

Communication to United Nations Commission on the Status of Women

1st August 2014

1. Overview

Magdalene Laundries

- 1.1 Ireland's Magdalene Laundries were residential, commercial laundries enclosed in 10 Catholic convents, where between 1922 (the foundation of the Irish Free State) and 1996 (when the last laundry, at Sean McDermott Street in Dublin, closed), over 10,000 girls and women were incarcerated and forced into unpaid labour.
- 1.2 The range of abuse which girls and women were subjected to in the Magdalene Laundries is detailed in submissions by Justice for Magdalenes (JFM) to the United Nations Committee against Torture in 2011 and 2012 (attached as A1 and A2). It is also described by the women and other witnesses in 793 pages of testimony transcribed by JFM and submitted to the government's Inter-departmental Committee in 2012 (JFM's Principal Submission to the Committee, which summarises this evidence, is attached as A3).

Inter-departmental Committee

- 1.3 After years of denying that the State held any responsibility for the Magdalene Laundries, the Irish government established an Inter-departmental Committee in July 2011 to "establish the facts of State interaction". The Committee was staffed by senior civil servants from six government departments and chaired independently by a Senator, Dr. Martin McAleese. The Committee's terms of reference were limited to establishing the facts of state involvement with the Laundries. The Committee had no statutory powers and it did not issue a public call for evidence. The religious congregations who ran the Laundries agreed to provide the Committee with their records on the condition that the Committee return all records and destroy copies at the conclusion of its investigation.
- 1.4 The Inter-departmental Committee published its report in February 2013 (available at <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013>). The report found widespread State involvement with the Magdalene Laundries. The report also discussed matters outside the Committee's remit, including the treatment of girls and women in the Magdalene Laundries and the financial viability of the Laundries. The Committee's examination of the treatment of girls and women and the financial

elements of the laundries' operation is critiqued below. It did not amount to a thorough or independent investigation, no human rights framework was applied, and no findings were made or recommendations issued in relation to human rights violations that occurred in the Magdalene Laundries.

State apology and ex gratia scheme

- 1.5 In February 2013, An Taoiseach (the Irish Prime Minister) apologised to the surviving women and requested Mr Justice John Quirke, President of the Irish Law Reform Commission, to make recommendations regarding an *ex gratia* redress scheme. In June 2013, the government accepted all of Mr Justice Quirke's recommendations and established a restorative justice scheme in the Department of Justice to provide lump sum compensation, full contributory state pensions, healthcare, a dedicated unit for advice and support, and a memorial (Mr Justice Quirke's report is attached as A4 and available at <http://www.justice.ie/en/JELR/Pages/PB13000255>).

Ongoing violations of the State's human rights obligations

- 1.6 Despite these recent measures, the State is still failing to comply with several of its human rights obligations towards women who spent time in the Magdalene Laundries and their family members. These failings relate to (and are not necessarily limited to) the State's obligations to ensure a prompt, thorough and independent investigation into the Magdalene Laundries abuse, to ensure redress (including truth-telling and guarantees of non-repetition), to prosecute perpetrators and to establish the whereabouts and identities of persons who died while incarcerated in Magdalene Laundries.

2. Problems with the restorative justice scheme

- 2.1 It is now over a year since the government agreed to implement all Mr Justice Quirke's restorative justice recommendations. However, the following are some of the ongoing delays and obstructions in the implementation of the restorative justice scheme:
 - (a) Draft legislation to provide for the healthcare entitlements under the Scheme has not yet been published;
 - (b) It is not clear how the healthcare entitlements of women residing abroad will be provided for;
 - (c) Where records are missing or inadequate, the burden of proof seems to be on the women to disprove the nuns' assertions regarding their length of stay. Many women are at a deadlock with no idea how to prove their length of stay;
 - (d) It is not clear when or whether the government will provide an independent advocate service for women who are still institutionalised;
 - (e) The 'Terms' of the Scheme suggest that the scheme will close at a certain point, although Judge Quirke specifically recommended that there be no end-date;

(f) The government still has not established the Dedicated Unit, supposed to provide women with support and advice in navigating their entitlements under the scheme;¹

(g) An Grianan, a juvenile 'training centre' attached to St Mary's Magdalene Laundry in High Park, is not included under the scheme. A number of women were formally admitted to An Grianan but actually spent their days washing laundry in St Mary's. Their applications are being rejected.

2.2 JFM Research requests that the Irish government answers the following questions:

Healthcare:

- Will the healthcare entitlements for women in Ireland be directly equivalent to those provided to holders of the HAA card?
- Will liaison staff be appointed in the HSE to ensure the women can access their healthcare entitlements – as is the case with HAA card holders?
- Will the HSE pay for health insurance for women abroad? If not, what will the administrative process for women abroad entail, how soon will it begin, and how will the women be informed?

Delays/difficulties in establishing length of stay:

- What is the process where there are inadequate records? Will the Department accept a sworn affidavit from the woman? Will the Department access sworn affidavits from people who can support the woman's statement? If so, will the Department write to every woman still awaiting an offer to inform her of this?

¹ A crucial recommendation of Judge Quirke was the establishment of a small Dedicated Unit to provide:

- A helpline accessible daily by the women to assist them to obtain the health, monetary and other benefits to which they are entitled;
- Investigative and other help and assistance in obtaining such sheltered or other housing as they may be entitled to;
- Investigative and other help and assistance in obtaining such educational assistance as they may be entitled to;
- 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;
- Similar practical assistance to meet and interact with other Magdalen women;
- The acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme's administrator, after consultation with the advisory body or committee referred to below has decided to construct or establish.
- The Unit should be established after the Scheme's administrator has first consulted with and received written submissions from an advisory body or committee representing the needs and interests of the Magdalen women. That body or committee, in turn, should be broadly representative of the majority of Magdalen women and should include representatives of eligible women currently living within the UK or elsewhere.
- A simple appeal process to a single agreed independent person should also be provided to resolve disagreement or dissatisfaction with preliminary decisions made by the Scheme's administrator in respect of the matters identified above.

- If the religious orders supply dates which the woman disputes, what is the procedure for resolving the issue? If the women are to be interviewed regarding their length of stay, will they have legal representation?
- Is the Department of Justice contacting the Data Protection officers in relevant archives such as the HSE, Court Services and the RIRB files in the Department of Education to follow up on cases where the women's records cannot be verified by the religious orders?
- Does the Department of Justice have access to the archives of the Inter-departmental Committee? Does the Department of Justice have copies of the relevant electoral rolls for the laundries, bearing in mind that the religious orders registered the women as voters?
- JFMR knows of cases where the women settled for less financial compensation (in some cases significantly less) because the Department of Justice depended solely on the religious orders' records. Does the Department have figures for how many claims were settled for less than the application made?

Representatives / advocates for women lacking capacity and in nursing homes

- Will independent advocates be available to all women who are in nursing homes or other care settings, on a long-term basis, to support them in making decisions about their current well-being and entitlements, and their future?

Proposed end-date:

- Will the government commit to an open-ended scheme as recommended by Judge Quirke?

Dedicated unit:

- When will the Dedicated Unit be established? Surely the Department is not planning to wait until every single application for compensation is dealt with before setting it up, given the women's advanced age?

Excluded institutions:

- Will the Minister amend the Restorative Justice Scheme to provide for women who were admitted to An Grianan?²

² JFMR is in touch with a number of women who were formally admitted into institutions other than those provided for under the Restorative Justice scheme but who spent the majority of their time working in the laundry attached with the 'older women' from the Magdalene Laundry, rather than attending school classes. Their applications to the Restorative Justice scheme are being rejected. Some of these women have already received compensation from the Residential Institutions Redress Board (although the previous compensation

3. Lack of a prompt, independent and thorough investigation into abuse

- 3.1 In June 2014, in its Concluding Observations on Ireland, the United Nations Human Rights Committee echoed repeated recommendations by the Committee against Torture for a prompt, independent and thorough investigation into abuse perpetrated in the Magdalene Laundries. In addition the Human Rights Committee recommended (again echoing the Committee against Torture) prosecution of perpetrators and an effective remedy for all victims.
- 3.2 The Irish government's position in its response to the Human Rights Committee's List of Issues (attached as A5) and subsequently during the session in Geneva, and in its most recent correspondence with the Committee against Torture (attached as A6), was that the Inter-departmental Committee tasked with establishing the facts of state interaction with the Magdalene Laundries had provided a "comprehensive and objective report of the factual position" regarding the Laundries.
- 3.3 Regarding the Inter-departmental Committee's report, the government claims that "No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found" and that "The facts uncovered by the Committee did not support the allegations that women were systematically detained unlawfully in these institutions or kept for long periods against their will." In these circumstances, the government states, it does not intend to investigate the Magdalene Laundries abuse further.
- 3.4 The government's portrayal of the Inter-departmental Committee's remit and findings is misleading.
- 3.5 Undermining entirely the government's assertion that Inter-departmental Committee's report offers a comprehensive factual picture of the Magdalene Laundries abuse is the fact that the terms of reference of that committee were limited to examining State interaction with the institutions. Abuse was not investigated. (An opinion editorial on this point is attached as A7 and available here:

was not related to forced labour in a laundry and did not include pension or healthcare benefits), and some of the women have not received any compensation from the RIRB because they missed the RIRB closing date.

Ms Frances Fitzgerald has answered a Parliamentary Question about the possibility of including An Grianan in the Restorative Justice Scheme by suggesting that the women should not recover "twice" – if they were eligible for compensation under the RIRB, then that should be the end of the matter.

However, this does not solve the problem of women who never received any compensation from the RIRB. It does not provide pensions or compensation in lieu of unpaid wages to women who worked at laundry rather than going to school. Further, the Restorative Justice Scheme already allows "double recovery" for women who were transferred directly from an industrial school to a Magdalene Laundry and have previously received an award from the RIRB. The RIRB compensated women who had been transferred directly to a Magdalene Laundry for the time they spent in the Magdalene, as if it had been time spent in the Industrial School from which they were transferred. The government asked Judge Quirke to consider this and Judge Quirke recommended that all payments from the RIRB be ignored for the purposes of this Restorative Justice Scheme.

<http://www.independent.ie/opinion/comment/its-time-we-learnt-the-truth-about-magdalene-laundries-30408325.html>.)

- 3.6 Contrary to the government's claim that there is no evidence of systematic abuse having occurred in the Laundries, it is obvious and undisputed throughout the report that the girls and women were incarcerated, that they were coerced into working and that they were not paid for their work. There is clear evidence of systematic neglect and emotional abuse and many instances of physical abuse. However, the evidence provided to the Committee was not evaluated according to a human rights framework and no findings were made regarding human rights violations and accountability for those. Furthermore, 793 pages of testimony evidencing systematic abuse and submitted by Justice for Magdalenes were ignored entirely in the Committee's report.
- 3.7 The government's claim that there is no evidence that women were routinely detained for long periods is misguided. The government relies on the finding in the Inter-departmental Committee's report that the median length of stay (where length of stay was recorded) was 27.6 weeks. However, what this finding does not portray is that – as stated in the body of the Committee's report – for approximately half of recorded admissions to the laundries, no date of exit is given. In addition, the Committee did not examine records for two of the ten Magdalene Laundries, in Galway and Dun Laoghaire. Nor did the Committee collate lengths of stay where the same girl or woman was transferred between laundries or entered repeatedly. The Committee excluded in its calculations deaths of women in nursing homes, having lived in Magdalene Laundries until their closure. Finally, comparisons by Claire McGettrick of JFM Research of census records with gravestones in several laundries show that women stayed far longer than suggested by Inter-departmental Committee. (Claire McGettrick's recent Opinion Editorial on this point is attached as A8 and available at <http://www.irishexaminer.com/analysis/magdalene-survivors-are-still-seeking-justice-275291.html>.)
- 3.8 The Inter-departmental Committee did not establish the whereabouts and identities of individual women, including women who lie in unmarked graves and women whose relatives are still searching for them. Again, please see Claire McGettrick's opinion editorial (attached as A8).
- 3.9 All religious orders responsible for the Magdalene Laundries have refused to apologise or provide any form of redress to women who spent time in Magdalene Laundries. This is despite the former Minister for Justice, Alan Shatter TD, having written to the religious orders four times to request a contribution to the Magdalene Laundries Restorative Justice Scheme. At its most recent sittings with the UN Committee against Torture and the UN Committee on the Rights of the Child, the Holy See claimed wrongly that the religious orders involved in the running of the Magdalene Laundries have contributed compensation to women who spent time in Magdalene Laundries.

3.10 Among the flaws in the Inter-departmental Committee's treatment of the financial viability of the Magdalene Laundries are the following (numbers in square brackets are page numbers in Inter-departmental Committee's report):

(a) First, the figures were compiled by the religious orders' own accountants [998]. They have not been subject to independent audit [1000]. Taking the figures for the Limerick laundry as an example [1006], the figures for laundry expenditure (excluding capital items) seem very high, given that the former figure represents power, fuel, detergent, etc. [999] and is over ten times the amount spent on capital items;

(b) Second, the Committee openly attributes the living costs of the nuns as costs of the Laundry since "to ignore their work contribution would distort the laundry costs" [1007]. Even assuming the nuns did significant work, there is a question mark as to whether this is valid. The nuns were not hired managers. They were there because of a vocation, which one assumes would have existed whether the nuns had decided to operate a laundry or do some other activity. The convents had not "recruited" additional nuns as managers to supervise the women. To offset the cost of the nuns' food, which they would have required anyway, against the Laundry profits does not appear to be justifiable;

(c) Third, the expenses of looking after the women have been deducted. It is true that this is in some ways a "cost" of running the Laundries. But it seems to miss the point about forced labour. The women were incarcerated. To deduct for the expense of imprisoning them amounts to a suggestion that the women should be forced to work to pay for their own imprisonment.

Need to include Magdalene Laundries in forthcoming statutory investigation into mother and baby homes

3.11 JFM Research and its sister organisation, Adoption Rights Alliance, have called for the Magdalene Laundries to be included within the remit of the upcoming statutory investigation into mother and baby homes. These institutions were closely connected and identities and whereabouts of mothers who spent time in Magdalene Laundries, whose children spent time in mother and baby homes, remain to be established. In addition, the truth of, and accountability for, human rights abuse in the Magdalene Laundries (and human rights abuse in mother and baby homes and similar institutions) still remain to be established. Our joint submission to consultation on the terms of reference is attached as A9 and available at

http://magdalenelaundries.com/ARAJFMR_ToR_Briefing_300614.pdf.

3.12 JFM Research requests that the Irish government answers the following questions:

- When will the government establish an independent, thorough investigation into all allegations of abuse in Magdalene Laundries?

- On what grounds does the government allege that no evidence of systematic human rights violations in Magdalene Laundries, requiring a prompt, independent and thorough investigation, exists?
- Will the Magdalene Laundries be included in the statutory investigation into abuse in mother and baby homes and related institutions?

Submitted by Maeve O'Rourke
on behalf of Justice for Magdalenes Research

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