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Chapter 8

Maeve O'Rourke

The Justice for Magdalenes campaign

Introduction

In February 2013, the Taoiseach¹ issued a State apology to survivors of Ireland's Magdalene Laundries "for the hurt that was done to them, and for any stigma they suffered, as a result of the time they spent in a Magdalene Laundry".² Four months later, the government announced an *ex gratia* restorative justice scheme, which it promised would offer the surviving women lump sum payments, State contributory pension payments, wide-ranging health and community care and the assistance of a Dedicated Unit in exchange for their agreement not to sue any State body or agency with respect to their time in a Magdalene institution.³ These measures, although insufficient to meet all of the State's human rights obligations regarding the Magdalene Laundries,⁴ represented a significant shift in government policy towards this group of institutional abuse survivors.

Until February 2013, the State's position had been that the Magdalene Laundries were "privately owned and operated institutions which did not come within the responsibility of the State".⁵ Hence the Magdalene Laundries were excluded from the remit of the Commission to Inquire into Child

¹ Irish Prime Minister.

² Dáil Éireann, Magdalen Laundries Report: Statements (19 February 2013), <https://www.kildarestreet.com/debates/?id=2013-02-19a.387>; See also <https://www.youtube.com/watch?v=hOQyI7ZpoH8> (The Taoiseach's full apology was approximately 18 minutes in length.)

³ See Department of Justice, Press Release, 26 June 2013, <http://www.justice.ie/en/JELR/Pages/PR13000256> and the Report of the Magdalen Commission (May 2013), <http://www.justice.ie/en/JELR/Pages/PB13000255>

⁴ See United Nations Committee against Torture, List of issues prior to submission of the second periodic report of Ireland, UN Doc CAT/C/IRL/QPR/2 (17 December 2013), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en, para 21; United Nations Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Ireland, UN Doc CCPR/C/IRL/CO/4 (19 August 2014), paras 10, 25, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en; United Nations Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland, UN Doc E/C.12/IRL/CO/3 (19 June 2015), para 18, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%20C.12%20IRL%20CO%203&Lang=en; Irish Human Rights Commission, Follow-Up Report on State Involvement with Magdalen Laundries (June 2013), <http://www.ihrec.ie/publications/list/ihrc-followup-report-on-state-involvement-with-mag/>; Justice for Magdalenes Research, Parallel Report to the United Nations Committee on Economic, Social and Cultural Rights (June 2015), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fIRL%2f20181&Lang=en; Amnesty International, 'Ireland: Mother and baby homes investigation must be robust and comprehensive' (19 June 2014), <https://www.amnesty.org/en/articles/news/2014/06/ireland-mother-and-baby-homes-investigation-robust-comprehensive/>

⁵ Letter from Batt O'Keeffe, Minister for Education & Science to Tom Kitt, TD, (4 September 2009), reproduced in Justice for Magdalenes, Information Booklet, http://www.magdalenelaundries.com/ifm_booklet.pdf, p.6.

Abuse upon its establishment in 2000⁶ and subsequently from the jurisdiction of the Residential Institutions Redress Board.⁷

This chapter outlines the campaign by *Justice for Magdalenes* (JFM), a voluntary survivor advocacy group, for a State apology and reparation for women and the family members of women who were incarcerated in Magdalene Laundries from 1922 until 1996.⁸ In particular, given the focus of this section of the current volume and my own involvement with the human rights and legal argument aspects of the campaign, I concentrate on JFM's use of domestic and international human rights law and mechanisms.

The body of this chapter does not detail events beyond the State apology in February 2013; information and commentary on those can be found elsewhere.⁹ It is important to briefly highlight the following, however. As of June 2015, the promised *ex gratia* redress scheme was only partially implemented,¹⁰ and it excluded family members of women incarcerated in Magdalene Laundries and survivors of An Grianán, an institution for girls attached to the Magdalene Laundry at High Park, Drumcondra.¹¹ There has never been an independent and thorough investigation into all allegations

⁶ Commission to Inquire into Child Abuse, Report of the Commission to Inquire into Child Abuse (2009), <http://www.childabusecommission.ie/rpt/pdfs/>

The Commission was established on 23 May 2000 pursuant to the Commission to Inquire into Child Abuse Act, 2000 (as amended by the Commission to Inquire into Child Abuse (Amendment) Act, 2005) as an independent statutory body.

⁷ Letter from Batt O'Keeffe, Minister for Education and Science, to Tom Kitt, TD, above note 5. See also Schedule to Residential Institutions Redress Act, 2002.

⁸ The last of the 10 Magdalene Laundries, at Sean McDermott Street in Dublin, closed in 1996. See Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalene laundries (February 2013) (hereafter 'IDC Report'), [http://www.justice.ie/en/JELR/2013Magdalene-P%201%20Chapter%203%20History%20\(PDF%20-%203824KB\).pdf/Files/2013Magdalene-P%201%20Chapter%203%20History%20\(PDF%20-%203824KB\).pdf](http://www.justice.ie/en/JELR/2013Magdalene-P%201%20Chapter%203%20History%20(PDF%20-%203824KB).pdf/Files/2013Magdalene-P%201%20Chapter%203%20History%20(PDF%20-%203824KB).pdf) Chapter 3, para 29.

⁹ See above note 4, in particular Justice for Magdalenes Research, Parallel Report to the United Nations Committee on Economic, Social and Cultural Rights (June 2015),

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fIRL%2f20181&Lang=en. See also Simon McGarr, 'McAleese report leaves questions unanswered', *The Irish Examiner* (19 February 2014), <http://www.irishexaminer.com/viewpoints/analysis/mcaleese-report-leaves-questions-unanswered-259188.html>;

Maeve O'Rourke, 'It's time we learnt the truth about the Magdalene Laundries', *Irish Independent* (5 July 2014), <http://www.independent.ie/opinion/comment/its-time-we-learnt-the-truth-about-magdalene-laundries-30408325.html>; Claire McGettrick, 'Magdalene survivors are still seeking justice', *The Irish Examiner* (14 July 2014), <http://www.irishexaminer.com/viewpoints/analysis/magdalene-survivors-are-still-seeking-justice-275291.html>; Justice for Magdalenes Research, Press Release, 'JFM Research deeply disappointed at exclusion of Magdalene Laundries from Inquiry' (9 January 2015), <http://magdalenelaundries.com/press/JFMR%20PR%20090115.pdf>; Justice for Magdalenes Research, Press Release, 'Advocacy and rights groups join in criticising government's Magdalene Bill as unacceptable, unfair and full of broken promises to survivors' (19 January 2015), <http://magdalenelaundries.com/press/JFMR%20PR%20190115.pdf>

¹⁰ See Justice for Magdalenes Research, Justice for Magdalenes Research, Parallel Report to the United Nations Committee on Economic, Social and Cultural Rights (June 2015), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fIRL%2f20181&Lang=en

¹¹ Conall Ó Fátharta, 'Special Investigation: Centre and Laundry "one and the same"', *Irish Examiner*, 4 June 2015, <http://www.irishexaminer.com/ireland/special-investigation-centre-and-laundry-one-and-the-same-334498.html>

of abuse in the institutions.¹² Numerous women who died in Magdalene Laundries and their burial locations remain unidentified.¹³ The State has provided no measures of accountability, either through findings of wrongdoing by an independent investigation or the prosecution of perpetrators. All four religious orders responsible for operating the Magdalene Laundries have so far avoided apologising or providing any formal redress to the women or their family members.

Since February 2013, the United Nations Human Rights Committee and Committee on Economic, Social and Cultural Rights have added to the UN Committee against Torture's 2011 call for a prompt, independent and thorough investigation into all allegations of abuse in Magdalene Laundries, prosecution and punishment of perpetrators, and effective redress.¹⁴ In response, the State now argues that there is "[n]o factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions".¹⁵ The State asserts that there is no evidence to support the "allegations that women were systematically detained unlawfully in these institutions or kept for long periods against their will",¹⁶ and that "in the absence of any credible evidence of systematic torture or criminal abuse being committed in the Magdalen laundries, the Irish Government does not propose to set up a specific Magdalen inquiry or investigation."¹⁷

This position ignores evidence of which the government is aware and further ignores the State's legal obligations regarding ill-treatment not amounting to torture and other human rights violations, including arbitrary detention, forced labour and servitude. It has not been accepted by the Human Rights Committee¹⁸ or Committee on Economic, Social and Cultural Rights¹⁹ and was robustly interrogated by the Committee against Torture in its most recent correspondence with the State.²⁰

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fIRL%2f20181&Lang=en

¹² See above note 4. See also Justice for Magdalenes, Follow-up Report to the United Nations Committee against Torture (May 2012),

http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGS_IRL_12078_E.pdf, pp 19 – 24. The only inquiry so far has been an Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries, which did not have terms of reference to investigate abuse and "did not make specific findings" regarding the treatment of girls and women in the institutions. See IDC Report, above note 8, Ch 19, para 12.

¹³ Claire McGettrick and Justice for Magdalenes Research, 'Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues' (19 February 2015),

http://www.magdalenaundries.com/JFMR_Critique_190215.pdf

¹⁴ See United Nations Committee against Torture, List of issues prior to submission of the second periodic report of Ireland; United Nations Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Ireland; and United Nations Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland; all above note 4.

¹⁵ Replies of Ireland to United Nations Human Rights Committee List of Issues in relation to the fourth periodic report of Ireland, UN Doc CCPR/C/IRL/Q/4/Add.1 (27 February 2014),

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fQ%2f4%2fAdd.1&Lang=en, para 53

¹⁶ Ibid, para 54

¹⁷ Ibid, para 57; see also Dáil Éireann, Written Answer of Frances Fitzgerald TD to Question [26042/15] submitted by Micheal Martin TD, 30 June 2015, <https://www.kildarestreet.com/wrans/?id=2015-06-30a.730&s=magdalene#g732.r>

¹⁸ As evidenced by the Concluding Observations of the UN Human Rights Committee, above note 4. In Geneva in July 2014, the Chairperson of the UN Human Rights Committee, Professor Sir Nigel Rodley, expressed

The government's current stance could not be further from the facts acknowledged and sentiments conveyed to Magdalene survivors by the Taoiseach and Tánaiste on 19 February 2013:

...In the laundries themselves some women spent weeks, others months, more of them years, but the thread that ran through their many stories was a palpable sense of suffocation, not just physical in that they were incarcerated but psychological, spiritual and social.²¹

...I say to all of those women, some of whom are with us today: We have heard you, we believe you and we are profoundly sorry for what was done to you, and that what happened to you, as children or as adults.

...Nowhere in any of this did the word or concept of citizenship, personal rights and personal freedoms appear.²²

Overview of the Magdalene Laundries abuse

Well over 10,000 women and girls, as young as nine,²³ were incarcerated in Ireland's Magdalene Laundries²⁴ between 1922 and 1996. Their experiences, at least from about the 1940s to the 1970s, have been described by women and other witnesses who have provided testimony to the United

serious concern at the government's failure to put truth finding and accountability at the centre of redress for women survivors of both the Magdalene Laundries abuse and the practice of symphysiotomy. See Professor Sir Nigel Rodley's closing remarks at the examination of Ireland by the UN Human Rights Committee, 15 July 2014, <https://www.youtube.com/watch?v=v0NCIB3uHns>; Irish Council for Civil Liberties, Press Release, 'ICCL Wholeheartedly Endorses Coruscating UN Comments on Ireland', 15 July 2014, <http://www.iccl.ie/news/2014/07/15/iccl-wholeheartedly-endorses-coruscating-un-comments-on-ireland-.html>.

¹⁹ Evidenced by the Concluding Observations of the Committee on Economic, Social and Cultural Rights, above note 4.

²⁰ Nations Committee against Torture, List of issues prior to submission of the second periodic report of Ireland, above note 4.

²¹ Remarks of the Taoiseach, Enda Kenny, TD, during the apology on 19 February 2013, see above note 2.

²² Remarks of the Tánaiste, Eamonn Gilmore TD, during the apology, *ibid.*

²³ IDC Report, above note 8, Executive Summary, p XIII. The IDC calculated that at least 10,012 women entered the Magdalene Laundries. This statistic excludes women who spent time in the Sisters of Mercy Magdalene Laundries in Galway and Dun Laoghaire, due to the absence of records. It also excludes 762 'legacy cases' of women who entered prior to 6 December 1922 and remained thereafter (see Report of Inter-departmental Committee, chapter 7 paras 27, 30).

²⁴ 10 Magdalene Laundries were operated in the State by four religious orders: the Sisters of Our Lady of Charity of Refuge (St Mary's Refuge, High Park, Drumcondra, Dublin; Monastery of Our Lady of Charity Sean McDermott Street (formerly Gloucester Street), Dublin 1), the Congregation of the Sisters of Mercy (Magdalen Asylum/Magdalen Home, No 47 Forster Street, Galway; St Patrick's Refuge, Crofton Road, Dun Laoghaire, Co Dublin), the Religious Sisters of Charity (St Mary Magdalen's, Floraville Road, Donnybrook, Dublin; St Vincent's, St Mary's Road, Peacock Lane, Cork), and the Sisters of the Good Shepherd (St Mary's, Cork Road, Waterford; St Mary's, New Ross, Wexford; St Mary's, Pennywell Road, Limerick; St Mary's Sunday's Well, Cork). Although not included in the IDC's inquiry, the State apology and *ex gratia* redress scheme also included two institutions for girls with laundries attached, operated by the Religious Sisters of Charity (Stanhope Street, Dublin) and the Sisters of Mercy (Summerhill, Wexford). There have been calls from survivors of An Grianán, an institution for girls attached to the Sisters of Our Lady of Charity of Refuge Magdalene Laundry at High Park, for inclusion in the *ex gratia* scheme. See above note 11.

Nations,²⁵ provided written and oral testimony to the *Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (IDC),²⁶ spoken with the *Magdalen Commission*,²⁷ recorded oral histories²⁸ and spoken out in the media.²⁹

These testimonies portray a system in which women and girls were involuntarily detained behind locked doors and high walls, with no information as to whether or when they would be released and subject to the threat of arrest by An Garda Síochána³⁰ if they escaped; stripped of their identities, including through the imposition of house names and/or numbers, uniforms, haircuts and a prohibition on speaking; banned from communicating with the outside world except under strict surveillance; verbally denigrated and humiliated; kept in cold conditions with minimal nourishment and hygiene facilities; denied any education; and forced to work, constantly and unpaid, at laundry, needlework and general chores through the coercive force of the above factors and additional punishments including deprivation of meals, solitary confinement, physical abuse and humiliation rituals.

Evidence provided to the IDC by members of the religious orders responsible for the Magdalene Laundries,³¹ by a former novice in the Galway Magdalene Laundry³² and in a manual from the Galway Magdalene Laundry³³ corroborates many elements of the women's testimonies.

²⁵ See Justice for Magdalenes, Submission to the United Nations Committee against Torture (May 2011), http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGO_IRL_46_9041_E.pdf, pp 22-42.

²⁶ See Justice for Magdalenes, Principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries (18 September 2012), http://www.magdalenelaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf; IDC Report, above note 8, Introduction (paras 9, 10, 14, 18), Chapter 19.

²⁷ Magdalen Commission Report, above note 3.

²⁸ See Evelyn Glynn, *Breaking the Rule of Silence*, <http://www.magdalene laundrylimerick.com>, University College Dublin, *Magdalene Institutions: Recording an Oral and Archival History*, <http://www.magdaleneoralhistory.com>

²⁹ Among others: Julian Vignoles, 'Magdalene Laundry Institute for Outcast Women', RTÉ Radio 1, Ireland - Documentary on One (14 November 1992), <http://www.rte.ie/radio1/doconone/2013/0207/647346-radio-documentary-magdalene-laundry-galway/>; *Witness: Sex in a Cold Climate* (1998). Produced by Steve Humphries. Testimony Films for Channel 4, Great Britain. (16 March), <https://www.youtube.com/watch?v=FtxOePGgXPs>; *Les Blanchisseuses De Magdalen*. 1998. Une Film du Nicolas Glimois et Christophe Weber. Produced by Arnaud Hanelin. France 3/Sunset Preste; "The Magdalen Laundries." 1999. Narr. Steve Croft, prod. L. Franklin Devine. *60 Minutes*, CBS News, New York (3 January); *Washing Away the Stain*. 1993. Directed by Sarah Barclay and Andrea Miller. B.B.C. 2 Scotland (16 August); Mary Norris in Angela Lambert, 'A very Irish sort of hell', *Sunday Telegraph* (2 March 2003); RTE Radio 1, "Liveline" (28, 29 September 2009); RTE Prime Time, 'The experiences of some of the Magdalene Laundry women' (25 September 2012), <http://www.rte.ie/news/player/2013/0205/3401239-the-experiences-of-some-of-the-magdalene-laundry-women/>

³⁰ Irish police force.

³¹ IDC Report, above note 8. See, for example, Chapter 19, para 63 regarding the imposition of "house names", paras 64 and 65 regarding separation from the outside world, paras 67 and 68 regarding enforced silence, paras 69-71 regarding incarceration and paras 73-75 regarding punishments.

³² IDC Report, above note 8. See summary of evidence from Patricia Burke-Brogan at Chapter 19, para 112 regarding incarceration and unpaid labour, and para 114 regarding emotional abuse.

As for the length of time women and girls spent incarcerated in Magdalene Laundries, in the records which three of the four relevant religious orders produced to the IDC,³⁴ duration of stay (which would include date of exit) was not recorded for 58% of entries.³⁵ On the basis of entries for which duration of stay was recorded, the IDC concluded that the women's and girls' average duration of stay was 3.22 years and median 27.6 weeks.³⁶ However, the IDC treated each transfer between Laundries and each repeat entry as beginning a brand new period of detention and did not collate these to reach its conclusions regarding the average and median durations of stay.³⁷ The IDC also disregarded entirely for the purpose of these calculations the detentions of women who had entered Magdalene Laundries before 1922 and remained thereafter.³⁸

By comparing a number of available electoral registers, Claire McGettrick of JFM has found that 63.1% of adult women registered in the Donnybrook Magdalene Laundry in 1954-55 were still registered nine years later, in 1963-64. Similarly, 63.4% of the adult women registered in the High Park Magdalene Laundry in 1954-55 were still registered in 1963-64. Comparison of electoral registers against grave records at the Donnybrook Magdalene Laundry site show that over half of the women on electoral registers between 1954 and 1964 died at that institution.³⁹

As noted above, the identities and/or resting places of many women who died in Magdalene Laundries or in the care of the nuns after the Magdalene Laundries closed remain unknown.⁴⁰ So too does the actual number of girls and women who were incarcerated. As of June 2013, at least 115 women were still living in the care of the religious orders responsible for the Laundries.⁴¹

The State, as it now accepts, directly placed over one quarter of women and girls in Magdalene Laundries, including through the courts, the Gardaí, local authority health and social services,

³³ IDC Report, above note 8. See Chapter 19 para 142 regarding the prohibition on communicating with friends and acquaintances on the outside, para 144 regarding punishments and para 147 regarding incarceration and lack of wages.

³⁴ IDC Report, above note 8. See Chapter 7, paras 20-23, which explain that the Sisters of Mercy could produce no records for the Magdalene Laundry in Dun Laoghaire and very few records for the Magdalene Laundry in Galway.

³⁵ IDC Report, above note 8, 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.

³⁶ IDC Report, above note 8, Executive Summary, p XIII.

³⁷ IDC Report, above note 8. According to Chapter 8 paras 9 and 10, the available field of information for analysis of duration of stay consisted of 11,198 cases. This is greater than the number of women the report considers (see note 29).

³⁸ IDC Report, above note 8, Chapter 8, para 7.

³⁹ Claire McGettrick, *Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues*, pp 58, 59, http://www.magdalenelaundries.com/JFMR_Critique_190215.pdf. It is relevant to note that the IDC found the women's and girls' average age at the time of entry to have been 23.8, and the median age at the time of entry to have been 20. See IDC Report, above note 8, Executive Summary, XIII.

⁴⁰ See Claire McGettrick, *Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues*, http://www.magdalenelaundries.com/JFMR_Critique_190215.pdf

⁴¹ Magdalene Commission Report, above note 3, para 4.10

Industrial and Reformatory Schools, and Mother and Baby Homes.⁴² Other women and girls were placed in Magdalene Laundries by priests, family members, the NSPCC or the Legion of Mary,⁴³ or self-referred, amongst other routes of entry.

The State awarded laundry contracts to Magdalene Laundries, on the basis of the nuns' tenders being the most competitive, in the knowledge that the women and girls were receiving no wages for their work.⁴⁴ In addition, the State financially supported the Magdalene Laundries through payments for some of the girls and women placed there by State actors and by conferring charitable status upon the Laundries.⁴⁵ As the State now acknowledges, the Magdalene Laundries were subject to the requirements of the Factories Acts, although State records only show inspections of some Magdalene Laundries from 1957 onwards and only in respect of machinery and laundry premises rather than regarding wages, working hours or living conditions.⁴⁶

JFM Campaign Background

JFM was formed in 2003 by three adoption rights activists, two of whom are the daughters of women incarcerated in Magdalene Laundries for a combined total of approximately 60 years. JFM's predecessor organisation, the *Magdalen Memorial Committee*, had successfully lobbied the government from 1993 to 1996 for a memorial to the women who were exhumed from a grave at the High Park Magdalene Laundry in Drumcondra, in Dublin, in 1993, and cremated by the Sisters of Our Lady of Charity of Refuge so that the nuns could sell their land.⁴⁷ The driving force behind JFM's establishment was Mary Raftery's exposure in August 2003 that the nuns had received exhumation licences from the Department of the Environment for 155 bodies in 1993, without producing death certificates for 80 women or the full names of 46 women.⁴⁸

In July 2009, just after the publication of the *Ryan Report*,⁴⁹ JFM renewed its campaign for a State apology and reparation for Magdalene Laundry survivors by distributing proposed wording for a Redress Bill to TDs and Senators.⁵⁰

JFM's campaign over the next 15 months included:

⁴² IDC Report, above note 8. See Chapter 8, para 19, which states that 26.5% of entries for which manner of entry was known were made or facilitated by the State. However, note that in the non-State category the report puts transfers from other laundries (14.8% of known entries) and NSPCC and Legion of Mary (7.1% of known entries). Chapter 8, para 19 acknowledges the connection between these organisations and the State: "the categories of the "Legion of Mary" and "NSPCC" are presented separately (as neither State nor non-State) due to the fact that these categories include both State and non-State referrals in unknown proportions."

⁴³ Ibid.

⁴⁴ IDC Report, above note 8. See Chapter 14, paras 166-188.

⁴⁵ IDC Report, above note 8, Chapter 13

⁴⁶ IDC Report, above note 8, Chapter 12, p522, 571, 573.

⁴⁷ 'Magdalen women plaque unveiled', *The Irish Times* (22 April 1996); Mary Raftery, 'Restoring dignity to Magdalenes', *The Irish Times* (21 August 2003); see also <http://magdalenelaundries.com/what.htm>

⁴⁸ Mary Raftery, 'Restoring dignity to Magdalenes', *The Irish Times* (21 August 2003)

⁴⁹ Report of the Commission to Inquire into Child Abuse, above note 6.

⁵⁰ Justice for Magdalenes, Press Release, 'Justice for Magdalenes committee distributes draft language for a distinct redress scheme for survivors of Ireland's Magdalene laundries', 6 July 2009 <http://magdalenelaundries.com/press/JFM%20PR%2006-07-09.pdf>. See also 'Call for apology to survivors of laundries', *The Irish Times* (6 July 2009).

- (a) A written request for a Magdalene redress scheme by government TD, Tom Kitt, on behalf of JFM to the Minister for Education and Science. The Minister refused to consider redress, stating that the Laundries “were not subject to State regulation or supervision” and that “[t]he State did not refer individuals to Magdalene Laundries nor was it complicit in referring individuals to them”;⁵¹
- (b) Meetings with officials from the Department of Justice,⁵² Department of Education⁵³ and Department of Health,⁵⁴ where Dr James Smith, advisory committee member of JFM, presented his archival research demonstrating State involvement with Magdalene Laundries. The Department of Justice acknowledged that it had placed women on remand at one Magdalene Laundry under the Criminal Justice Act 1960 and that numerous women were referred to Magdalene Laundries through the courts absent statutory authority; and the Department of Education acknowledged that it was aware, at least from 1970, that girls were confined in Magdalene Laundries and that Reformatory Schools transferred girls into Magdalene Laundries;
- (c) Formal support from Labour Women and the National Women’s Council of Ireland for a separate redress scheme for Magdalene women;⁵⁵
- (d) The formation of a cross-party *ad hoc committee* by TDs and Senators, coordinated by Tom Kitt and Michael Kennedy (both government TDs) and Kathleen Lynch TD, dedicated to addressing the issue of redress for Magdalene survivors;⁵⁶
- (e) The submission by Tom Kitt and Michael Kennedy TDs of an online petition with over 1,000 signatures to the Taoiseach;⁵⁷
- (f) Correspondence with Cardinal Sean Brady, who acknowledged publicly his intent to work towards “a just solution” for Magdalene survivors and met with JFM;⁵⁸ and two letters to each of the four religious orders responsible for the Laundries, which went unanswered; and

⁵¹ Letter from Batt O’Keeffe, Minister for Education & Science to Tom Kitt, TD, above note 5.

⁵² Justice for Magdalenes, Press Release, ‘Department of Justice Contradicts Education Minister on Magdalenes’, 15 December 2009, <http://magdalenelaundries.com/press/JFM%20PR%2015-12-09.pdf> ; Justice for Magdalenes, Press Release, ‘Government exploring an apology for Magdalene survivors while denying any State liability’, 25 June 2010, <http://magdalenelaundries.com/press/JFM%20PR%2025-06-10.pdf>

⁵³ Justice for Magdalenes, Press Release, ‘Department of Education acknowledges its awareness of children in Magdalene Laundries’, 2 February 2010, <http://magdalenelaundries.com/press/JFM%20PR%202-02-10.pdf>

⁵⁴ Justice for Magdalenes, Press Release, ‘Justice for Magdalenes Challenges Taoiseach after Meeting with Minister for Health’, 25 March 2010, <http://magdalenelaundries.com/press/JFM%20PR%2025-03-10.pdf>

⁵⁵ Justice for Magdalenes, Press Release, ‘Labour women support Magdalene redress scheme’, 28 September 2009, http://magdalenelaundries.com/press_releases.htm ; Justice for Magdalenes, Press Release, ‘NWCI urges women politicians to men politicians to support Justice for Magdalenes’, 9 July 2010, <http://magdalenelaundries.com/press/JFM%20PR%2007-09-10.pdf>

⁵⁶ Justice for Magdalenes, Press Release, ‘All Party Dáil/Seanad Committee on Magdalenes Formed’, 16 December 2009, <http://magdalenelaundries.com/press/JFM%20PR%2016-12-09.pdf>; Justice for Magdalenes, Press Release, ‘Pressure Mounts on Cowen as Fianna Fáil TDs Deliver Petition Demanding Justice for Magdalenes’, 21 June 2010 <http://magdalenelaundries.com/press/JFM%20PR%2022-06-10.pdf>

⁵⁷ Justice for Magdalenes, Press Release, ‘Pressure Mounts on Cowen as Fianna Fáil TDs Deliver Petition Demanding Justice for Magdalenes’, 21 June 2010 <http://magdalenelaundries.com/press/JFM%20PR%2022-06-10.pdf>; Care2Petitions, ‘Leadership Needed on Magdalene Laundries’, <http://www.thepetitionsite.com/1/leadership-needed-on-magdalene-laundries>

⁵⁸ Justice for Magdalenes, Press Release, ‘Taoiseach dismisses abuse of children in Magdalene Laundries – JFM outraged’, 28 April 2010, <http://magdalenelaundries.com/press/JFM%20PR%2028-04-10.pdf>; Justice for

- (g) The submission of approximately 30 parliamentary questions to government Ministers regarding State involvement with the Magdalene Laundries and redress for Magdalene survivors, by TDs from all parties.⁵⁹

JFM's application to the Irish Human Rights Commission

In June 2010, dissatisfied with the government's refusal to accept responsibility for abuse in the Magdalene Laundries, JFM decided to apply to the Irish Human Rights Commission (IHRC) for an enquiry under section 9 of the Human Rights Commission Act 2000.⁶⁰

JFM's application, which is available online,⁶¹ consisted of a cover letter and a 53-page submission with appendices.

In the submission, Dr James Smith summarised his archival research demonstrating State involvement with the Magdalene Laundries and questioned whether a number of government Departments had carried out their duties with respect to the institutions. In addition, Dr Smith listed a number of Constitutional and ECHR rights which, he argued, the State had violated.⁶²

My contribution to JFM's application⁶³ described from publicly available sources the treatment of women and girls in Magdalene Laundries. As the religious orders had declined – and still decline – to open their post-1900 records to the public, it was not possible to find documentary evidence of conditions in the Laundries between 1922 and 1996. However, Magdalene survivors had spoken out in several television documentaries, including the Channel 4 documentary *Sex in a Cold Climate*,⁶⁴ and on two RTE Radio 1 *Liveline* programmes in September 2009.⁶⁵

I transcribed these testimonies and reasoned, using primary sources, case law and academic commentary, that the treatment of women and girls in Magdalene Laundries amounted to slavery, servitude and/or forced labour under international law. Following on from this, I argued that the State had violated its positive obligations under several international treaties,⁶⁶ the European

Magdalenes, Press Release, 'Cardinal Brady hopes Catholic religious will engage with Justice for Magdalenes (JFM)', 24 June 2010, <http://magdalenelaundries.com/press/JFM%20PR2%2024-06-10.pdf>

⁵⁹ Database on file with the author. All parliamentary questions and answers are available at www.kildarestreet.com

⁶⁰ Specifically, JFM requested an enquiry into "the State's failure to protect the constitutional and human rights of women and young girls in the nation's Magdalene Laundries" and the State's obligation to provide redress to Magdalene Laundry survivors.

⁶¹ Justice for Magdalenes, Submission to the Irish Human Rights Commission (10 June 2010), http://magdalenelaundries.com/JFM_IHRC_June_2010.pdf

⁶² Ibid. See paper entitled 'State Complicity and Constitutional Rights'.

⁶³ Ibid. See paper entitled 'Ireland's Magdalene Laundries and the State's Duty to Protect'. A revised version of this paper was later published in the *Hibernian Law Journal*, as Maeve O'Rourke, 'Ireland's Magdalene Laundries and the State's Duty to Protect' (2011)10 *HLJ* 200

⁶⁴ See note 29 above.

⁶⁵ See note 29 above. Chapter 18, Volume III of the 2009 Report of the Commission to Inquire into Child Abuse also contained evidence of abuse in 'Residential Laundries' from several women who had been transferred there as children from Industrial or Reformatory Schools. See Report of the Commission to Inquire into Child Abuse, above note 6.

⁶⁶ including the League of Nations 1926 Slavery Convention; the 1957 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the

Convention on Human Rights⁶⁷ and arguably the Irish Constitution⁶⁸ to protect women and girls from the treatment to which they had been subjected. It did not matter how women or girls entered the laundries – for example, at the hands of family members rather than the State – because the international legal obligations of States regarding slavery, servitude and forced labour were designed to ensure the suppression of non-State actors’ use of these forms of exploitation. Furthermore, the State’s legal obligations to prevent and suppress slavery, servitude and forced labour dated back to the 1930s. This was not a case of applying today’s legal standards to judge the State’s past conduct unfairly.

The IHRC’s response was prompt: on 9 November 2010, it published a 27-page *Assessment of the Human Rights Issues Arising in relation to the “Magdalen Laundries”*. The *Assessment* concluded with a formal recommendation to government “that a statutory mechanism be established to investigate the matters advanced by JFM and in appropriate cases to grant redress where warranted.”⁶⁹

The IHRC did not carry out a section 9 enquiry into the State’s responsibility for human rights violations in the Magdalene Laundries. It explained that (a) one of the main purposes of an enquiry – to review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights – had been satisfied, at least partially, by the *Assessment*; (b) even if the IHRC were to conduct an enquiry, this “would fall considerably short of the relief sought by JFM, that is, a State apology or the setting up of a redress scheme”; and (c) were the IHRC to conduct an enquiry, “it would still remain a matter for the State whether to grant the relief sought by JFM.”⁷⁰

The IHRC’s *Assessment* highlighted numerous human rights obligations which it believed mandated a statutory investigation into the issues and evidence presented by JFM.⁷¹

On the day that the IHRC issued its *Assessment*, the Dáil held an adjournment debate⁷² during which Tom Kitt, Michael Kennedy and Kathleen Lynch TDs called for an apology and reparation for

International Labour Organization (ILO) 1930 Forced Labour Convention; and the ILO 1957 Convention on Abolition of Forced Labour.

⁶⁷ European Convention on Human Rights (1950), Article 4.

⁶⁸ Bunreacht na hÉireann, Article 40.3.

⁶⁹ Irish Human Rights Commission, *Assessment of the Human Rights Issues Arising in relation to the “Magdalen Laundries”*, November 2010,

http://www.ihrec.ie/download/pdf/ihrc_assessment_of_the_human_rights_issues_arising_in_relation_to_the_magdalen_laundries_nov_2010.pdf, pp 28-29.

⁷⁰ Ibid, para 107.

⁷¹ including the State’s obligations under Article 3 of the European Convention on Human Rights (ECHR) to prevent inhuman and degrading treatment; the State’s obligations under article 5 ECHR and Article 40.4 of the Constitution to guard against arbitrary detention; the State’s obligations under the 1930 Forced Labour Convention, Article 4 ECHR and the Conditions of Employment Act, 1936 to prevent forced or compulsory labour; and the State’s obligation under Article 4 ECHR to ensure that no-one is held in servitude. The Commission further stated that the “burial, exhumation and cremation of known and unknown women and girls who resided in Magdalen Laundries in 1993 at High Park, Drumcondra, raises serious questions for the State in the absence of detailed legislation governing the area and any requirement that all bodies be identified and accounted for in such communal plots.”

⁷² Dáil Éireann, Adjournment Debate – Report on Magdalene Laundries, 9 November 2010, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/Dáil2010110900023?opendocument>

Magdalene survivors. The government, in response, highlighted that the IHRC had not sought information or observations from the numerous government departments concerned or from the religious congregations, “the reputations of which are at issue”; noted that “the Human Rights Commission did not make a definite finding that there were human rights violations”; emphasised the cost to the State of the Commission to Inquire into Child Abuse and redress for Industrial and Reformatory School survivors; and stated that “the number of women who entered the Magdalene laundries through the criminal justice system was small” and “[i]t is worth noting that no complaints have been received from any of these women”.⁷³

Draft memorandum from Minister for Justice to Government regarding the IHRC Assessment

By 9 March 2011 the new Fine Gael / Labour coalition government was in place, and on 24 March 2011 the Minister for Justice, Alan Shatter TD, stated that his Department, “in consultation with the Office of the Attorney General whose role is to provide legal advice, has prepared a draft submission for the Government on the matter which I am now considering.”⁷⁴

The *Irish Examiner* recently published (as a result of an FOI request) a draft Memorandum from the Minister for Justice to the government, dated March 2011, regarding the IHRC’s *Assessment* and JFM’s campaign demands.⁷⁵

The Memorandum states, in parts:

...Notwithstanding various “documentaries” and the report of the Irish Human Rights Commission, the Department is not aware of any finding by a court or other similar body that any offences or torts have been committed by those operating Magdalen laundries... The Department is not aware of any facts that would give rise to State liability or responsibility for abuses in Magdalen Laundries. To the best of our knowledge none of the complaints made alleging abuse in Magdalen Laundries have been made by an individual who was placed there with any State involvement.

If there were any abuses in Magdalen laundries, the individual abusers concerned and the religious orders who ran them were responsible.

...The IHRC conclusions ignore that the State already provides the mechanism of the courts where allegations of civil and criminal wrongs can be addressed. While there are statutory time limitations that would affect civil actions, these do not apply to criminal allegations.

The Memorandum requests Government approval for an Inter-departmental Committee to review the IHRC Assessment to “strengthen the position of the Government in dealing with the ongoing campaign”:

⁷³ Ibid.

⁷⁴ Written answer from Alan Shatter TD, Minister for Justice, Equality and Defence to Maureen O’Sullivan TD and Caoimhghín Ó Caoláin TD, 24 March 2011, <https://www.kildarestreet.com/wrans/?id=2011-03-24.526.0&s=magdalen>

⁷⁵ Conall O’Fatharta, ‘Government ‘conscious of redress’ for Magdalene survivors’, *Irish Examiner* (18 November 2014), <http://www.irishexaminer.com/ireland/government-conscious-of-redressfor-magdalen-survivors-298255.html>

...The Department circulated a draft Memorandum on 2 September, 2010 seeking the approval of Government to engage with the relevant religious orders regarding Magdalen Laundries. However the general view of observations from Departments was concern that engaging with the religious orders might give the impression that the State was accepting responsibility in this area.

...The Minister is conscious of the Minister for Finance's view that the proposals contained in the Memorandum previously circulated would very likely generate pressure for opening up redress. The Minister is conscious of the danger but considers that the IHRC Assessment has to be addressed and that the work of the Interdepartmental Committee will strengthen the position of the Government in dealing with the ongoing campaign.

JFM submission to United Nations Committee against Torture

In April 2011, faced with continued silence from government regarding the IHRC's *Assessment*, JFM submitted a shadow report to the United Nations Committee against Torture (CAT) for the Committee's first periodic review of Ireland.⁷⁶

For this purpose, and for the purpose of a shadow report for the Human Rights Council's Universal Periodic Review of Ireland later in 2011,⁷⁷ I interviewed four women who had been incarcerated in different Magdalene Laundries between the late 1950s and late 1960s. The women, whose testimonies were appended, anonymised, to JFM's reports, gave evidence of An Garda Síochána returning girls or women who escaped and of washing laundry from the State-regulated and State-funded Industrial Schools, amongst other laundry and needlework. They were unanimous in stating that they were not free to leave, were forced to work constantly for no pay and were subjected to severe physical and psychological abuse and neglect.⁷⁸

Ireland having ratified the Convention against Torture in 2002, while the last Magdalene Laundry closed in 1996, JFM relied on the "continuing violations" doctrine, which provides that the Committee may examine alleged violations of the Convention which occurred before a State Party's ratification of the Convention if the effects of those violations continued after ratification and if the effects constitute themselves a violation of the Convention.⁷⁹

JFM argued that the requirements of articles 1 and/or 16 of the Convention against Torture were met⁸⁰ and that since Ireland's ratification of the Convention in 2002, the State had continued to violate its obligations under articles 12, 13 and 14 to investigate and ensure redress for torture or

⁷⁶ Justice for Magdalenes, Submission to the United Nations Committee against Torture, above note 25. I am indebted to Professor Catharine A. MacKinnon and Equality Now for their advice regarding this submission.

⁷⁷ Justice for Magdalenes, Submission to the United Nations Universal Periodic Review (2011) <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/IE/JFM-JusticeforMagdalenes-eng.pdf>

⁷⁸ See Justice for Magdalenes, Submission to the United Nations Committee against Torture, above note 25, Appendix IV.

⁷⁹ See for example *A.A. v Azerbaijan*, Communication No 247/2004, 25 November 2005.

⁸⁰ due to the women and girls being confined in Magdalene Laundries on the basis of their sex and some as criminal punishment, and because the State involved itself directly in, consented to and acquiesced in the incarceration, forced labour and physical and psychological abuse and neglect portrayed in the available survivor testimony. Dr James M Smith's evidence of State involvement was of crucial importance.

cruel, inhuman or degrading treatment of women and girls in the Magdalene Laundries. JFM highlighted the IHRC's *Assessment* in support of its arguments. JFM also noted the present day suffering of the women as a result of these continuing violations, including poverty, psychiatric illness, educational deficits, lack of access to records and a deep sense of stigmatisation.

The opportunity to brief the Committee in person during the NGO session was invaluable for JFM.⁸¹ So too was the live online streaming of the sessions.⁸² All members of JFM were able to watch the proceedings and draft press releases immediately. JFM included video clips from the sessions in its press releases, and I was able to share the videos with the women who had participated and other Magdalene survivors afterwards.

In response to numerous questions regarding the Magdalene Laundries,⁸³ the Secretary General of the Department of Justice told the Committee that to his Department's knowledge no complaints had been made to the police. He stated that "the vast majority of women who went to these institutions went there voluntarily or, if they were children, with the consent of their parents or guardians". He added that "these alleged events happened in most cases a considerable time ago, in privately run institutions".⁸⁴

The acting Chairperson of the Committee, Felice Gaer, noted that Magdalene survivors "are alive" and questioned the "private" and "voluntary" nature of the Laundries' operations:

I think "voluntary" means that one makes a choice, that one is informed, that one is then free to leave.

...Do you have anything to suggest that the vast majority of women who went there were aware of the conditions...if they made a choice, if they were given information?

...We had testimony about locked doors and people being captured by police and returned...

...An act of torture may also arise from an act of omission and not just a positive act. So this appears to include failure to inspect or regulate the place where acts of torture occurred... wouldn't this apply to the Magdalene Laundries...?⁸⁵

⁸¹ Several Committee members approached me after the session to ask for further information, and we kept in contact over the next two days while the Committee met with the government delegation. Many thanks are due to Amnesty International (Ireland), the Irish Council for Civil Liberties and the Irish Penal Reform Trust for encouraging me to attend the NGO briefing session with them and for sharing information regarding the process.

⁸² Coordinated by the Irish Penal Reform Trust.

⁸³ UN Committee against Torture, Summary record of the 1002nd meeting held at the Palais Wilson, Geneva, on Monday, 23 May 2011, at 10am, UN Doc CAT/C/SR.1002, http://www.bayefsky.com//summary/ireland_cat_c_sr1002_2011.pdf

⁸⁴ Secretary General of Department of Justice, 24 May 2011

<https://www.youtube.com/watch?v=tSrDbeO5wYs>; See also UN Committee against Torture, Summary record of the 1005th meeting held at the Palais Wilson, Geneva, on Tuesday, 24 May 2011, at 3pm, UN Doc CAT/C/SR 1005, http://www.bayefsky.com/summary/ireland_cat_c_sr1005_2011.pdf

⁸⁵ Felice Gaer, 24 May 2011, <https://www.youtube.com/watch?v=YsUMPiFjUuk>; See also UN Committee against Torture, Summary record of the 1005th meeting held at the Palais Wilson, Geneva, on Tuesday, 24 May 2011, at 3pm, UN Doc CAT/C/SR 1005, http://www.bayefsky.com/summary/ireland_cat_c_sr1005_2011.pdf

Regarding the Department's argument that no-one had made a criminal complaint, Ms Gaer stated that Article 14 'doesn't say "seeks" redress, it says "obtains"'.⁸⁶ Committee member Dr Nora Sveaass said that redress or reparation "shouldn't be dependent on three or four or five of these women coming forward and complaining".⁸⁷ Ms Gaer had earlier expressed concern over the fact that, despite the extensive evidence gathered by the Commission to Inquire into Child Abuse regarding endemic abuse in Industrial and Reformatory Schools, the State had forwarded only 11 cases to the Director of Public Prosecutions, eight of which had been rejected.⁸⁸

UN Committee against Torture Concluding Observations

The Committee's Concluding Observations were published on 5 June 2011. In them, the Committee expressed grave concern at "the failure by the State party to protect girls and women who were involuntarily confined between 1922 and 1996 in Magdalene Laundries".⁸⁹ The Committee recommended prompt, independent and thorough investigations into allegations of torture and other cruel, inhuman and degrading treatment or punishment in Magdalene Laundries; in appropriate cases, prosecution and punishment of perpetrators; and that the State ensure that all victims obtain redress and have an enforceable right to compensation.⁹⁰ The Committee included this recommendation in its one year follow-up process, signalling its particularly urgent nature.⁹¹

The Committee's session with the government and its Concluding Observations were covered by all major Irish news outlets and international sources, including the New York Times, Time Magazine, the BBC and Guardian. In the following days, several Senators and TDs called for Seanad and Dáil debates on the IHRC and CAT recommendations and JFM organised an email campaign directed at Cabinet members.⁹²

Government Statement on the Magdalene Laundries: Inter-departmental Committee and discussions with religious orders and representative groups

On 14 June 2011, just over a week after the Committee against Torture issued its recommendations, the Minister for Justice announced that the government would establish an Inter-departmental Committee to clarify any State interaction with the Magdalene Laundries and to produce a narrative detailing such interaction.⁹³

⁸⁶ Ibid. See also <http://magdalenelaundries.com/press/JFM%20PR%2024-05-11.pdf>

⁸⁷ Nora Sveaass, 24 May 2011, <https://www.youtube.com/watch?v=PVRWbBW7NQA>; UN Committee against Torture, Summary record at note 83 above; see also <http://magdalenelaundries.com/press/JFM%20PR%2024-05-11.pdf>

⁸⁸ See note 83 above.

⁸⁹ UN Committee against Torture, Concluding Observations on Ireland, UN Doc CAT/C/IRL/CO/1 (17 June 2011) http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fCO%2f1&Lang=en, para 21.

⁹⁰ Ibid.

⁹¹ Ibid, para 33.

⁹² Justice for Magdalenes, 'Letter to Cabinet Ministers', 13 June 2011, http://www.magdalenelaundries.com/dear_minister.htm

⁹³ Department of Justice and Equality, Statement on the Magdalene Laundries, 14 June 2011, <http://www.justice.ie/en/JELR/Pages/PR11000082>. In this statement, the Minister for Justice, Alan Shatter TD, added that he and Minister for State, Kathleen Lynch, TD, would hold meetings with the religious orders

Senator Martin McAleese was appointed as the Independent Chair of the *Inter-departmental Committee* (IDC) in July 2011. His advisor was an official from the Department of Foreign Affairs, and the Committee members were senior officials from six government Departments.

JFM voiced its concerns to the government,⁹⁴ and to the UN Committee against Torture in a follow-up report in May 2012,⁹⁵ that the IDC did not meet the State's human rights obligation to investigate the Magdalene Laundries abuse due to its lack of independence, limited remit, lack of terms of reference, lack of statutory powers to compel evidence, lack of public hearings or access to evidence for survivors or representative groups, lack of authority to make recommendations and decision not to issue a public invitation to submit evidence. Of grave concern, in addition, was the IDC's decision that it would destroy all copies and return all of the evidence obtained from the religious orders at the conclusion of its work.⁹⁶

Nonetheless, JFM committed to working with the IDC in good faith while continuing to call for a State apology and reparation on the basis of evidence already in the public domain and further evidence that JFM was gathering.⁹⁷ Ultimately, JFM submitted 3,707 pages of documentary evidence and 795 pages of survivor and other witness testimony to the IDC, summarised in a 145-page legal document which is available in redacted form online.⁹⁸

Campaign up to February 2013

In the 18 months during which the IDC was completing its work, the pressure for reparation continued to mount.

The Committee against Torture's one year deadline for Ireland to comply with its recommendation on the Magdalene Laundries passed, and the Irish Council for Civil Liberties and JFM marked the deadline with an event at which Felice Gaer spoke in her personal capacity as Director of the Jacob Blaustein Institute for the Advancement of Human Rights.⁹⁹ JFM submitted a detailed follow-up

responsible for the Magdalene Laundries and the "groups representing former residents of the Magdalene Laundries" to discuss the making available of records, the provision of information regarding the number of women still living in the care of the religious orders, and the putting in place of a restorative and reconciliation process.

⁹⁴ See Justice for Magdalenes, Follow-Up Report to UN Committee against Torture, above note 12, endnote xii.

⁹⁵ Ibid, pp 19 – 24.

⁹⁶ Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries, Interim Progress Report, 20 October 2011,

<http://www.justice.ie/en/JELR/Appendix%201.pdf/Files/Appendix%201.pdf>, para 35

⁹⁷ JFM submitted Restorative Justice and Reparation proposals to the Minister for Justice on 14 October 2011, following consultation with Magdalene survivors, service providers and legal and other professionals. Available at <http://magdalenelaundries.com/JFM%20Reparations%2014%20October.pdf>

⁹⁸ Justice for Magdalenes, Principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries, above note 26. The 3,707 pages of documentary evidence and 795 pages of testimony was summarised into JFM's Principal submissions with the exceptionally generous pro bono assistance of Raymond Hill, Barrister (of the Bar of England and Wales).

⁹⁹ Justice for Magdalenes, Press Release, 'One year after UN Recommendation Magdalene women are no closer to an apology or redress', 28 May 2012, <http://magdalenelaundries.com/press/JFM%20PR%2028-05-12.pdf>

report to the Committee, including all of the additional evidence it had gathered showing State responsibility for grave and systematic abuse in the Laundries.¹⁰⁰

Ireland's compliance with its human rights obligations was reviewed by the UN Human Rights Council during the Universal Periodic Review process between October 2011 and March 2012. JFM submitted a report¹⁰¹ arguing numerous violations of the State's international, European and Constitutional rights obligations. The UN Office of the High Commissioner for Human Rights' Compilation Report included CAT's recommendation regarding the Magdalene Laundries as one of three "[k]ey national priorities, initiatives and commitments".¹⁰² Thailand made a recommendation, calling for a "statutory inquiry and compensation scheme in order to guarantee accountability and assist the women and children victims of violence".¹⁰³ However, the government accepted this recommendation by stating that reparation had already been made to victims of church-related childhood abuse, eliding the issue of the Magdalene Laundries abuse.¹⁰⁴ During the public NGO briefing session in March 2012, the IHRC and the National Women's Council of Ireland (leading the Women's Human Rights Alliance) both called on the State to institute a statutory inquiry and provide redress to Magdalene survivors.¹⁰⁵

Ireland's Special Rapporteur on Child Protection, Dr Geoffrey Shannon, commented at length on the IHRC and CAT recommendations in his 2011 Annual Report, published in July 2012. He recommended:

The initiation of an investigation is a very positive step, but it is crucial that this is accompanied by concrete provision for the survivors. The abuses which they experienced should also be investigated with a view to criminal prosecutions where appropriate. This should be a priority for the government because of the seriousness of the alleged abuses and in particular because of the slow and inadequate response over many years.¹⁰⁶

The Special Rapporteur noted the "already extensive accounts from the survivors of the laundries of how they were forced to work in difficult conditions, for long hours, with no payment" and stated that "[t]he detention and use of women and girls as workers without pay would amount to 'forced labour' under the 1930 Forced Labour Convention of the International Labour Organisation". He

¹⁰⁰ Justice for Magdalenes, Follow-Up Report to UN Committee against Torture, above note 12.

¹⁰¹ Justice for Magdalenes, Submission to the United Nations Universal Periodic Review, above note 77.

¹⁰² Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(b) of the annex to Human Rights Council resolution 5/1, UN Doc A/HRC/WG.6/12/IRL/1 (25 July 2011), para 57.

¹⁰³ Report of the Working Group on the Universal Periodic Review, Ireland, UN Doc A/HRC/19/9 (21 December 2011), para 107.40 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/20/PDF/G1117520.pdf?OpenElement>

¹⁰⁴ Addendum to the Report of the Working Group on the Universal Periodic Review, Ireland, 6 March 2012, lib.ohchr.org/HRBodies/UPR/Documents/session12/IE/A_HRC_19_9_Add.1_Ireland_E.doc. The government failed entirely to respond to the recommendation's specific reference to women victims. See section 4.4 of JFM's Follow-Up report to the Committee against Torture, above note 11.

¹⁰⁵ Justice for Magdalenes, Press Release, 'Irish Human Rights Commission, Women's Human Rights Alliance and Justice for Magdalenes (JFM) address UN Human Rights Council on Magdalene Laundries abuse', 15 March 2012, <http://magdalenelaundries.com/press/JFM%20PR%2015-03-12.pdf>

¹⁰⁶ Geoffrey Shannon, Fifth Report of the Special Rapporteur on Child Protection (2012), p81 <http://www.dcya.gov.ie/documents/publications/5RapporteurRepChildProtection.pdf>

added: “It appears from the reports provided by these women and girls that their treatment constituted slavery.”¹⁰⁷

In September 2012, RTE broadcast a *Prime Time Investigates* documentary, featuring several Magdalene survivors, members of JFM and Felice Gaer, Acting Chairperson of the UN Committee against Torture.¹⁰⁸

Also in September 2012, the Dáil debated a Private Members motion tabled by Sinn Fein regarding the need for redress. In advance of the debate, JFM issued all TDs and Senators with a redacted copy of its 145-page summary of evidence submitted to the IDC.¹⁰⁹

Finally, having received notice that the IDC’s report would be published on 5 February 2013, JFM organised a campaign via social media, asking the public to telephone their local TDs’ constituency offices and to email their TDs demanding an apology and reparation immediately upon publication of the report.¹¹⁰

Release of Inter-departmental Committee’s report

The government published the IDC’s 1,015-page report¹¹¹ on Tuesday 5 February 2013. The report demonstrated widespread State involvement with the Magdalene Laundries, including through funding, contracts for services, inspection, the placement of over one quarter of women and girls in the institutions, and returns by An Garda Síochána on legislative and ad hoc bases.

However, no formal apology was forthcoming that day.

The Taoiseach, in introducing the report, emphasised the statistics on duration of stay (set out in the report’s Executive Summary with no reference to the fact that they were based on 42% of recorded entries only).¹¹² He stated that the “overriding requirement, as identified by Senator McAleese and his team, was to deal with the stigma attached to those who worked in Magdalen laundries and stayed in the accommodation there.”¹¹³ He added:

It is clear from the report that there is no evidence of sexual abuse in the Magdalen laundries. There is one reported case of abuse by one resident on another. The stigma of branding together all 10,000 residents in the Magdalen laundries needs to be removed and

¹⁰⁷ Geoffrey Shannon, *ibid*, p78

¹⁰⁸ RTE Prime Time, ‘The experiences of some of the Magdalene Laundry women’ (25 September 2012), above note 23.

¹⁰⁹ Justice for Magdalenes, Press Release, ‘JFM demands immediate government action for Magdalene survivors’, 18 September 2012, <http://magdalenelaundries.com/press/JFM%20PR%2018-09-12.pdf>

¹¹⁰ Justice for Magdalenes, Media Advisory, ‘Justice for Magdalenes (JFM) awaits the release of the Inter-Departmental Committee Investigating State Involvement with the Magdalen Laundries’, 3 February 2013, <http://magdalenelaundries.com/press/JFM%20MA%2003-02-13.pdf>

¹¹¹ IDC Report, above note 8.

¹¹² Dáil Éireann, Leaders’ Questions, Tuesday 5 February 2013, 4.15pm, <https://www.kildarestreet.com/debate/?id=2013-02-05a.192>. See note 35 above regarding gaps in records provided to the IDC.

¹¹³ Dáil Éireann, Leaders’ Questions, *ibid*.

*should have been removed long before this. I really am sorry, and I regret, that that never happened.*¹¹⁴

Announcing that there would be a Dáil debate on the report in a further two weeks' time, the Taoiseach concluded:

*The report is comprehensive and detailed, and the statistics speak for themselves. Far from jumping to conclusions, everybody should read this report carefully and reflect on it deeply.*¹¹⁵

Of course, the IDC's report was not a comprehensive account of the full facts of the Magdalene Laundries, contrary to the government's repeated claims since its publication.¹¹⁶ The IDC's mandate was limited to establishing the facts of state involvement with the Magdalene Laundries and did not extend to investigating allegations of abuse.

In a chapter entitled "Living and Working Conditions",¹¹⁷ the IDC set out extracts of evidence¹¹⁸ it had received from Magdalene survivors,¹¹⁹ members of the religious orders and others.¹²⁰ The IDC expressly refrained from making any findings,¹²¹ although it structured the chapter by first categorising the women's evidence according to various forms of treatment¹²² and afterwards

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ See, for example, Replies of Ireland to United Nations Human Rights Committee List of Issues, above note 14, para 52; Dáil Éireann, Written Answer by James Reilly, Minister for Health, to Thomas Pringle TD (14 October 2014), <https://www.kildarestreet.com/wrans/?id=2014-10-14a.425>; Dáil Éireann, Written Answer by Alan Shatter, Minister for Justice, to Mick Wallace TD (5 March 2014), <https://www.kildarestreet.com/wrans/?id=2014-03-05a.421>

¹¹⁷ IDC Report, above note 8, Chapter 19.

¹¹⁸ Which it referred to as "The stories of women who lived and worked in the Magdalen Laundries". See IDC Report, above note 8, Chapter 19, p 928.

¹¹⁹ 118 women, including 58 women still in the care of the relevant religious orders. See IDC Report, above note 8, Chapter 19, para 16.

¹²⁰ See IDC Report, above note 8, Chapter 19, para 9.

¹²¹ See IDC Report, above note 8, Summary and paras 12, 21.

¹²² There is no category which explicitly considers imprisonment, although there is a category concerning 'lack of information and a real fear of remaining there until death'. There is no category concerning forced labour, rather 'work environment' is considered but no evidence is included regarding whether or not the women were paid for their work (the fact that no wages were paid is stated elsewhere in the report, in the final chapter, entitled "Financial Viability of the Magdalen Laundries", at ch20 para 33). The category of 'physical abuse' includes evidence of being shaken, being 'dug' at with implements and slapped, and includes many women's complaints of constantly having to carry out physically difficult work. However, the report states at para 33: "A large majority of the women who shared their stories with the Committee said that they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries." Punishments of being put in solitary confinement, enforced kneeling for two hours and having soiled bedsheets pinned to one's back were categorised as 'psychological and verbal abuse and non-physical punishment'. 'Reports of hair cutting' and the surveillance imposed on 'Communication with the outside world' are considered. There is no category concerning neglect.

recounting evidence from others.¹²³ This chapter of the IDC's report makes no reference to any of the 795 pages of testimony which JFM submitted.¹²⁴

Notwithstanding the report's lack of findings or conclusions regarding the women's treatment, Chapter 19 and other chapters of the IDC's report provide substantial evidence of grave and systematic human rights abuse. This includes involuntary detention, forced labour, additional forms of physical abuse, psychological abuse and neglect.

State apology

Finally, on 19 February 2013, the Taoiseach issued a State apology to all survivors of the Magdalene Laundries.¹²⁵

The apology was preceded by two weeks of intensive campaigning by JFM and other survivor groups, non-governmental organisations and members of the public, and widespread media coverage and debate in Ireland and internationally.¹²⁶ Individual government TDs, including Kathleen Lynch TD, who had supported JFM's campaign while in opposition, also appear to have fought strongly for an apology in the aftermath of the IDC report's publication.¹²⁷

Before the apology, the Taoiseach met with a number of Magdalene survivors in Ireland and the UK. Again, these women provided testimony of the treatment they had suffered. The Taoiseach read extracts of the women's testimonies into his 18-minute apology, and said:

Today we live in a very different Ireland with a very different consciousness and awareness. We live in an Ireland where we have more compassion, empathy, insight and heart. We do, because at last we are learning those terrible lessons. We do, because at last we are giving up our secrets. We do, because in naming and addressing the wrong, as is happening here

¹²³ Chapter 19 provides the nuns' explanations for changing the women's and girls' names (para 63), for locking doors and gates (paras 69-71) and regarding their use of punishments (paras 72-77).

¹²⁴ The testimony submitted by JFM contained clear evidence of physical abuse (additional to forced labour), psychological abuse, neglect, involuntary detention and forced labour. See Justice for Magdalenes, Principal Submissions, above note 26.

¹²⁵ Dáil Éireann, Magdalen Laundries Report: Statements, above note 2.

¹²⁶ See for example,

RTE Prime Time, 'Magdalene Laundries report published' (5 February 2013)

<http://www.rte.ie/news/player/2013/0205/3482016-magdalene-laundries-report-published/>; Letters:

Response to Magdalene laundries report, The Irish Times (8 February 2013),

<http://www.irishtimes.com/opinion/letters/response-to-magdalene-laundries-report-1.1250761>; Rachel

Cooper, 'Magdalene Laundries survivors reject apology', The Telegraph (5 February 2013),

<http://www.telegraph.co.uk/women/womens-life/9850882/Magdalene-Laundries-survivors-reject-apology.html>; Sorcha Pollak, 'The Magdalene Laundries: Irish Report Exposes a National Shame', Time

Magazine (7 February 2013); Carol Ryan, 'Seeking Redress for a Mother's Life in a Workhouse', The New York Times (6 February 2013), http://www.nytimes.com/2013/02/07/world/europe/seeking-redress-in-ireland-over-magdalene-laundry.html?_r=0.

¹²⁷ Michael Brennan, 'Taoiseach facing a backbench revolt of failure to apologise', Irish Independent (7 February 2013); John Drennan, 'Labour narrowly averted walkout over Kenny's Magdalene 'apology'; 'Sharp exchanges' in Cabinet as junior coalition partner aired issues with Government's stance', Sunday Independent (10 February 2013).

*today, we are trying to make sure we quarantine such abject behaviour in our past and eradicate it from Ireland's present and Ireland's future.*¹²⁸

Conclusion

The Irish State still has a long way to go in “naming and addressing the wrong” of the Magdalene Laundries abuse. The apology was only the beginning of that process. Unfortunately, as set out in the Introduction, it would seem that the government is now reluctant to name the abuse for what it was because that would require it to accept its full obligations to ensure truth, accountability and justice.

There is no doubt that the apology and *ex gratia* redress scheme were hugely significant steps, however.

The campaign for an apology and reparation extended far beyond JFM, just as JFM's campaign incorporated many strategies in addition to the use of human rights mechanisms. It is important to acknowledge that the apology and *ex gratia* scheme were achieved through the collective effort of women who spent time in the Laundries and their family members, and numerous other individuals and organisations who are far too many to name but know the crucial parts they played.

In 30 years' time, when State papers are released, historians might tell us the degree to which the IHRC and UN Committee against Torture recommendations actually prompted the government's actions. For now, I can only speak as a participant, and it seems that the recommendations were instrumental in galvanising the public support and pressure needed for the IDC's establishment and in maintaining pressure for an apology and reparation measures that covered all women, regardless of whether or not they were placed in Magdalene Laundries by State actors.

JFM was grateful for the public fora which these mechanisms provided for the women's experiences to be acknowledged, for the legal implications of their experiences to be addressed, for evidence of State responsibility to be examined, and – in the case of the UN Committee against Torture – for State representatives to be questioned. The barriers to litigation for Magdalene survivors¹²⁹ made the existence of these mechanisms all the more important.

Within the UN system, the effects of the IHRC and Committee against Torture recommendations have continued, contributing to further recommendations to Ireland by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. The Magdalene Laundries

¹²⁸ See note 2 above.

¹²⁹ Demonstrated by the apparent lack of any cases having been brought by Magdalene survivors between 2009 and 2013, and in general when one considers the stigmatisation and silencing of Magdalene survivors, the women's financial positions and the risk of adverse costs orders, the women's health, the unavailability and/or unaffordability of After-the-Event insurance, the Statute of Limitations, and the evidentiary difficulties posed by the non-publication and absence of records, and the fact that the women did not know the identities of those who were incarcerated with them in Magdalene Laundries and, if released, were often released without warning, amongst other barriers.

were also raised during the Committee against Torture's review of the Holy See in 2014¹³⁰ and the Committee on the Rights of the Child's review of the Holy See in 2014.¹³¹

It can only be hoped that the Magdalene apology and the campaign surrounding it will have their own continuing positive effects in Ireland. The least the State and Irish society owe to the women who spent months, years and decades in Magdalene Laundries is that their experiences would prompt a greater degree of self-reflection, greater acknowledgement of discrimination against women, and greater determination to ensure equal treatment and respect for human rights in the future.

ADDITIONAL READING

Selected Justice for Magdalenes reports

- Justice for Magdalenes, Submission to the Irish Human Rights Commission (10 June 2010) http://magdalenelaundries.com/JFM_IHRC_June_2010.pdf
- Justice for Magdalenes, Submission to the United Nations Committee against Torture (May 2011), http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGO_IRL_46_9041_E.pdf, pp 22-42.
- Justice for Magdalenes, Submission to the United Nations Universal Periodic Review (2011) <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/IE/JFM-JusticeforMagdalenes-eng.pdf>
- Justice for Magdalenes, Follow-up Report to the United Nations Committee against Torture (May 2012), http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGS_IRL_12_078_E.pdf
- Justice for Magdalenes, Principal Submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries (18 September 2012), http://www.magdalenelaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf
- Claire McGettrick and Justice for Magdalenes Research, 'Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues' (19 February 2015), http://www.magdalenelaundries.com/JFMR_Critique_190215.pdf
- Justice for Magdalenes Research, Parallel Report to the United Nations Committee on Economic, Social and Cultural Rights (June 2015),

¹³⁰ United Nations Committee against Torture, Concluding Observations on the initial report of the Holy See, UN Doc CAT/C/VAT/CO/1, 17 June 2014, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CAT%2fC%2fVAT%2fCO%2f1&Lang=en

¹³¹ United Nations Committee on the Rights of the Child, Concluding Observations on the second periodic report of the Holy See, UN Doc CRC/C/VAT/CO/2, 25 February 2014, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fVAT%2fCO%2f2&Lang=en

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fIRL%2f20181&Lang=en

Irish Human Rights Commission / Irish Human Rights and Equality Commission reports

- Irish Human Rights Commission, *Assessment of the Human Rights Issues Arising in relation to the "Magdalen Laundries"*, November 2010, http://www.ihrec.ie/download/pdf/ihrc_assessment_of_the_human_rights_issues_arising_in_relation_to_the_magdalen_laundries_nov_2010.pdf
- Irish Human Rights Commission, *Follow-Up Report on State Involvement with Magdalen Laundries*, June 2013, <http://www.ihrec.ie/publications/list/ihrc-followup-report-on-state-involvement-with-mag/>

State reports

- Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries, Interim Progress Report, 20 October 2011, <http://www.justice.ie/en/JELR/Appendix%201.pdf/Files/Appendix%201.pdf>
- Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen laundries (February 2013), [http://www.justice.ie/en/JELR/2013Magdalen-P%20I%20Chapter%203%20History%20\(PDF%20-%203824KB\).pdf/Files/2013Magdalen-P%20I%20Chapter%203%20History%20\(PDF%20-%203824KB\).pdf](http://www.justice.ie/en/JELR/2013Magdalen-P%20I%20Chapter%203%20History%20(PDF%20-%203824KB).pdf/Files/2013Magdalen-P%20I%20Chapter%203%20History%20(PDF%20-%203824KB).pdf)
- Magdalen Commission Report (May 2013), <http://www.justice.ie/en/JELR/Pages/PB13000255>

Other

- Evelyn Glynn, *Breaking the Rule of Silence*, <http://www.magdalenelaundrylimerick.com>
- James M Smith, *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* (Manchester University Press, 2008)