Chapter quotes the evidence of women who believed that they would die in the Magdalene Laundries.³⁵ Chapter 19 summarises evidence from several of the religious congregations explaining why they locked doors and gates of the Magdalene Laundries³⁶ and cites the testimony of a former novice in a Magdalene Laundry that 'both the external and internal doors of the Laundry were locked.'³⁷
- (e) The IDC Report provides evidence of punishments in the Magdalene Laundries. Chapter 19 cites evidence of some women being shaken, poked or 'dug' at with implements, rapped on the knuckles, slapped or punched,³⁸ forced to kneel for several hours, put in 'isolation', confined in a padded cell or forced to lie and kiss the floor, having soiled bedsheets pinned to one's back,³⁹ or having one's hair cut.⁴⁰ The Chapter also includes some of the religious congregations' evidence regarding punishments, including prolonged standing and kneeling, and transfer between institutions.⁴¹
- (f) The Irish Human Rights Commission published a Follow-up Report on State involvement with the Magdalene Laundries, which evaluated the IDC Report's contents from a legal standpoint 'in the absence of a more thorough investigation,

³² IDC Report, Ch 19, para 39.

³³ IDC Report, Ch 20, para 33.

³⁴ IDC Report, Ch 5, para 150.

³⁵ IDC Report, Ch 19, paras 52, 130.

³⁶ IDC Report, Ch 19, paras 69-71.

³⁷ IDC Report, Ch 19, para 112.

³⁸ IDC Report, Ch 19, para 35.

³⁹ IDC Report, Ch 19, para 38.

⁴⁰ IDC Report, Ch 19, para 43.

⁴¹ IDC Report, Ch 19, paras 72- 78. See also See also extracts from a document entitled 'Magdalen Home Rules and Horarium', ch 19 para 144.

as recommended by the IHRC and the United Nations Committee Against Torture'.⁴² The IHRC concluded that forced or compulsory labour likely occurred in Magdalene Laundries, in violation of the 1930 ILO Forced Labour Convention and Article 4 of the European Convention on Human Rights (and, therefore, JFMR submits, the Irish Constitution). The IHRC stated, *inter alia*:

- a. '...it would appear likely, at a minimum, that all girls or women who entered the Laundries on remand or probation were by definition in a situation of detention and, thus, in fear of a penalty unless they complied with the instructions of the detaining authorities (here the relevant religious congregation)...';⁴³
- b. 'insofar as the women and girls in the Laundries were in a vulnerable and isolated situation, being dependent on the religious authorities in the Laundries for their welfare, subsistence and liberty, and given that at least some of those women were under threat of a penalty from the State if they left the Laundries, while others may have faced a loss of privilege or been subject to penalties if they refused to work, there may have been a violation of Article 4 of the ECHR. The IDC Report does not provide any evidence to refute this contention, and in many respect reinforces this conclusion';⁴⁴
- c. 'it could be said that in 1936, the Government not only legislated for the non-payment of certain workers carrying out industrial work, but in not clearly suppressing and outlawing forced or compulsory labour of girls and women, as required under the 1930 Convention, it acted in direct contravention of its obligations under the Convention';⁴⁵
- d. 'This violation was further compounded by the limited monitoring of Magdalen Laundries by the Factories Inspectorate, both in relation to the frequency and scope of those inspections. This is particularly so given the fact that the Factories Inspectorate were not specifically authorised and did not in fact examine whether the labour was lawful, whether wages were paid or whether the girls and women were present on a voluntary basis, being primarily concerned with occupational health and safety issues';⁴⁶ and
- e. 'The State's culpability in regard to forced or compulsory labour and/or servitude in the Laundries appears to be threefold. Firstly; at the administrative level, it failed to outlaw and police against such practices, including through

⁴² Irish Human Rights Commission, Follow Up Report on State Involvement with Magdalen Laundries, June 2013 ('IHRC Follow-up Report'), Executive Summary, p4, <https://www.ihrec.ie/documents/ihrcfollow-up-report-on-state-involvement-with-magdalen-laundries-june-2013/>

⁴³ IHRC Follow-up Report, para 201.

⁴⁴ IHRC Follow-up Report, paras 227, 228.

⁴⁵ IHRC Follow-up Report, para 204.

⁴⁶ IHRC Follow-up Report, para 207.

criminal sanction. Secondly; the State or its agents placed girls and women in the Laundries knowing that such girls and women would be obliged to provide their labour in those institutions, and then thirdly, the State further supported these practices by benefiting from commercial contracts with the Laundries'.⁴⁷

We trust that you will contact us in the event that you require further information.

Yours sincerely,

Maeve O'Rourke, Claire McGettrick, Mari Steed, Dr Katherine O'Donnell & Dr James M Smith

⁴⁷ IHRC Follow-up Report, para 229.

List of attachments

Email from Anne Ferris TD to Maeve O'Rourke, 23 March 2015

Email from Maeve O'Rourke to Anne Ferris TD, 2 February 2015

Email from Maeve O'Rourke to Anne Ferris TD, 28 February 2015

Ireland, Combined sixth and seventh periodic reports to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, 30 September 2016, p8

James Smith, 'Rite & Reason: Death of an inspirational Magdalene survivor' *Irish Times* (29 March 2016)

Irish Human Rights and Equality Commission, Submission to the UN Committee on the Elimination of All Forms of Discrimination Against Women, List of Issues Prior to Reporting on Ireland's Combined 6th and 7th Report under CEDAW

JFMR, Briefing note on the Redress for Women Resident in Certain Institutions Act 2015;

JFMR, Revised briefing note on the RWRCI Act 2015

JFMR, Follow-Up Report to United Nations Human Rights Committee (2015)

JFMR, Report to the United Nations Committee on the Elimination of Discrimination Against Women (2015)

JFMR, Report to United Nations Committee on Economic, Social and Cultural Rights (2015)

JFMR, Report to United Nations Committee on the Elimination of Discrimination Against Women (2017)

JFMR, *Supplementary Survivor Guide to the Magdalene Restorative Justice Scheme* (2014)

JFMR, *Survivor Guide to the Magdalene Restorative Justice Scheme* (2013)

JFMR, Submission to Dublin City Council regarding the proposed property development at the former Magdalene Laundry at Donnybrook, Dublin 4, 4 October 2016

'Kathleen R', Evidence of inaccuracies in Good Shepherd records, prepared by JFM Research

Letter from Frances Fitzgerald TD to Anne Ferris TD, 23 February 2015

Letter from Maeve O'Rourke on behalf of JFMR to Layla de Cogan Chin, 27 July 2016

Letter from Philip Hamell, Assistant Secretary General, Department of the Taoiseach, to Claire McGettrick, dated 17 May 2016.

McGettrick, Steed, Smith, O'Rourke, O'Donnell, 'Restorative Justice for Magdalenes', *Irish Examiner* (19 February 2014)

Niall O'Sullivan, 'Only 67 British-based Magdalene survivors seek redress despite 'majority' claim', *Irish Post* (21 July 2014)

O'Rourke & Smith, 'Magdalene survivors are still waiting for restorative justice', *Irish Times* (6 February 2014)

Residential Institutions Redress Board, *A Guide to the Redress Scheme under the Residential Institutions Redress Act, 2002* (3rd Ed., December 2005)

Sorcha Pollak, 'Magdalene survivor: They're ignoring my basic human rights', *Irish Times* (19 January 2015)