



Provided by the author(s) and NUI Galway in accordance with publisher policies. Please cite the published version when available.

Title	Justice for Magdalenes: Follow-up report to the UN Committee against Torture
Author(s)	O'Rourke, Maeve; Smith, James M.; Hill, Raymond; McGettrick, Claire
Publication Date	2012-05
Publication Information	O'Rourke, Maeve, Smith, James M., Hill, Raymond, & McGettrick, Claire et al (2012). Justice for Magdalenes: Follow-up report to the UN Committee against Torture, Justice for Magdalenes.
Publisher	Justice for Magdalenes
Link to publisher's version	http://jfmresearch.com/publications/
Item record	http://hdl.handle.net/10379/15317

Downloaded 2020-09-21T05:38:30Z

Some rights reserved. For more information, please see the item record link above.



Justice for Magdalenes

Crocknahattina, Bailieborough
Co. Cavan, Ireland

Web: www.magdalenelaundries.com
Email: info@magdalenelaundries.com



FOLLOW-UP REPORT TO THE UN COMMITTEE AGAINST TORTURE

Follow-up to 46th Session (9 May 2011 – 3 June 2011)

May 2012

Written by:

Maeve O'Rourke, JFM Advisory Committee Member

James M. Smith, Boston College & JFM Advisory Committee Member

Raymond Hill, Barrister, Monckton Chambers

Claire McGettrick, JFM Co-ordinating Committee Member

& others¹

Justice for Magdalenes (JFM) is a non-profit, all-volunteer organisation which seeks to respectfully promote equality and advocate for justice and support for the women formerly incarcerated in Ireland's Magdalene Laundries. Many of JFM's members are women who were in Magdalene Laundries, and its core coordinating committee, which has been working on this issue in an advocacy capacity for over twelve years, includes several daughters of women who were in Magdalene Laundries, some of whom are also adoption rights activists. JFM also has a very active advisory committee, comprised of academics, legal scholars, politicians, and survivors of child abuse.

PAGE

Concluding Observations of the Committee against Torture Ireland

Forty-sixth session, 9 May – 3 June 2011

Magdalene Laundries

21. The Committee is gravely concerned at the failure by the State party to protect girls and women who were involuntarily confined between 1922 and 1996 in the Magdalene Laundries, by failing to regulate and inspect their operations, where it is alleged that physical, emotional abuses and other ill-treatment were committed, amounting to breaches of the Convention. The Committee also expresses grave concern at the failure by the State party to institute prompt, independent and thorough investigations into the allegations of ill-treatment perpetrated on girls and women in the Magdalene Laundries (arts. 2, 12, 13, 14 and 16).

The Committee recommends that the State party institute prompt, independent and thorough investigations into all complaints of torture and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries and, in appropriate cases, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences committed, and ensure that all victims obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible.

Table of contents

Section 1: Executive Summary	4
Section 2: Priority questions for the Irish government	6
Section 3: Selected excerpts from newly gathered survivor testimony	7
Section 4: Overview of government’s actions, inaction and public stance on its obligations regarding the Magdalene Laundries since June 2011	9
Section 5: Failure to institute prompt, independent and thorough investigations...	19
Section 6: Obligation to ensure that all Magdalene survivors obtain redress.....	25
Section 7: State involvement in the Magdalene Laundries: summary of evidence submitted by JFM to the Inter-departmental Committee	29
Appendix: JFM’s Restorative Justice and Reparations Proposals	

1 Executive Summary

- 1.1 In its Concluding Observations on Ireland in June 2011,ⁱⁱ the United Nations Committee against Torture (CAT) expressed grave concern at Ireland’s continuing violation of articles 2, 12, 13, 14 and 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), by its failure to institute prompt, independent and thorough investigations into Ireland’s Magdalene Laundries abuse and to ensure that all survivors obtain redress.
- 1.2 Concerned with the cessation of these continuing violations, CAT made a formal recommendationⁱⁱⁱ (the “Recommendation”) to the Irish government to establish prompt, independent and thorough investigations into all allegations of torture or other cruel, inhuman or degrading treatment or punishment of girls and women in Magdalene Laundries and to ensure that all survivors obtain redress. CAT included this Recommendation in its one-year follow-up process because of the Recommendation’s particularly serious and protective nature, and the fact that CAT considered it capable of, and requiring, implementation within one year.^{iv}
- 1.3 The Irish government has so far failed to implement the Recommendation. JFM acknowledges that the government has taken some steps regarding the Magdalene Laundries over the past year (discussed below), including establishing an Inter-departmental Committee “to clarify any State interaction with the Magdalene Laundries and to produce a narrative detailing such interaction”.^v However, although JFM has given a cautious welcome to the establishment of the Inter-departmental Committee and is working actively to assist it in fulfilling its specific remit, it remains the case that survivors of the Magdalene Laundries have not obtained an apology or any form of redress. Nor has the government established an “independent and thorough” investigation, with statutory powers to inquire into the full extent of the abuse.¹ JFM contends that there is already enough evidence of State involvement with the Magdalene Laundries for the government to issue an apology and start to provide redress immediately. A full inquiry, while absolutely necessary, should not impede the women’s access to pensions, compensation and State services, which they urgently require.
- 1.4 JFM reminds the government of the exceptional urgency created by survivors’ elderly age and calls on the government to implement the Recommendation without any further delay. JFM calls on the government to report back to CAT immediately, providing answers to the questions contained in Section 2 of this report, which concern the government’s plans to provide an apology and redress.
- 1.5 A detailed explanation of Ireland’s Magdalene Laundries abuse is contained in JFM’s 2011 report to CAT (available on the OHCHR website),^{vi} which includes several anonymised survivor testimonies. In summary, the Magdalene Laundries abuse involved the incarceration and forced unpaid labour of thousands of girls and women in church-run, commercial laundries from 1922 – 1996, because they were unmarried mothers, were considered “promiscuous” or “in danger” of becoming so, had been sexually abused, or were considered a burden on their families or the State. The present report supplements JFM’s 2011 report by providing additional evidence of State involvement and acquiescence in the Magdalene Laundries abuse, and further evidence of the torture and other cruel,

¹ JFM’s specific concerns are addressed in section 5 below

inhuman and degrading treatment and punishment perpetrated upon the girls and women and the ongoing abuse still being suffered by them today.

- 1.6 Section 2 of this report, as mentioned above, lists key questions for the Irish government to answer, including in its follow-up report to CAT, about the government's plans to provide an apology and redress to Magdalene survivors. Section 3 contains excerpts from newly gathered survivor testimonies relating to the abuse the survivors have suffered and the urgent need for an apology and redress.
- 1.7 Section 4 provides an overview of the government's actions, inaction, and public stance on the Magdalene Laundries issue since CAT issued its Recommendation in early June 2011. The government's actions include the establishment in June 2011 of an Inter-Departmental Committee to establish the facts of State interaction with the Magdalene Laundries, and the announcement of Ministerial discussions with the religious congregations responsible for operating the laundries and groups representing survivors. The government's inaction includes failing to provide redress on the basis of already available and accepted evidence of State involvement in the Magdalene Laundries, failing to offer an apology or any interim redress measures to the women while the Inter-departmental Committee carries out its work, and refusing during Ireland's United Nations Universal Periodic Review process to acknowledge its obligations to ensure an independent and thorough investigation into, and redress for, the Magdalene Laundries abuse.
- 1.8 Section 5, while welcoming the appointment of an independent Chairman of the standing of Senator Martin McAleese, explains JFM's concerns with the Inter-Departmental Committee inquiry into the facts of State interaction with the Magdalene Laundries and sets out why this inquiry does not amount to the "prompt, independent and thorough investigations" required by the Recommendation, nor the "statutory mechanism" recommended by the Irish Human Rights Commission (IHRC) in 2010.^{vii}
- 1.9 Section 6 deals with the government's ongoing violation of its obligation to ensure that Magdalene survivors obtain redress. This section outlines JFM's Restorative Justice and Reparations Proposals, which JFM submitted to the Minister for Justice and Minister for State with responsibility for Disability, Equality, Mental Health and Older People on 14 October 2011. Section 6 contends that the government has a positive obligation, according to international law and principle, to lead the way in providing redress to all women who suffered abuse in Magdalene Laundries. This redress must be provided in a way that reaches all Magdalene survivors, affords them agency, responds to their particular needs and seeks to address the particular harm they have suffered, from their own perspectives.
- 1.10 Section 7 summarises the evidence of State involvement and acquiescence in the Magdalene Laundries abuse, which JFM has submitted to the Inter-Departmental Committee and outlined to the government and members of all political parties. JFM has produced a great deal more evidence of State involvement than was available even last year, when UNCAT made its recommendation to the Irish government to immediately investigate and ensure redress. JFM also continues to gather testimony from survivors which corroborates many aspects of State

involvement but also gives substantive detail on the levels and quality of torture and other cruel, inhuman and degrading treatment and punishment endured by these women and others who are silenced or no longer alive. Section 7 also includes legal submissions as to why the Irish State's acts and omissions, as outlined in this section, mean that the government is responsible for ensuring that every woman who spent time in a Magdalene Laundry receives redress.

- 1.11 Without prejudice to survivors of abuse in other institutions, the Magdalene Laundries abuse was particularly serious – it involved the unlawful deprivation of liberty of adult women and girls over extended periods, it involved school-age girls being deprived of an education and it involved both women and girls being subjected to forced labour and servitude by private actors. The survivors are a small population who are aging and elderly. JFM's sole concern is to see that all of the remaining survivors receive an apology and redress for the abuse they suffered – and that the relatives of deceased women and girls who were incarcerated in the Laundries receive some closure. JFM's 2011 report to CAT^{viii} details the poverty, exclusion, psychological trauma, physical ill-health and disempowerment these women have suffered for decades as a result of the abuse they endured at the hands of, and with the acquiescence of, the Irish State. Every day that redress continues to be denied, the chance grows that more survivors will not live to see their human rights vindicated, and every day that an apology and redress are not made, the discriminatory structures which enabled and perpetuated the Magdalene Laundries abuse in Ireland remain to a great extent unchallenged.

2 Priority Questions for the Irish government

- 2.1 What is your response to JFM's four-part Restorative Justice and Reparations Proposals, submitted by JFM to the relevant Ministers on 14 October 2011?
- 2.2 When will you issue a State apology, which is the first and most important step in providing restorative justice to Magdalene survivors and in enabling them to participate in the processes currently underway?
- 2.3 When will you provide pension benefits and lost wages for all Magdalene survivors?
- 2.4 When will you establish a dedicated governmental unit to provide all services required by Magdalene survivors and their families?
- 2.5 When do you plan to enter into meaningful discussions with Magdalene survivors and representative groups about, and create, a financial compensation scheme?
- 2.6 When will you engage in meaningful discussions regarding, and ensure funding for, transitional justice mechanisms including a memorial, the Magdalene Oral History Project, education modules and the maintenance of gravesites?

3 Selected excerpts from newly gathered survivor testimony^{ix}

What an apology would mean:

Well it would be a sort of a closure. That at least they had the good rights to apologise, if somebody goes out of their way to apologise, that they were in the wrong, well then that would alleviate you. That would give you peace of mind, because you know in your heart and soul then well they realise now they were in the wrong, they shouldn't have done what they done.

From the daughter of a now deceased institutionalised survivor:

“Acknowledgement. Acknowledgement for her, that she mattered to somebody and that she wasn't just that number, she wasn't three digits. She was beautiful, she was a mother, like the Virgin Mary in all her pain, she was a mother and those who are alive and those who are dead will be aware if they are acknowledged. I believe that, because I believe in the afterlife. And I hope that she is acknowledged and that they're all acknowledged and vindicated I suppose. Even though they didn't do anything wrong ... and she felt wrong, because they were made feel wrong. So I would like that they feel clean again.”

Oh it would mean an awful lot. Now that there is nobody else to apologise to us, the nuns are all dead. Now that there is no one else to apologise to us I think it should come from the State, you know? Even though the State at present had nothing to do with it but their previous, their previous people in politics had something to do with it like, you know? So I think that an apology from the State would be, it wouldn't block out the memories but, it would go half-way towards healing us a bit, give us a bit of relief before we die.

Experience of abuse:

Oh gosh, I'll never forget it. Even at night now, I go to bed and I think about it. And I think 'what on God's earth did I do to get into this?' One apple. You wouldn't get prison for it, would you? You wouldn't do 14 years in prison for murder. You only do 10 years for murder, you wouldn't do 14 years. Because definitely it was a prison. I can't describe it any more. You get paid in a prison. But this was a prison. There was no doubt about it, it was a prison.

She didn't say how long you might be there.. All she said was that someone might take you sometime. No, no you couldn't leave, ... they had a big wall and then the wire at the back of it and if you went in there sure you might be killed stone dead and they wouldn't care. One of the girls escaped now...one night...and they brought her back..and they gave her an awful hiding..we didn't see her in the morning. The Guards must have brought her back. [The nun] said that if ye escape, she said, ye'll get more than ye bargained for. So I didn't ever try...because the wall...you couldn't climb it and you had no shoes to climb it.

... I went out the gate and I was just about to run down Griffith Avenue when the next thing I saw [t]here were two police behind me, and they brought me, they said because I was in the uniform- I just went out in the uniform because I didn't know, and they came up to me. They were very good though – they weren't nasty to me. And they said, 'where do you think you're going?' And I said, 'out, ... 'To look for somewhere better to live'. And they said 'no, you're coming back with us, because High Park has rung us and told us that you'd ran out.' And before I'd got anywhere they were there on the spot, and brought me back in. I told the police, I said to the police – because the Garda did say to me when I came out, "why did you run away?". I said, "because they're cutting my hair and putting me in a hole all the time ... And I said to him, I said "and I don't like what they're doing to me".

..I used to sit up in the laundry room, I'd sit up there at night time crying my eyes out, often done that. You'd hide, you'd be hiding behind the big machines ..and you see, you didn't know why you were there, what am I here for like. ..I was asking every day, I told them I wanted to leave, every day I think I went to the office. They said: 'Oh you're not ready to go yet, you can't go yet, maybe next year when you're older.'

4 Overview of government's actions, inaction and public stance on the State's Magdalene Laundries obligations since June 2011

4.1 *Announcement of Inter-departmental Committee and Ministerial discussions*

4.1.1 On 15 June 2011, in response to CAT's Recommendation and a previous recommendation by the IHRC^x to institute a statutory inquiry into and ensure compensation for the Magdalene Laundries abuse, the government announced that it would establish a) an Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries and b) discussions with the religious congregations responsible for running the Magdalene Laundries and groups representing survivors.

4.1.2 The government's statement on 15 June 2011 was as follows:

The Government today considered the circumstances of the women and girls who resided in the Magdalene Laundries. The Government welcomed the statement made last week by CORI on behalf of the four congregations, the Sisters of Our Lady of Charity, the Religious Sisters of Charity, the Sisters of Mercy and the Good Shepherd Sisters who indicated their "willingness" to "bring clarity, understanding, healing and justice in the interests of all the women involved". The Government believes it is essential to fully establish the true facts and circumstances relating to the Magdalene Laundries as a first step. The following has been agreed:

1. An Inter-departmental Committee will be established, chaired by an independent person, to clarify any State interaction with the Magdalene Laundries and to produce a narrative detailing such interaction.

2. The Minister for Justice, Equality and Defence, Alan Shatter TD and the Minister of State with responsibility for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD are to meet with the religious congregations and the groups representing former residents of the Magdalene Laundries. Their discussions will include addressing the following matters;

a. The making available by the congregations of all records maintained by them with regard to the residents of the Magdalene Laundries to enable all available information about former residents to be shared with them and also made available for appropriate research purposes.

b. The provision of information concerning the number of persons currently residing with or in the care of the religious congregations who originally commenced such residence in the Magdalene Laundries and who have remained in their care.

c. To discuss the putting in place of a restorative and reconciliation process and the structure that might be utilised to facilitate such process.

The Minister for Justice, Equality and Defence together with the Minister of State for Disability, Equality, Mental Health and Older People, will now be following up on this Government decision with the relevant parties. Consideration is being given to the appropriate independent person to appoint to chair the Inter-departmental Committee. It was agreed by government that an initial report should be made to Cabinet on the progress being made by the Inter-departmental Committee within 3 months of its establishment.^{xi}

Inter-departmental Committee

- 4.1.3 The Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries was formed in July 2011. Senator Martin McAleese was appointed as its Independent Chair with an adviser from the Department of Foreign Affairs & Trade, and seven senior government officials were appointed as committee members, from the following government departments: Justice and Equality; Health; Environment, Community and Local Government; Education and Skills; Jobs, Enterprise and Innovation; and Children & Youth Affairs.
- 4.1.4 At the time of the Inter-departmental Committee's establishment, JFM wrote^{xii} to the Minister for Justice expressing JFM's commitment to engage with the process while stressing JFM's concerns at the Committee's lack of statutory footing and powers, lack of overall independence and limited remit, among other issues. **JFM's concerns with the Inter-departmental Committee process and its failure to meet the requirements of the Recommendations by CAT and the IHRC are fully set out in Section 3.**
- 4.1.5 The Committee published an Interim Progress Report^{xiii} in October 2011. It is unknown when the Committee's final report will be published, although the Committee has set a provisional date of "mid-2012".^{xiv} JFM attended a meeting with the Committee in September 2011, where JFM presented its "Narrative of State Interaction",^{xv} with appendices of over 500 pages of archival evidence of State involvement with the Magdalene Laundries. In addition, JFM emphasised the need for the Committee to investigate the State's culpable failure to interact with the laundries as well as its positive involvement with the institutions. To date, JFM has met Senator McAleese on one further occasion and his advisor on another, and has provided the Committee with electronic submissions of over 1,500 pages of evidence of State involvement in and awareness of the Magdalene Laundries abuse and culpable failure to oversee the Laundries' operations, including survivor testimony. A summary of this evidence is contained in Section 7. On 28th May 2012 JFM delivered the first tranche of survivor testimonies gathered, totalling 519 pages, to the Committee.

Ministerial discussions

- 4.1.6 As part of the second track of the government's 15 June 2011 announcement, JFM participated in a meeting with the Minister for Justice and the Minister of State with responsibility for Disability, Equality, Mental Health and Older People on 4 July 2011.^{xvi} During that meeting and by letter afterwards,^{xvii} JFM stated its intention to engage fully with this process in the trust that it would lead to restorative justice and reparations for all survivors of Magdalene Laundries at the earliest possible opportunity.
- 4.1.7 At the 4 July meeting and by letter afterwards,^{xviii} JFM requested that the Minister for Justice immediately publicise the Inter-departmental Committee's terms of reference and powers, in order to ensure transparency of process and further to clarify that the Committee's narrative of State interaction with the Magdalene Laundries would extend beyond forms of direct involvement to include acts of

omission, or, the ways in which the State failed to exercise due diligence to prevent abuse in the Laundries.

- 4.1.8 The Minister for Justice assured JFM during the 4 July meeting that where there was a responsibility to regulate and inspect Magdalene Laundries under Irish legislation, the Committee's work of creating a "narrative of State interaction" would consider acts of omission in that respect.^{xix} However, no terms of reference were thereafter made public, nor were any statutory powers given to the Committee. On 12 July 2011, the Minister for Justice responded to a Parliamentary Question asking when he would publish the terms of reference for the Committee by stating that "the inter-departmental committee is charged with establishing the facts of the State's involvement and clarifying any State interaction with the Magdalen Laundries and with producing a narrative detailing such interaction. The working arrangements of the committee will be a matter for the chairperson of the committee, Senator Martin McAleese."^{xx}
- 4.1.9 At the 4 July meeting, JFM presented the Ministers with its "Narrative of State Interaction with the Magdalene Laundries" supported by 500 pages of appendices.^{xxi} JFM stressed that, notwithstanding the importance of the Inter-departmental Committee's work, enough evidence of State responsibility for the Magdalene Laundries abuse already exists for the State to offer an immediate apology to survivors. JFM further emphasised that amending the women's State pensions to reflect their years of labour in the Magdalene Laundries is an urgently required interim measure which does not, and should not, depend in any way upon a finding of State interaction, or culpable failure to interact, with the Laundries.
- 4.1.10 At the meeting, JFM outlined its restorative justice and reparations proposals for the Ministers. JFM was later contacted by the Minister for Justice's office in August 2011 and asked to develop these proposals and make a further written submission, which JFM did on 14 October 2011. JFM's Restorative Justice and Reparations Proposals are outlined in Section 6 and reproduced in full in Appendix 1. These proposals were compiled following comparative research and consultation with Magdalene survivors, support service providers and legal professionals with experience of alternative dispute resolution processes, human rights-based approaches to reparations, personal injury law and the previous workings of the Residential Institutions Redress Board in Ireland.
- 4.1.11 JFM has never received a response from either Minister regarding its Restorative Justice and Reparations Proposals, contrary to JFM's expectations following the government's 15 June announcement and the 4 July meeting, and despite a letter from JFM to the Minister for Justice on 29 February 2012 seeking clarification of the Ministers' plans to provide redress to the women.^{xxii}
- 4.1.12 Despite the Ministers' lack of consultation with JFM regarding its Restorative Justice and Reparations Proposals, however, the Minister for Justice stated in March 2012 that:

I am pleased to say that meetings with all concerned ["the religious congregations and groups representing former residents of the Magdalene Laundries"] took place some time ago. Progress has been made on the various issues including the question of a restorative and reconciliation process between individuals who had been in such institutions and the

orders which ran the institutions in question. Matters have not yet been finalised but I hope to be in a position to make an announcement in the near future.^{xxiii}

- 4.1.13 JFM has asked the Ministers to consult with JFM and all groups working with Magdalene survivors prior to finalising matters with regard to redress and/or making a related announcement. In addition, JFM has stressed that any redress arrangements must speak to and be inclusive of the needs and experiences of all survivors.^{xxiv} JFM's legal arguments as to State responsibility to provide redress to all Magdalene survivors, regardless of their route of entry into the Magdalene Laundries, are set out in Section 7.
- 4.1.14 JFM raised two further issues with the Ministers at the 4 July meeting: the situation of institutionalised survivors still living with the religious orders today (JFM has contact with family members and friends of some of these women); and access to records for Magdalene survivors and their family members (JFM offers assistance in tracing through Research Guides made available via our website, and has significant knowledge of the problems in this area). JFM is very anxious to hear back from the Ministers with regard to these crucial issues.

Institutionalised Magdalene women

- 4.1.15 JFM is deeply concerned about the situation of Magdalene women who are institutionalised and still in the nuns' charge at former laundry locations around Ireland. JFM depends on reports from family members and friends of these women for information on their whereabouts, hence it is difficult to ascertain an exact figure on the number of women involved. On 8 June 2011, JFM wrote a letter to the Minister for Justice, which included an outline of our concerns:

...Just in the past few days, JFM has received information regarding a number of survivors still in the nuns' charge at former laundry locations around the country. We are very concerned about the continuing pain and suffering these women to endure. The allegations include the nuns controlling the women's (non-contributory) old age pensions, money being withdrawn from said pension for future funeral expenses, limitations on freedom of movement, donations from members of the public being appropriated by the nuns, and, in one case, the fact that an elderly woman still does unpaid menial work at the convent. We have heard from other survivors too—the emotional abuse of a survivor in a Dublin facility, as well as reports of women being moved from the only residence they have known as home against their will—but the more recent instances are especially disturbing. They underscore the need for political action as soon as possible to protect those women who are too institutionalised to live in the outside world. Please note, there is a fear that if the nuns discover that reports have been made about them, that they may take it out on the women, so we are appealing for the utmost level of discretion and sensitivity in this regard.

- 4.1.16 In the course of its research to-date, JFM has discovered that some institutionalised women are now in the care of the Health Service Executive, (which is a State body) which has sometimes taken over the management of residential care on the sites of former laundries. JFM submits that this present day

arrangement between Church and State is an example of continued State involvement and interaction with the Magdalene Laundries.

- 4.1.17 Following a meeting on 4 July 2011 with both Ministers, JFM wrote to Minister Kathleen Lynch on 18 August 2011 requesting a meeting to discuss the issue of institutionalised survivors. Minister Lynch indicated by telephone that the issue was seen as part of the work of the Inter-departmental Committee and a meeting would therefore be inappropriate. Minister Shatter's office subsequently stated in an email dated 3 April 2012:

In relation to those still in the care of the religious congregations and the concern you raised in your correspondence of 8 June last, the Minister would like you to set out those particular concerns in writing. Your correspondence should include details of the number of women with whom you have direct contact and should be addressed to Minister Kathleen Lynch, the Minister with responsibility for older people, who will consider the matter.

- 4.1.18 JFM is currently compiling as many details as it can find regarding these women and will be in touch with Minister Lynch as soon as our research is completed.

- 4.1.19 By way of one example of the institutionalisation many women suffered and JFM believes some are still suffering (pseudonyms are used here and this information is shared with consent): Teresa's natural mother, Jennifer, was raised in state care and was sent to Gloucester Street Magdalene Laundry during that time. While in the charge of the nuns at Gloucester Street, Teresa's mother became pregnant twice, once with Teresa and her twin sister and again with another daughter four years later. All children were removed from Jennifer for adoption and it is unclear whether informed consent was obtained. Teresa and her twin sister reunited with Jennifer when they were twenty-three, at which time Jennifer was still in Gloucester Street and completely institutionalised. Jennifer died eight years later, however the Gloucester Street nuns did not make sufficient attempts to locate her daughters, who had to hear of her death four months later on live radio.

- 4.1.20 Teresa describes her impressions of Jennifer at their reunion in 1995, when Gloucester Street Magdalene Laundry was still in operation and Jennifer was still working there:

...[W]e could not believe that she was only forty-two because she looked so old fashioned ... She was wearing one of those polyester dresses. That was her good clothes, ...and she had a handbag, this is one of the poignant things, she had a handbag and when she opened it, there was nothing inside. It was just a handbag that was empty, just for decoration because, when you're going to something fancy you should have a handbag. ...She looked like a pensioner. I couldn't believe she was forty-two, I kept looking into her face to find a forty-two year old and I couldn't, because she had the face of hard work, that face that you see in so many women that have just had to work too hard and have never had a rest and have never had anyone to take care of them or tell them to put their feet up, and who have just worked too hard. [S]he was just lovely, and she was asking extremely innocent questions ... it was the first time she ever had coffee and it was very exciting for her to have coffee and

she hadn't seen brown sugar before either - obviously in the Gresham there was brown and white sugar cubes on the table and it was all very fancy to her. And she was just overjoyed to be there and absolutely wowed by everything.

Access to records for survivors

4.1.21 Survivors' ability to access their records from the religious orders has been mixed. Many survivors report that they have been able to obtain records for their time in the Magdalene Laundry. JFM is concerned that these rarely amount to more than a one-page photocopy from a register, despite many years of incarceration. Other survivors have been met with resistance when they have applied for their records, because the religious orders say that the woman was not incarcerated in the Laundry. In the vast majority of such cases, when the survivor has approached the order again, usually with assistance from advocates, the religious order has in fact been able to produce the records. This unacceptable situation points to the need for a centralised repository of records, managed by a competent archivist and not by the religious orders whom, JFM would submit, have a vested interest in maintaining secrecy.

Access to records for survivors' family members

4.1.22 Relatives of Magdalene survivors who are seeking information fall into two main categories: family members (usually siblings, nieces, nephews or grand-nieces/nephews) who would like to know more about their (usually deceased) relative who was in a Magdalene Laundry; and those affected by Ireland's closed, secret, forced adoption system.

4.1.23 For family members in the first category, in most cases, once they can verify their identity, the religious orders will cooperate and supply the relevant records, however scant. However, family members in the second category – those affected by adoption - are generally challenged at every juncture. In most cases, adopted people will be seeking information for either a deceased or institutionalised Magdalene survivor. When searching for the records of their deceased natural mother, the adopted person is usually required to produce identification to prove they are related to the Magdalene woman. Under Irish adoption law, the adopted person's identity is changed once the Adoption Order goes through and therefore providing identification in their original identity is an impossible task. If the adopted person manages to overcome this barrier (usually by supplying a copy of their birth certificate – which they are not automatically entitled to by law – and their adoption certificate), they will sometimes have success in obtaining records.

4.1.24 Because Ireland's adoption system is closed and secretive, when searching for an institutionalised woman, the adopted person will not know their natural mother is institutionalised until the search is complete. Adopted people in contact with JFM speak of the great shock and distress of discovering that their natural mother has had to endure the severity of incarceration in a Magdalene Laundry. If their mother is alive, the prospect of having a "normal" reunion is no longer possible because these women are so institutionalised (as detailed in 4.1.20 above). Some women have blocked their children from their memories and at best, the adopted person is meeting a prematurely aged natural mother who will have very few answers to offer to their most important questions. If the natural mother is

deceased, in the case of some Magdalene graves, there will be no name on the headstone to mark her final resting place and therefore no sense of closure for the adopted person.

- 4.1.25 For these reasons, JFM is concerned that the Ministers should act quickly to secure all records from the religious orders responsible for operating the 10 Magdalene Laundries, and arrange for them to be held in a safe and secure location. These are also the reasons why JFM is so concerned at the Inter-departmental Committee's plans to destroy and/or return all copies of records obtained from the religious orders, once the Committee is finished its work (see Section 5.8 below). The rights of Magdalene survivors and their family members to information and access to records must be protected and given statutory footing, and appropriate services for family members must also be provided for in the government's redress process, as per JFM's Restorative Justice and Reparations Proposals (see Section 6 and Appendix 1).

4.2 *Lack of apology or redress: Government "will not pre-empt the work of Senator McAleese's group"*^{xxv}

- 4.2.1 Despite the concrete evidence of State involvement with the Magdalene Laundries already accepted by government Ministers and produced by JFM from State archives (see Section 7 below), the government has refused to issue an apology, openly discuss plans for redress, or provide any interim redress measures such as pensions or services to Magdalene survivors while the Inter-departmental Committee is still working on producing a Narrative of State interaction with the Magdalene Laundries from 1922 – 1996.

- 4.2.2 This refusal to deal with the issue of an apology or redress immediately is notwithstanding a statement by the Minister for Justice in 2009, while in opposition, that available evidence of State involvement in the Magdalene Laundries was "absolutely irrefutable" and required Magdalene survivors' inclusion in the Residential Institutions Redress Board process:

Does the Taoiseach intend to introduce legislation in the new year to amend the redress board legislation to extend it to those who suffered barbaric cruelty in the Magdalen laundries? The Department of Justice, Equality and Law Reform now has irrefutable evidence that this State and the courts colluded in sending young women to what were then known as the Magdalen asylums. They ended up in the Magdalen laundries and were treated appallingly. Some of them have never recovered from the manner in which they were treated and their lives have been permanently blighted. Initially in this House the Minister for Education and Science denied that the State had any involvement in this. There is now absolutely irrefutable evidence as a consequence of court records and files that have been examined in the Department of Justice, Equality and Law Reform that the State was directly complicit in many women being placed in these totally inappropriate circumstances.^{xxvi}

- 4.2.3 Recently, when pressed in the Dáil^{xxvii} and by JFM^{xxviii} to establish a threshold for State involvement short of the Committee's final report, which would enable discussions to commence regarding an apology and redress, the Minister for

Justice has responded that while he is “conscious of the need to progress matters as quickly as possible”, it is “important to emphasise that we are in a process which is seeking to fully establish the facts and it is still too early at this stage to predict what the outcomes might be.”^{xxxix}

- 4.2.4 When asked whether the government will be prepared to apologise and provide redress once the Committee publishes its report, the Minister for Justice has stated that “this is not a simple issue”, and that “[m]any of the women who ended up being resident in the laundries in their late teens or early 20s came from all sorts of different places. Some were left there by their families in circumstances in which the State had no involvement of any description.”^{xxx}
- 4.2.5 The government’s vacillation in this regard is causing unacceptable delay and harm to each survivor’s prospects of receiving the apology and redress to which they are entitled, especially given the length of time they have suffered and their elderly age. There is uncontroverted evidence already available of systemic State involvement in and awareness of the Magdalene Laundries abuse, including a great deal of evidence establishing that, regardless of a girl or woman’s route of entry, the State was responsible for contributing to and failing to prevent the abuse she suffered once inside a Magdalene Laundry (see Section 7 below). A full narrative clarifying the facts of of State involvement with the Magdalene Laundries is of course necessary, but its compilation must not act as an impediment to Magdalene survivors receiving redress as soon as possible.
- 4.2.6 There is no reason why the government cannot issue an apology, provide interim measures of redress, and/or plan a redress process while the Inter-departmental committee’s investigation is ongoing. Regarding an apology, JFM contends that an immediate apology is fundamental to enabling and empowering survivors to participate in the processes that are currently underway. JFM reminds the government and CAT that the State’s own precedent is for an apology first; on 11 May 1999, the Government apologised to victims of child abuse in residential institutions before announcing the establishment of a commission of inquiry, a national counselling service for victims of childhood abuse and the amendment of the Statute of Limitations, to enable victims of childhood sexual abuse to make claims for compensation in certain circumstances.^{xxxi}

4.3 Government’s reaction to its obligations under the Recommendation

- 4.3.1 Since June 2011, while the Inter-departmental Committee has been carrying out its work, the Minister for Justice has made several statements in the Dáil relating to the State’s responsibility for the Magdalene Laundries abuse and the government’s obligation to ensure that all survivors obtain redress and to establish an independent investigation.
- 4.3.2 In March 2012, the Minister for Justice responded to a Dáil question about whether he would be in a position to start the process of redress and apology as soon as the Inter-departmental Committee’s report is available, by stating that “this is not a simple issue” and he was “not going to prejudge what is in the report”. The Minister then referred to the ‘observations of the UN Committee Against Torture in May and June 2011 ... that there should be “thorough investigations into all allegations of torture and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene

laundries and in appropriate cases prosecute and punish the perpetrators” and victims should have “an enforceable right to compensation”, and he stated:

Persons seeking an investigation with a view to a criminal prosecution should and can make a complaint to An Garda Síochána. As far as I know, no such complaint has been made. Under our legal system, the right to compensation for a tort is enforceable through civil proceedings in the courts. As far as I know, no such proceedings have been taken.^{xxxii}

4.3.3 However, the Minister’s public response to the CAT Recommendation fails to engage with the reality of the Magdalene Laundries abuse and its effect on survivors, for several reasons:

- (a) Magdalene survivors have already complained about the abuse they suffered at the hands of both Church and State in Magdalene Laundries, through direct letters to government Ministers and the provision of testimonies to the Commission to Inquire Into Child Abuse, UN Committee against Torture, UN Working Group on the Universal Periodic Review and on radio, television and film. According to international human rights principles,^{xxxiii} of which the Minister for Justice will be aware, States must ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated even in the absence of an express complaint to the police, if there are other indications that torture or ill-treatment might have occurred;
- (b) It is almost certain that no prosecutions would be contemplated by the State, given the time that has elapsed and the previous lack of prosecutions for the child abuse uncovered by the Commission to Inquire into Child Abuse (also one of CAT’s follow-up issues);
- (c) Magdalene survivors are asking for redress, not prosecutions;
- (d) The Minister failed to provide information as to how the women might overcome the bars to civil litigation imposed by the Statute of Limitations 1957 or costs in Ireland,^{xxxiv} the Minister will recall that the government considered it necessary to amend the Statute of Limitations in 2000, to allow survivors of child sexual abuse in residential institutions to bring claims in tort for the abuse suffered in the past, for a period of one year;^{xxxv} and
- (e) There has been no investigation into the Magdalene Laundries abuse and the Inter-departmental Committee is currently undertaking its inquiries in private; therefore, Magdalene survivors are impeded from accessing all relevant and available evidence of their abuse.

4.3.4 In October 2011, when asked whether there had been any advances with regard to an apology or redress, the Minister for Justice stated:

This is the first Government to make specific decisions to address the very genuine worries and concerns that have been expressed by those who lived in the Magdalene laundries. We have put in place a process in which we are also moving forward on other fronts. *The possibility of a restorative justice scheme operating is under active consideration between the religious congregations and the former residents.* We are looking at the possibility of

a repository in which all the records of the laundries are retained. In the meantime, significant progress has been made in a very short period of time by Senator McAleese's group (emphasis added).

4.3.5 JFM is seriously concerned by the Minister's assertion that "[t]he possibility of a restorative justice scheme operating is under active consideration between the religious congregations and the former residents", for several reasons:

- (a) None of the four religious congregations are in contact with JFM. All four congregations refused each of JFM's four invitations to meet and discuss the issue of restorative justice for Magdalene survivors (JFM wrote to each of the religious congregations on 11 November 2009, 2 April 2010, 11 June 2010 and 12 April 2011);
- (b) The Minister for Justice has stated that all meetings between the Ministers and the religious congregations and the survivors' groups have concluded, yet JFM has not heard anything in relation to its Restorative Justice and Reparations Proposals;
- (c) The government is responsible for ensuring that the women *obtain* redress, as the Recommendations by CAT and the IHRC make clear. The government's obligation to provide redress is discussed in further detail in Section 6 below.

4.4 Government's refusal to acknowledge its legal obligations towards Magdalene survivors during United Nations Universal Periodic Review process

4.4.1 During Ireland's recent Universal Periodic Review, Thailand made a recommendation relating to the Magdalene Laundries, cited in the Outcome Report as follows:

107.40. Institute a comprehensive statutory inquiry and compensation scheme in order to guarantee accountability and assist the (women and children) victims (of violence) (Thailand)^{xxxvi}

4.4.2 In the Addendum to the Outcome Report, Ireland accepted this recommendation by stating that reparation had already been made to victims of church-related childhood abuse. The government failed entirely to respond to the recommendation's specific reference to women victims. The government stated:

52. The Government has apologised to those who had been victims of childhood abuse while in institutional care. A Commission to Inquire into Child Abuse was established to hear the accounts of those involved and to investigate the abuse of children in institutions. A redress board was established to make financial awards to assist in the recovery of those involved.^{xxxvii}

4.4.3 The government's elision of the Magdalene Laundries abuse and the State's responsibility to independently investigate and ensure redress for it in front of the Human Rights Council, despite the existing CAT and IHRC recommendations, signals to Magdalene survivors that the government is not committed to complying with its human rights obligations towards them. During the Human

Rights Council session on 15 March 2012, the Irish Human Rights Commission and the Women’s Human Rights Alliance both made submissions calling on the government to ensure reparation for survivors.^{xxxviii}

5 Failure to institute prompt, independent and thorough investigations

5.1 JFM welcomes the appointment of an independent Chairman to the Committee of the standing of Senator McAleese, JFM recognises the work that this Committee is undertaking and the assistance required from civil servants in numerous government departments. JFM further acknowledges the participation of the Religious Congregations on a voluntary basis with the Inter-departmental Committee process. JFM has engaged with the Committee in good faith, and has welcomed the opportunity to submit evidence of State interaction, totalling over 1,500 pages, as well as 519 pages of survivor testimony to date. We would like to put on record the co-operation that they have had from the Committee – and particularly from the Senator and his advisor – in meeting with JFM and engaging with the issues and evidence which we have submitted. JFM looks forward to the Committee completing its work and reporting by mid-2012 as announced in the first Interim Report.

5.2 However, although JFM has no reason to doubt the personal integrity of the other seven members of the Committee, who are all senior civil servants, the Committee as a whole cannot be said to be “independent” when the majority of its members are drawn from the very government departments which JFM asserts were complicit in the Magdalene Laundries abuse. For this reason and others discussed below, the Inter-departmental Committee process does not amount to the “prompt, independent and thorough investigations” recommended by CAT, nor does it constitute the “statutory mechanism” called for by the IHRC.^{xxxix}

5.3 In making these points, JFM is not suggesting that the Inter-Departmental Committee should cease its work. On the contrary, JFM submits that the Irish State should provide an apology and redress at the earliest opportunity and that the Inter-Departmental Committee should complete its work as soon as is reasonably practicable. However, insofar as the Committee’s current constitution and remit prevent it from fully examining the abuse in Magdalene Laundries, and insofar as the voluntary nature of the Religious Congregations’ participation may prove problematic, JFM would submit that a further fully independent, statutory inquiry may be necessary as part of the process of giving redress.

5.4 The meaning of “prompt, independent and thorough investigations” under the Convention Against Torture is set out in the UN General Assembly-recommended Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the UN Principles”).^{xl} The following are JFM’s primary concerns with the Government’s design of the Inter-departmental Committee and its failure to comply with the Recommendations of CAT and the IHRC and the related UN Principles:

5.5 *Lack of independence*

5.5.1 Although the Committee is chaired by an independent person of high standing in Irish society – Senator Martin McAleese – and ably assisted by a civil servant

trained in human rights law, its remaining seven members are senior officials from government departments alleged to have been complicit in the Magdalene Laundries abuse.

- 5.5.2 JFM has no reason to doubt the personal integrity of the relevant officials. However, the appointment of a majority of government employees to a Committee called upon to determine State involvement does mean that the Committee cannot be regarded as “independent”. The Committee has not one single member from outside the governmental or political realm. This lack of independence fails to comply with the explicit requirements of CAT’s Recommendation and the UN Principles, which state:

In cases in which the established investigative procedures are inadequate because of insufficient expertise or suspected bias, or because of the apparent existence of a pattern of abuse or for other substantial reasons, States shall ensure that investigations are undertaken through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.^{xli}

5.6 *No terms of reference*

- 5.6.1 As stated in Section 2 above, no terms of reference were published for the Inter-departmental Committee. Although JFM and various TDs (members of Parliament) requested that the Minister for Justice publish terms of reference in order to ensure transparency and to clarify that the Committee’s “Narrative of State interaction with the Magdalene Laundries” would include the State’s failures to interact where it had an obligation to do so under Irish and international law, the Minister failed to go beyond saying that “the inter-departmental committee is charged with establishing the facts of the State’s involvement and clarifying any State interaction with the Magdalen Laundries and with producing a narrative detailing such interaction. The working arrangements of the committee will be a matter for the chairperson of the committee, Senator Martin McAleese.”^{xlii}
- 5.6.2 The 1999 Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Istanbul Protocol”)^{xliii} highlights the importance of terms of reference to an independent and effective investigation, stating that: “States and organizations establishing commissions of inquiry need to define the scope of the inquiry by including terms of reference in their authorization. Defining the commission’s terms of reference can greatly increase its success by giving legitimacy to the proceedings, assisting commission members in reaching a consensus on the scope of the inquiry and providing a measure by which the commission’s final report can be judged.”^{xliv}

5.7 *No statutory powers to compel evidence*

- 5.7.1 The Inter-departmental Committee is a non-statutory body, and as such has no powers to compel testimony or the production of evidence, including from the Religious Orders responsible for operating the Magdalene Laundries, or to impose sanctions for non-production. The Committee's Interim Progress Report acknowledges that: "[t]he Committee is a non-statutory body and while Governmental agencies are required to cooperate with its inquiries, cooperation with the Committee by other persons and groups is voluntary."^{xliv}
- 5.7.2 The Committee's lack of statutory powers amounts to a failure to comply with the Recommendations of CAT and the IHRC and the UN Principles, which state:

The investigative authority shall have the power and obligation to obtain all the information necessary to the inquiry. The persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige all those acting in an official capacity allegedly involved in torture or ill-treatment to appear and testify. The same shall apply to any witness. To this end, the investigative authority shall be entitled to issue summonses to witnesses, including any officials allegedly involved, and to demand the production of evidence.^{xlvi}

5.8 *Evidence from the religious congregations will not be retained*

- 5.8.1 According to the Committee's Interim Progress Report, upon the conclusion of the Committee's work, "the archives of the Committee's work [will] be stored centrally, including copies of all relevant official papers identified by the Committee from across all Departments, State agencies and bodies." However, the Committee's centralised archive will not include any of the evidence disclosed to the Committee by the religious congregations responsible for running the Magdalene Laundries.
- 5.8.2 The Committee's Interim Progress Report explains that: "This archive will not include data disclosed to the Committee by the Religious Orders, which includes personal and sensitive personal data. All such records will be destroyed and/or returned to the relevant Religious Order upon conclusion of the Committee's work and publication of its Report. This is necessary in light of sensitive personal data contained in those records; and the legal obligations of the Orders in their role as data controllers."^{xlvii}
- 5.8.3 JFM is concerned that the Committee deems it necessary to destroy and/or return all records and copies of records obtained from the Religious Orders, despite the Minister for Justice's creation of a Statutory Instrument (Data Protection Act 1988 (Section 2B) Regulations 2011) enabling the Committee to receive and process all sensitive personal data from the Religious Orders, insofar as necessary for the performance of its functions.^{xlviii} JFM is concerned at the government's refusal to intervene^{xliv} to ensure that this evidence is retained for the purpose of any future investigation and made available to Magdalene survivors and family members. JFM contends that confidentiality requirements can be met by depositing records in a neutral, safeguarding and ethical repository. JFM further disputes the claim that all of the religious orders' records contain sensitive personal data on two

grounds: first, names of women who spent time in Magdalene Laundries appear on gravestones around the country, and second, the purpose of the Committee's inquiry is to establish the extent of State involvement with the Magdalene Laundries; therefore, the Religious Congregations can be expected to have provided the Committee with far more evidence than solely sensitive personal data.

- 5.8.4 The Committee's plans to destroy or return all evidence it obtains from the religious congregations are contrary to the requirement of the UN Principles that "[a]lleged victims of torture or ill-treatment and their legal representatives shall be informed of, and have access to, any hearing, as well as to all information relevant to the investigation, and shall be entitled to present other evidence."¹ In addition, JFM contends that the government's failure to intervene to ensure that copies of records are kept in a safe and secure place is contrary to the State's obligation under the Recommendation to ensure that "prompt, independent and thorough investigations" are carried out.

5.9 *No public hearings or access to evidence for survivors or representative groups*

- 5.9.1 Although JFM has provided the Committee with as much evidence of State involvement in the Magdalene Laundries as it has been able to gather, and JFM and other representative groups have assisted Magdalene survivors in providing testimony to the Committee, there is no opportunity for Magdalene survivors or representative groups such as JFM to see or comment on evidence the Committee obtains from other sources, such as the Religious Congregations or the government departments.

- 5.9.2 Based on survivor testimony, JFM contends that members of An Garda Síochána (the Irish police force) were routinely involved in returning girls and women who managed to escape from the Magdalene Laundries, and that this demonstrates a State policy amounting to involvement in the arbitrary detention of many, if not all, girls and women who spent time in Magdalene Laundries. However, to date, JFM has been unable to gain access to Garda log books, or indeed to discover whether such log books exist or were retained by the State. JFM has written to the Garda Commissioner and three societies representing former and current members of the Garda (the Association of Garda Sergeants and Inspectors, the Garda Síochána Retired Members' Association and the Garda Historical Association) without any result so far. JFM is concerned that it has no way of knowing what evidence the Committee has obtained or failed to obtain.

5.10 *No authority to make recommendations*

- 5.10.1 The Committee states in its Interim Progress Report that it will not make recommendations. Paragraph 21 of the Interim Report reads: "The role given by Government to the Committee is a fact-finding one. The Committee is not authorised to consider or make determinations on individual complaints, or to recommend or provide redress in individual cases. The fact-finding role of the Committee also means that it will not issue or recommend apologies."ⁱⁱ
- 5.10.2 The Istanbul Protocol states that independent commissions of inquiry should include recommendations in their public report. The Protocol states that commission of inquiry reports should contain, at a minimum, the following

information:

- (a) The scope of inquiry and terms of reference;
- (b) The procedures and methods of evaluating evidence;
- (c) A list of all witnesses, including age and gender, who have testified, except for those whose identities are withheld for protection or who have testified in camera, and exhibits received as evidence;
- (d) The time and place of each sitting (this might be annexed to the report);
- (e) The background of the inquiry, such as relevant social, political and economic conditions;
- (f) The specific events that occurred and the evidence upon which such findings are based;
- (g) The law upon which the commission relied;
- (h) The commission's conclusions based on applicable law and findings of fact; and
- (i) Recommendations based on the findings of the commission.^{lii}

5.11 *Limited remit*

5.11.1 The Committee's Interim Report reinforces the government's statements about the purpose of the Committee – that is to create a narrative of State interaction with the Magdalene Laundries and nothing else.

5.11.2 JFM stresses that, as recommended by the IHRC, a statutory mechanism needs to be established to carry out a full-scale investigation of the Magdalene Laundries abuse. At present, Magdalene survivors' experiences of abuse in the Laundries are peripheral to the Committee's work, save to the extent that they speak of State involvement in the women's route of entry into the laundry, their possible capture by members of the Garda Síochána (police), or their witnessing of State inspections, if any. The women's experiences should be central to an "independent and thorough" investigation.

5.11.2 As outlined above at paragraph 3.8.2, the Istanbul Protocol states that an independent commission of inquiry should make findings as to the specific events that occurred in the Magdalene Laundries and the evidence upon which such findings are based.

5.12 *No public invitation to submit evidence*

5.12.1 The Committee has not issued any public calls for evidence, which is problematic for three reasons.

5.12.2 First, in terms of obtaining evidence from Magdalene survivors, the lack of publicity fails to take into consideration the silence and particular sexual stigma that has surrounded the Magdalene Laundries in the past. Many survivors, being of a certain age, having established identities and families since leaving the Laundries, might be hesitant to come forward without there being an apology and/or a public signal from the Committee that it is calling for, and thereby validating, survivor testimony.

5.12.3 Second, the failure to invite all other interested parties to contribute their knowledge and expertise on the Magdalene Laundries abuse, thereby relying on

the Committee members to seek out experts and others with knowledge, is unacceptable in that the same government departments have resisted acknowledging that the Magdalene Laundries were abusive, punitive institutions.

5.12.4 Third, this lack of transparency with regard to soliciting expert opinion may in turn result in the emergence of a limited or overly narrow perspective with respect to the wider historical context that will inform the Committee's Report. JFM is aware, for example, of scholarship relating to the Magdalene Laundries which, on the one hand, conflates the 19th century phenomenon whereby women entered and left the Magdalene Asylums on numerous occasions with the more typical early- to mid-20th century experience characterised by longer, and sometimes life-long, incarceration and increasingly punitive conditions; and on the other hand, backdates into the 1950s and 1960s positive changes and improvements not actually occurring in the Magdalene Laundries until the 1970s and 1980s (e.g. increased mobility, receipt of "pocket money", less institutional clothing, etc.). One consequence of this revisionist history is that it compresses, thereby minimising, the era when these institutions were most exploitative and commercial. The historical Magdalene Laundry, in turn, becomes a "benign", "long-term hostel", for "homeless women".

5.12.5 The Istanbul Protocol emphasises the importance of giving wide public notice of the establishment of the commission of inquiry, stating that "[t]he notice should include an invitation to submit relevant information and written statements to the commission and instructions to persons willing to testify. Notice can be disseminated through newspapers, magazines, radio, television, leaflets and posters."^{liii}

5.1. Regarding the rights of victims and other interested parties, the Protocol states (at para 116):

Those alleging that they have been tortured and their legal representatives should be informed of and have access to any hearing and all information relevant to the investigation and must be entitled to present evidence. This particular emphasis on the role of the survivor as a party to the proceedings reflects the especially important role his/her interests play in the conduct of the investigation...all other interested parties should also have an opportunity to be heard. The investigative body must be entitled to issue summonses to witnesses, including the officials allegedly involved, and to demand the production of evidence.

5.13 Terminology

5.13.1 JFM has difficulty with the Committee's use of the terms "residents" and "former residents" to describe Magdalene survivors, as explained in the Committee's Interim Progress Report. JFM has communicated this concern to Senator McAleese. The term "resident" implies that women and girls were there voluntarily, that they were active agents determining their fate, and that they had a choice. JFM is acutely aware that this is not the case, having heard the experiences of a large number of survivors.

6 Obligation to ensure that all Magdalene survivors obtain reparation

- 6.1 The Irish government has so far failed to provide, or make any commitment to providing, an apology or any form of redress to survivors of the Magdalene Laundries. JFM calls on the government to do so now, bearing in mind the elderly age of the survivors, the Recommendations from CAT and the IHRC, and the huge amount of evidence already available of State involvement in grave and systematic human rights abuses in the Laundries (outlined in Section 7).
- 6.2 In October 2011, JFM submitted its Restorative Justice and Reparations Proposals to the Minister for Justice and Minister of State for Disability, Equality, Mental Health and Older People. JFM understood this submission to be part of an ongoing consultative process with the Ministers, and is concerned not to have received a response or an invitation to enter into dialogue or discussion. JFM's proposals are the product of considerable consultation and research^{liv} and aim to comply with established international human rights principles on reparation and gender-sensitive approaches to reparation.
- 6.3 Section 6.4 outlines JFM's Restorative Justice and Reparations Proposals. These Proposals are reproduced in full as an Appendix. Section 6.5 contends that, according to international human rights law and principle, the government must take the lead in providing redress to Magdalene survivors, taking every measure necessary to ensure that the women actually benefit from their right to reparation. Section 6.6 refers to the UN General Assembly's Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which set out the distinct elements of the right to a remedy and reparation under article 14 UNCAT. Section 6.6 also highlights the need for the government to consult with the women and representatives groups in order to reach the women effectively, afford them agency, and address the particular harms that they have suffered, from their perspective.

6.4 JFM's Restorative Justice and Reparations Proposals

- 6.4.1 There are four components to JFM's Restorative Justice and Reparations Proposals: (a) a State apology, (b) a dedicated unit within the Department of Justice for survivors of Magdalene Laundries to facilitate the provision of pensions, lost wages and State services, (c) a Commission for Financial Reparation, and (d) preservation of the historical record and transitional justice.
- 6.4.2 *Apology.* A State apology should acknowledge and apologise for: the State's unlawful failure to adequately protect the constitutional and human rights of girls and women committed to the Magdalene Laundries; the punishing and abusive nature of the Magdalene Laundries and the effects of that abuse on the girls and women incarcerated in the Laundries; the State's direct involvement and complicity in the girls' and women's incarceration and the State's support of the Laundries' operation; and the State's failure to ensure any measure of regulation and inspection of the Laundries. A State apology should also urge the four religious congregations directly involved, the Catholic hierarchy, and the families

of women committed to the Magdalene Laundries, to issue their respective apologies for the abuse, mistreatment and abandonment of these women.

6.4.3 *Dedicated unit.* Following a State apology, the “Dedicated Unit” should function as an inter-departmental hub to facilitate access to all State social services and financial entitlements due to surviving women and their families. Financial entitlements include pensions and lost wages for the duration of time spent in these institutions, calculated at the rate of the average industrial weekly wage for 2011. Services required include access to records; social housing; assistance in returning to Ireland for women who wish to do so; medical services including disability supports, counseling and psychotherapy services; educational funding; access to mediated reconciliation services with an apology from the religious congregations; upkeep and maintenance of burial plots; and memorials.

6.4.4 *Commission for Financial Reparation.* JFM proposes a simple, accessible and non-adversarial financial compensation mechanism, which will accept as a proven fact that Magdalene Laundries were by their nature abusive, punitive institutions in which girls and women were routinely subjected to forced unpaid labour and unlawful imprisonment. Therefore, every woman who spent time in a Magdalene Laundry will be entitled to a certain level of compensation. In addition to the automatically accepted minimum of abuse suffered, women should be entitled to demonstrate further abuse and injuries and be compensated accordingly. JFM recommends several additional, crucial changes from the type of scheme previously implemented by the Residential Institutions Redress Board:

(a) *Changes to confidentiality requirements.* Women will not be restricted from publicly discussing or publishing their accounts of their experiences in the Magdalene Laundries and the ongoing effects of those experiences on the rest of their lives.^{lv}

(b) *Changes to causation requirements.* Applicants for compensation will not have the burden of demonstrating that injuries shown are or were caused directly by the abuse suffered in the Magdalene institution(s). It will be sufficient that injuries shown are generally congruent with the accepted experience of deprivation and abuse in the Magdalene institution(s) at the time. Similarly, if the applicant is found to have suffered injury while resident in a Magdalene institution, the applicant will not have the burden of proving the abuse that led to the injury.

(c) *Non-adversarial process.* A core objective of this process will be to remain as non-adversarial as possible. A Victim Impact Statement should form the core of the claim. Hearings will not be compulsory, and where hearings do take place they should include a person experienced in alternative dispute resolution, such as mediation.

6.4.5 *Historical Record and transitional justice.* JFM recommends that the State support a “Magdalene Laundries Archival and Oral History” project, which has been designed by the Women’s Studies Centre at the School of Social Justice, University College Dublin, in support of JFM. This aim of this project is to enable Magdalene survivors to have their experiences acknowledged in the official historical record. It complements JFM’s “Names Project”, which seeks to restore the identity and dignity of all the women who died in the Magdalene Laundries,

many lying in unmarked mass graves or under the sign of “penitent” or “sinner”. JFM also asks the State to fund an appropriate national memorial to commemorate the Magdalene Laundries and the women confined therein. Finally, JFM recommends the teaching of the history of the Magdalene Laundries to current and future generations in Ireland’s schools.

6.5 Government’s positive obligation to ensure that survivors obtain redress

- 6.5.1 As CAT emphasises in its Recommendation, the Irish government is obliged under article 14 of the Convention Against Torture to “ensure that the victim of an act of torture obtains redress *and* has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible” (emphasis added).
- 6.5.2 The content of Magdalene survivors’ right to redress and a remedy under article 14 UNCAT is elaborated by the UN General Assembly’s Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (the “Basic Principles”).^{lvi} According to these Basic Principles, the Irish government must provide Magdalene survivors with: (a) equal and effective access to justice;^{lvii} (b) adequate, effective and prompt reparation for harm suffered; and (c) access to relevant information concerning violations and reparation mechanisms.^{lviii}
- 6.5.3 Regarding the government’s obligation to provide redress (or, reparation), the Basic Principles state: “[i]n accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law”. The Basic Principles continue: “States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.” The Basic Principles add: “In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.”^{lix}
- 6.5.4 JFM contends that by its acts and omissions regarding the Magdalene Laundries, the Irish State is responsible for gross violations of international human rights law, such that it is obliged to provide reparation in accordance with the Basic Principles. The evidence in support of this contention is outlined in Section 7 and in JFM’s 2011 Report to CAT, in addition to JFM’s previous submissions to government, the Inter-departmental Committee, the IHRC and the UN Working Group on the UPR. JFM acknowledges that the four religious orders who operated the Magdalene Laundries also hold responsibility for the treatment of girls and women in the Laundries; however, JFM emphasises that the obligation to provide reparation under UNCAT and other international human rights instruments falls on the State, and in this case the State is responsible by its own acts and omissions for gross violations of international human rights law with regard to every girl and woman who spent time in a Magdalene Laundry.

6.6 *Forms of reparation / gender-sensitive reparation*

6.6.1 The Basic Principles clarify that Magdalene survivors are entitled to five distinct aspects of reparation: (a) restitution, (b) compensation, (c) rehabilitation, (d) satisfaction, and (e) guarantees of non-repetition.

6.6.2 *Restitution.* According to the Basic Principles, survivors of gross violations of international human rights law should, to the extent possible, be restored to the original situation before the violations occurred. Restitution includes, for example, restoration of liberty, enjoyment of human rights, identity, family life and citizenship, and return of property. However, in situations where gender discrimination or structural inequality was a root cause of the violations, the idea of simply returning survivors to their original position is inadequate. Reparations for Magdalene survivors must instead eliminate previous discrimination and seek to transform the discriminatory structures which led to the violation of their human rights, by involving the survivors centrally in the process, addressing their particular needs, and tackling the structural inequality and marginalisation at the root of the Magdalene Laundries abuse and the failure to provide reparation for it in the past.^{lx}

6.6.3 *Compensation.* The Basic Principles state that compensation should be proportional to the gravity of the violation and the circumstances of each case. It should be provided for any economically assessable damage, such as physical or mental harm; lost opportunities; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services.^{lxi} The government may not discriminate against or allow any prejudice to Magdalene survivors on the basis of their sex in the calculation and provision of compensation. Non-discrimination in all elements of reparation is a fundamental requirement of the Basic Principles.^{lxii}

6.6.4 *Rehabilitation.* This should include medical and psychological care as well as legal and social services.^{lxiii}

6.6.5 *Satisfaction.* According to the Basic Principles, satisfaction should include, where applicable, any or all of the following:

(a) Effective measures aimed at the cessation of continuing violations;

(b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;

(c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;

(d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;

(e) Public apology, including acknowledgment of the facts and acceptance of responsibility;

(f) Judicial and administrative sanctions against persons liable for the violations;

(g) Commemorations and tributes to the victims; and

(h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law and in educational material at all levels.^{lxiv}

6.6.6 *Guarantees of non-repetition.* The government should take measures to guarantee non-repetition of the gross violations of international human rights law and which will also contribute to prevention. The guarantees outlined in the Basic Principles include human rights education for all sectors of society and training for law enforcement officials; promotion of the observance of codes of conduct and ethical norms, in particular international standards, by public servants, as well as by economic enterprises; and reviewing and reforming laws.^{lxv} In this case, given the structural causes of the Magdalene Laundries abuse – gender inequality, official deference to Church authority, and discrimination against women on the basis of controlling their sexuality – the government’s guarantees of non-repetition must specifically seek to transform these structures and ensure non-repetition of violations of women’s human rights in Ireland in the future.^{lxvi}

6.6.7 Particularly considering the silencing, stigma and marginalisation to which Magdalene survivors have been subjected to date, it is crucial that the government consult meaningfully with the women and all representative groups, in order to reach all women, afford them agency, and address the particular harms that they have suffered, from their own perspectives.^{lxvii}

7 State involvement in Magdalene Laundries: summary of evidence submitted by JFM to the Inter-departmental Committee

7.1 The Irish State has accepted that there was abuse in the Magdalene Laundries. The abuse is documented in the report published in 2009 by the Commission established by the State to inquire into child abuse (“the Ryan Report”) – and the abuse is also fully borne out by the survivor testimonies which JFM has collected. Both the Ryan Report and the testimonies recount that the women’s labour in the Magdalene Laundries was forced and wholly unpaid, working conditions were harsh and the women were completely deprived of their liberty and suffered both physical and emotional abuse.

7.2 However, the State has not yet accepted responsibility for that abuse and nor has it offered any apology or redress to the survivors. The State has repeatedly denied responsibility for the treatment of women and girls in the Magdalene Laundries, distinguishing between the treatment of children in residential homes which were the responsibility of the State (the “Industrial and Reformatory Schools”) and

those incarcerated in the Magdalene Laundries, which the State characterizes as private and charitable institutions in which it played no regulatory function.

7.3 Nevertheless, JFM has obtained clear evidence of State involvement in the operation of the Magdalene Laundries in three broad respects:

(1) The State was involved in sending women and girls to the Magdalene Laundries and ensuring that they remained there. The State regarded the Magdalene Laundries as an opportunity to deal with various social problems (e.g. illegitimacy, poverty, disability, so-called licentious behaviour, domestic and sexual abuse, youth crime, infanticide). It repeatedly sought to funnel diverse populations of women and girls to the Magdalene Laundries and in return the Religious Orders obtained an entirely unpaid and literally captive workforce for their commercial laundry enterprises.

(2) The State also provided the Religious Orders with direct and indirect financial support – direct financial support from “capitation” (per head) grants for certain of the women and girls incarcerated in the Magdalene Laundries and indirect financial support in terms of valuable State contracts for cleaning laundry, as well as one-off non-contract commercial laundry work for various Irish Government departments and agencies and also State capitation grants for other aspects of the relevant convents’ operations (e.g. Industrial Schools).

(3) The State entirely failed to supervise the Religious Orders’ operation of the Magdalene Laundries. It allowed women and girls to be incarcerated without any lawful authority and allowed them to be forced to work in servitude for no pay. It failed to enforce its own health and safety legislation, thereby allowing women and girls to work in dangerous working conditions. It failed to require girls of school-going age to be educated. It failed to ensure that social security contributions were paid in respect of women and girls in the Laundries and it failed to ensure that any woman or girl who died was issued with a death certificate.

State Involvement in Women and Girls entering the Magdalene Laundries and being kept there

7.4 Initially, the State denied outright that it had any responsibility at all for women and girls being sent to or kept within the Magdalene Laundries. On 4th September 2009, the Minister for Education and Science (Mr O’Keefe TD) stated that “*The Magdalen Laundries were privately owned and operated establishments which did not come within the responsibility of the State. The State did not refer individuals to Magdalen Laundries nor was it complicit in referring individuals to them*”. However, JFM has managed to find direct evidence that a number of State agencies referred women and girls to the Magdalene Laundries.

(a) *Women sent by the Judicial System*

7.5 The State’s judicial system routinely referred women to the Magdalene Laundries from independence in 1922 until at least 1983. JFM has found evidence in the National Archives that 54 women found guilty of a crime were referred to a Catholic Magdalene Laundry – and a further 30 were referred to other religious run institutions. This practice was not a “one-off” or “local” deviation from

sending women and girls to State prisons, but took place in almost every year following independence and in every part of Ireland.

- 7.6 The official “committal orders” by which the courts directed that the women in question be sent to the Magdalene Laundries stipulated that the women should be escorted by the State’s probation officers from the courts to the Magdalene Laundries. Furthermore, the correspondence between the religious orders and the courts shows that the nuns actively sought these committals and that they intended to do their utmost to keep the women at the Magdalene Laundries even after their sentences had elapsed. For example, a letter from the Superioress of the Sisters of Charity’s Cork Laundry wrote on 2nd December 1934 to the court that the Magdalene Laundry was prepared to take a woman convicted of the manslaughter of her newly born child for a year and “*we will do our best to keep her in safety even after her time has expired*”.
- 7.7 The State’s reaction to this evidence is set out in a letter dated 27th May 2010 from the then Minister of Justice, Equality and Law Reform (Mr Ahern TD), where he accepted that “*A small proportion of entrants to Magdalen Laundries came through the criminal justice system*”, whilst asserting that “*The majority of females who entered or were placed in Magdalen Laundries in the period did so without any direct involvement of the State*”.
- 7.8 JFM has seen no evidence which would support an assertion that “the majority” of women and girls entered the Magdalene Laundries without State involvement. If the State has access to accurate records which would support that assertion, it should produce them publically and forward them to this Committee.
- 7.9 Certainly the evidence JFM has subsequently found does not support such an assertion. It has found evidence from old newspaper articles that a further 32 women and girls were given a choice between being sent to Prison or being sent to Magdalene Laundries in Dublin, Cork, Limerick, Waterford and Galway between 1926 and 1983 as punishment for various criminal offences. For example, in 1936 a 17 year old female servant, Annie Cahill, pleaded guilty to setting fire to the hayshed of her employer. She was sent to the Good Shepherd Laundry in Limerick for a year. At the end of a year, the State Solicitor asked the court whether it would “*direct her to leave the Convent if she wished*”, albeit that “*The Rev. Mother was willing to keep her on in the Convent*”. The judge declined to make any order: “*I don’t think she ought to leave.*”
- 7.10 JFM has found further evidence in the State’s archives that in March 1944 there were 27 women held “on probation” (i.e., as a condition of not being sent to Prison) in convents, including six Magdalene Laundries in Dublin, Dun Laoghaire, Cork and Limerick. It is clear from the evidence that the practice was neither “local” nor temporary.
- 7.11 The reality is that incarceration in the Magdalene Laundries was very similar to being sent to prison. The survivors clearly express this view - one recalls “*I felt as if I was being sentenced to a prison. Indeed, at a certain level I was a prisoner*”. Another says “*Definitely it was a prison ... You get paid in a prison, But this was a prison. There was no doubt about it, it was a prison*”. A third says simply “*These were prisons*”. The State had resisted calls to establish a prison for young girls similar to the “Borstal” type institutions for young boys. The

availability of the Magdalene Laundries operated by the Catholic religious orders enabled the State's judiciary to use them as an alternative to imposing a prison sentence.

- 7.12 Furthermore, the Magdalene Laundries were regarded by Irish society as equivalent to prison. In a debate in *Seanad Éireann* (the Upper House of the Irish Parliament) in 1960, Senator Connolly O'Brien indicated that a girl who had been sent to the Laundries would suffer a lifelong stigma and "*If I were asked to advise girl delinquents, no matter what offences they were charged with, whether to go to prison on remand, or to go to St Mary Magdalen's Asylum on remand, I would advise them wholeheartedly to choose prison, because I think having a record of being in prison as a juvenile delinquent would not be so detrimental to the after life of the girl as to have it legally recorded that she was an inmate of St Mary Magdalen's Asylum*". JFM also holds evidence dating back to the 1920s that a "magistrate of very wide experience" commented that "... *in many instances offenders have expressed to me in Court a desire to go, in some cases they have begged to be sent, to prison rather than a Home.*"
- 7.13 The Magdalene Laundries were also used by the State as an alternative to prison in a number of other ways. They were used to hold young women in pre-trial detention ("on remand"). Following the enactment of the Criminal Justice Act 1960, the then Minister for Justice approved one Magdalene Laundry in Dublin (at Sean McDermott Street) for use as a remand institution for women and girls aged between 16 and 21. In 1969, there were 21 women on remand at Sean McDermott Street.
- 7.14 Other women were sent to the Magdalene Laundries after release from long sentences in the State's prisons. A list of women released from "life sentences" (usually imposed for murder) mentions two women who were released in 1942 after serving 17 and 18 years of their sentences. It states that "*These women were not considered quite normal. They were kept in prison for such a long period as no person could be found to look after them on release. The Good Shepherd Nuns finally agreed to take them*". From other research carried out by JFM, it would appear that one of the women in question died in one of the Cork Magdalene Laundries in 1963, having served a further 21 years of confinement beyond her State sentence.
- 7.15 A further group of girls and young women were committed to the Laundries, when they should have been sent to the Reformatory Schools. The 1970 Reformatory and Industrial Schools Systems Report (the Kennedy Report) stated that "*at least 70 girls between the ages of 13 and 19 years*" were confined in the Laundries when they "*should properly be dealt with under the Reformatory Schools system.*". It is also clear from the same Report that young women and girls remained in the Magdalene Laundries long past the periods for which they could have been held had they been lawfully detained in prison or the Reformatory Schools: "*This method of voluntary arrangement for placement can be criticised on a number of grounds. It is a haphazard system, its legal validity is doubtful and the girls admitted in this irregular way and not being aware of their rights, may remain for long periods and become, in the process, unfit for re-emergence into society. In the past, many girls have been taken into these convents and remained there all their lives.*"

(b) *Transfers from Industrial Schools*

- 7.16 Until the 1970s, orphaned, neglected or abandoned children, as well as children failing to attend school and those guilty of criminal offences, were sent to “Industrial Schools”, which were run by the religious orders, but were regulated by the State and State-funded.
- 7.17 In 2009, the Ryan Report concluded that physical and emotional abuse and neglect were features of the Industrial Schools and sexual abuse occurred in many of them. The system of inspection by the Department of Education was fundamentally flawed and incapable of being effective. Even before the publication of that Report, the State had agreed to pay compensation to the survivors of the Industrial Schools pursuant to a compensation scheme established under the Residential Institutions Redress Act 2002. Importantly, the State apologised to the survivors of the Industrial Schools in May 1999 before carrying out the relevant enquiry and before establishing the redress scheme. The then Taoiseach Mr Bertie Ahern TD said “*On behalf of the State and of all citizens of the State, the Government wishes to make a sincere and long overdue apology to the victims of childhood abuse for our collective failure to intervene, to detect their pain, to come to their rescue.*” This prompt apology enabled survivors to come forward and take a full part in the enquiry.
- 7.18 Survivor testimony suggests that members of religious orders often transferred girls directly from Industrial Schools to the Laundries. Indeed, the Ryan Report acknowledges this practice in Volume 3, Chapter 18 entitled “Residential Laundries, Novitiates, Hostels and Other Out of Home Settings”, in which it stated that “*Three female witnesses said they were transferred to residential laundries from Industrial Schools following confrontations with religious staff whom they challenged about abuse of themselves or of their co-residents. Another female witness stated that she was transferred to a laundry at 13 years to work. She stated that she was told by the Sister in charge that she was being sent to work in order to compensate the Order as her mother had been unable to meet the required payments for her keep in the Industrial School.*”
- 7.19 Although the 2002 Act provided for redress where a person suffered abuse in a Laundry having been transferred there from a State regulated institution, none of the survivors of both the Industrial Schools and the Magdalene Laundries with whom JFM is in contact had their time in the Laundries taken into account by the Residential Institutions Redress Board when calculating their redress. Survivors were strongly discouraged from speaking about their experience in the Laundries as part of the RIRB and/or the CICA Confidential Committee process. As one of the survivors who brought a claim before the Board recalls “*It was clear that it was only from the Industrial Schools.*”

(c) *Transfers from Mother and Baby Homes*

- 7.20 Between the 1920s and 1970s, the religious orders ran Mother and Baby Homes for unmarried mothers. These institutions were both State- and Local Government- funded and State regulated and inspected. The operation of these homes formed part of a deliberate State policy, differentiating between State assistance for the poor, aged and infirm on the one hand and unmarried mothers on the other. As the historian, Professor Dr Maria Luddy^{lxviii} has stated the former

groups were looked after in the “County Homes”, which were funded by the State and Local Authorities: *“The government and local authorities wished County Homes to be the refuge of the “respectable poor”. The presence of unmarried mothers in these institutions was felt to be an embarrassment and to reduce the willingness of the “respectable poor” to enter such institutions”*.

- 7.21 Within one year of the State’s founding, The Local Government (Temporary Provisions) Act, 1923, Schedule A, provided a statutory basis for using the Galway Magdalen Laundry to confine women seeking public assistance for a second or subsequent pregnancy outside of marriage. It states:

4. Unmarried Mothers are divided into two classes:—

- (a) First offenders, to be dealt with in the same institution as children.
(b) Old offenders to be sent to Magdalen Asylum.*

Unmarried Mothers who come within Class (b) shall be offered an opportunity of relief and retrieval in the Magdalen Asylum, Galway, upon such terms and conditions as may be agreed on between the Executive Committee and the Sisters in Charge of the Magdalen Asylum. If necessary the Committee may make arrangements with other Institutions.

Persons in Class (b) who refuse to enter such Institutions as may be selected shall not be allowed, under any circumstances to become chargeable to the public rates.

- 7.22 By 1928, the Commission on the Relief of the Sick and the Destitute Poor was recommending a similar policy nation-wide: that women who had given birth outside marriage once should be detained in the Mother and Baby Homes *“for a period not exceeding one year”* and mandatory incarceration in the Laundries for women applying for maternity assistance a second time *“there should be power to detain for a period of two years”*. Where a woman had sought assistance on three or more occasions, the Board of Health should have the power to *“retain for such period as they think fit, having considered the recommendation of the Superior or Matron of the Home”*. Professor Luddy has commented that *“Such a stance, though not intended to be penal, allowed for the development of an attitude that accepted detention as a means of protecting society from these reoffending women ... These were women whose sexuality had to be managed and contained. What appears to have happened is that some of these ‘repeat offenders’ found themselves admitted to Magdalen asylums which proved difficult to leave.”*

- 7.23 The Department of Local Government and Public Health Annual Report 1932-33 underscores that the Commission’s recommendations were already adopted as official policy. It details the State’s reliance on the Laundries to confine women who gave birth to more than one child outside of marriage. It states, *“With regard to the more intractable problem presented by unmarried mothers of more than one child, the Sisters-in-Charge of the Magdalene Asylums in Dublin and elsewhere throughout the country are willing to co-operate with the local authorities by admitting them into their institutions. Many of these women appear to be feeble-minded and need supervision and guardianship. The Magdalene Asylum offers the only special provision at present for this class.”*

- 7.24 JFM has evidence both from the Department of Health Archives and from a contemporaneous account from Halliday Sutherland in his book *Irish Journey* that in 1958, one of the mother and baby homes – The Children’s Home in Tuam, Co Galway, which was licensed and funded by the State - was sending “girls” that had “*two confinements ... to the Magdalen Home Laundry in Galway*”. The annual returns made by the nuns who managed the Tuam home to the Department of Local Government and Public Health for this period contained a record for the “Whereabouts of the parents”. For certain children, the mother was noted to be “in the Magdalen Home”. This underscores the State’s regulation of the Mother and Baby Homes – and the State’s awareness that mothers were being sent from the Mother and Baby Homes directly to the Laundries. The annual returns also record that some of the children in the Home were placed for adoption, both domestically and overseas in the United States of America.
- 7.25 Moreover, it would appear from an interview with the Mother Superior of the convent operating the Magdalene Laundry in Galway in 1958 that seventy per cent of the women in that Laundry were “*unmarried mothers*”. The only other group she mentioned were girls “*sent here when they leave the Industrial School because they need special care*”. When asked whether a woman or girl could leave whenever she chose, the Mother Superior stated “*No, we’re not as lenient as that. The girl must have a suitable place to go*”. She was then asked how long they stayed. She replied “*Some stay for life*”. This is supported by the large numbers of women and girls who died in the Laundries and were buried in the Laundry plots in cemeteries across Ireland. JFM is aware of at least 988 women who are buried in those plots and therefore must have stayed for life.
- 7.26 JFM can also document that Mother and Baby Homes—Sean Ross Abbey, Castlepollard, Bessboro, St. Patrick’s Navan Road, Tuam and Ard Mhuire, Dunboyne—discharged women to “other homes” upon release. Each of these institutions submitted an Annual Statistical Return to the Department of Health requiring them to specify the “other homes” in question. Only two of the six ever specified which institutions women were transferred to. There is no evidence that the Department of Health ever sought to challenge the religious congregations for the missing information.
- 7.27 The annual returns for Sean Ross Abbey, Roscrea, Co Tipperary, show that between 1951 and 1968 that institution consistently sent women to the Good Shepherd Congregation upon leaving the Mother and Baby Home. It is clear that at least 25 women ended up in Good Shepherd “homes” during this period. It is probable, indeed likely, that these “homes” refer to the Congregation’s Magdalene Laundries in Limerick, Cork, Waterford and New Ross.
- 7.28 JFM also has evidence which shows that in 1956 another Mother and Baby Home (St Patrick’s, Navan Road, Dublin) sent an unmarried mother to the Magdalene Laundry in Dun Laoghaire and two further unmarried mothers in 1962 to Sean McDermott Street and High Park Magdalene Laundries respectively.
- 7.29 JFM holds testimony from one survivor who was transferred from the Good Shepherd Order’s state funded Mother and Baby Home at Ard Mhuire, Dunboyne, Co Meath to the Good Shepherd Magdalene Laundry in Waterford in 1965.

(d) Other reasons for women and girls entering the Laundries

- 7.30 There are a variety of other reasons why women and girls entered the Laundries. “According to the Reformatory and Industrial Schools Systems Report 1970 (the Kennedy Report), *“A number of [girls] considered by parents, relatives, social workers, Welfare Officers, Clergy or Gardaí [Irish Police] to be in moral danger or uncontrollable are ... accepted in these convents for a period on a voluntary basis ...”* It was immediately after this passage that the Kennedy Report commented (as already mentioned in paragraph 16 above) that *“This method of voluntary arrangement for placement can be criticized on a number of grounds. It is a haphazard system, its legal validity is doubtful and the girls admitted in this irregular way and not being aware of their rights, may remain for long periods and become, in the process, unfit for re-emergence into society. In the past, many girls have been taken into these convents and remained there all of their lives.”*
- 7.31 Of the agents referred to above who were taking women and girls to the Laundries, social workers, welfare officers and police were all acting on behalf of the State – their actions remain the State’s responsibility. The same is true of hospital staff and local authority employees, who also appear to have directed women to the Laundries. JFM has discovered correspondence in the National Archives from Department of Health officials directing the use of Magdalene Laundries to confine/contain “problem women”. One exchange is between the Secretary of a hospital in Dublin in 1946 and the Department of Local Government and Public Health regarding the difficulty of finding foster parents for babies. The Department suggested that *“Where an unmarried mother is willing to go into an institution such as the Good Shepherd Home for penitents, the baby should be discharged to the public assistance authority concerned”*.
- 7.32 The second exchange is between the Secretary of Carlow County Council and the Department in 1956 seeking advice regarding a married woman who had had children with men other than her husband. The Department suggested that the younger child could be sent to an Industrial School and that the mother might be “induced” to go to the Magdalene Laundry at the same Good Shepherd convent in Limerick.
- 7.33 JFM also has evidence from a survivor who was in the foster care system operated by the public assistance authorities and it was the County Manager who signed her committal to the Laundry at 14 years of age.
- 7.34 There is also evidence of girls being brought into the Magdalene Laundries at the behest of the parish priest, who was chair of the board of management of the (state-funded) National School which the girl attended.
- 7.35 JFM also has evidence from newspaper archives of two transfers from Co. Mayo hospitals to the Sisters of Mercy Laundry in Galway.
- 7.36 It is true that some women and girls were committed to the Laundries by non-State actors, including their families. This happened for an array of reasons – they feared scandal related to unmarried motherhood and illegitimacy, sexual abuse, incest, domestic abuse, disability and mental illness. One survivor says she was kidnapped by the Legion of Mary and delivered to the Sisters of Charity Laundry in Donnybrook. The Gardaí (police) returned this survivor when she attempted to

escape. Some women were also committed as a way of dealing with land and inheritance disputes. JFM would argue that, whatever the reasons why women and girls were sent to the Magdalene Laundries, the State had duties to all of the women and girls in the Laundries (a) to prevent them from being held against their will, (b) not to exploit or benefit from their forced labour or servitude and (c) to care for these women and girls in terms of their rights to a safe workplace, to social welfare and (in terms of school-age girls) an education.

(e) Evidence of police returning women and girls to the Laundries

7.37 JFM have managed to obtain a significant amount of evidence that, when women and girls escaped from the Magdalene Laundries, the nuns rang the Garda Síochána (Irish Police). If the Gardaí managed to find the escapees, there was a consistent practice of returning them to the Magdalene Laundries where they suffered punishments ranging from solitary confinement, deprivation of meals and the shaming and humiliating practice of hair cutting. This practice was not a “one off” or “local” arrangement, but happened at Magdalene Laundries in different parts of Ireland and across a number of decades.

7.38 A critical point to note is that the Garda returned women and girls to the Magdalene Laundries regardless of the original reason why the women and girls had entered the Magdalene Laundries in the first place (i.e., whether or not they had been sent to the Magdalene Laundries instead of receiving a prison sentence). Any suggestion that women and girls, other than those sent to the Magdalene Laundries by the Irish judicial system, were there on a “voluntary” basis is completely undermined by the fact that the Irish police consistently returned escapees who had entered the Magdalene Laundries through other routes (e.g., the Industrial Schools, Mother and Baby Homes, family members, etc).

7.39 For example, one survivor who entered High Park Magdalene Laundry, Drumcondra, Dublin in 1947 from an Industrial School has explained that she ran out of the gate one day, but “*before I knew it the police were picking me up and bringing me back*”. She went on:

“Well, I went out the gate and I was just about to run down Griffith Avenue when the next thing I saw ... the police were behind me ... and they brought me [back], they said because I was in the [Laundry] uniform ... They said “are you Attracta?” and I said ... “yes” ... And they said “where do you think you’re going?”. And I said, “out” ... “To look for somewhere better to live” ... And they said “no, you’re coming back with us, because High Park has rung us and told us that you’d run out”. And before I’d got anywhere they were there on the spot, and brought me back in ... I told the police – I said to the police, because the Garda did say to me when I came out, “why did you run away?”. I said, “because they’re cutting my hair and putting me in a hole all the time ... And I said to him, I said “and I don’t like what they’re doing to me”.

7.40 There are many further examples. What they show is that the Gardaí were sending or returning women and girls to the Magdalene Laundries as part of a consistent policy, which can only have been one adopted centrally by the State, and was in no way a “local” practice adopted by individual Gardaí acting contrary to their orders for which the State can absolve itself of responsibility.

- 7.41 Although the evidence JFM has already obtained does show that Gardaí did return women and girls to the Magdalene Laundries in line with the State's then policies, (a) the evidence JFM has seen so far shows that the women and girls were well-treated by individual Gardaí whilst in their custody and (b) at least some Gardaí allowed escaped women and girls time “to make it onto the ferry to England”.
- 7.42 JFM would like to clarify that it is not seeking to hold individual Gardaí responsible for what might have happened in the past and nor is it asking for an apology from the Garda Síochána as a separate service. It was the State which adopted policies to use the Magdalene Laundries to deal with certain social issues and it was the Religious Orders which operated and profited from the Magdalene Laundries. Therefore, JFM submits that it is the State and the Religious Orders which were responsible for the treatment of women and girls in the Magdalene Laundries and any apology and redress should come from them.
- 7.43 JFM has recently written to the Garda Historical Association, the Garda Síochána Retired Members Association, the Association of Garda Sergeants and Inspectors, and to the Garda Commissioner requesting assistance in documenting the historic practice of returning women to the Magdalene Laundries. To date, JFM’s letters have gone unacknowledged.

State involvement in the commercial operation of the Magdalene Laundries and in financing them

- 7.44 JFM holds evidence that the State supported the Magdalene Laundries financially, both directly and indirectly. Although the direct support was specific to certain of the groups of women and girls incarcerated in the Magdalene Laundries, the indirect financial support related to all of the women and girls held there. This is a further reason why the State should accept responsibility and apologise to and provide redress to all of the survivors and not just some of them.

(a) Direct State financial support - payment of capitation grants

- 7.45 The State made direct payments to the Religious Orders in respect of women held on probation in the Magdalene Laundries. The then Minister for Justice, Mr Dermot Ahern TD, stated in response to a Parliamentary Question on 19th January 2010 that capitation (per head) payments were made, but that they “*were limited to the duration of the relevant probation orders*”.
- 7.46 After 1960, the State also made capitation payments in respect of young women and girls held on remand at the Sean McDermott Street Magdalene Laundry.
- 7.47 JFM also holds a copy of a letter dated 31st July 1972 which indicates that the former “Boards of Health” paid capitation grants in respect of “problem girls” sent to the “An Grianan” institution at High Park convent, Drumcondra. An Grianan was a “Training Centre” for problem girls set up circa 1969 at the High Park Magdalene Laundry. It was housed in the same building as the Laundry and the “problem girls” slept in the Magdalene dormitory. The order concerned (the Sisters of Our Lady of Charity) received distinct and separate capitation grants for girls sent for punitive reasons by the Department of Justice and for “problem

girls” sent for presumably protective reasons by the now defunct Boards of Health.

(b) Indirect State financial support

- 7.48 The State provided ongoing financial support to the Religious Congregations by providing the Magdalene Laundries with lucrative contracts for the cleaning of laundry.
- 7.49 A Parliamentary Debate in May 1941 suggests that the Department of Defence held laundry contracts with the Magdalene Laundries. The Minister for Defence, Mr Traynor, stated, *“For the current year ... contracts for Dublin district barracks and posts, including Baldonnell Aerodrome, and for Collins Barracks, Cork, which were previously held by commercial firms, have been placed with institutional laundries”*. The Minister then stated that he was reconsidering whether those contracts should contain a “fair wages clause” – presumably because the women and girls incarcerated in the Magdalene Laundries did not receive wages. JFM has obtained testimony that the Laundries did in fact process uniforms sent by the Irish Defence Forces. There is also evidence that no fair wages clauses were incorporated by the State into contracts with the Laundries. As late as 1982, there was a meeting in which the State discussed the issue of fair wages clauses in laundry contracts with the religious congregations.
- 7.50 Despite the fact that the women and girls did not receive wages, it would appear that the Department of Defence was prepared to pay the Religious Orders generously for their work. JFM is also in receipt of information from a former Army Quartermaster who handled the advertising of laundry contracts for one barracks in the West of Ireland and his testimony is that every year despite lower tenders being received the Army contract was awarded to the Sisters of Mercy Magdalene Laundry in Galway.
- 7.51 JFM has also seen pages from a ledger from High Park Magdalene Laundry in Drumcondra, Dublin. Regular customers included Departments of Justice, Agriculture and Fisheries and the State transport company, CIE. This contains an entry relating to laundry from the residence of the President of Ireland, Áras an Uachtaráin. Survivors and other non-survivor witnesses certainly recall the Magdalene Laundries handling not only Army laundry, but also laundry from the hospitals, mental hospitals and prisons.
- 7.52 The Magdalene Laundries were also supported indirectly by the State in two further ways. A number of convents which operated Magdalene Laundries had other State supported institutions on site – five out of the ten had Industrial Schools on site and one of those also had a Reformatory School. Where an unmarried mother was sent to one of those Magdalene Laundries, her child was often sent to the Industrial School on the same site and the Religious Orders would receive a capitation grant paid by the State in respect of that child. The other five Magdalene Laundries were operated by Religious Orders which operated Industrial or Reformatory Schools at other sites.

7.53 Secondly, the State awarded the Religious Orders which operated the Magdalene Laundries charitable status, which carried with it not only favourable tax benefits (normally, immunity from taxation) but also implied to potential donors that the Laundries were carrying out worthwhile public functions which were worthy of support through donations and legacies. There is evidence that the Charity Commissioners were assiduous in checking that donations and legacies reached the institutions intended by the donors and that any commercial dealings by the Laundries in terms of selling land and equipment provided full market value for the nuns. There is no evidence that the Charity Commissioners ever checked to see that the Laundries did in fact fulfil their charitable aims in terms of helping women and girls. There seems to have been a presumption that the religious nature of the institutions negated the need for oversight or supervision.

The State's failure to supervise

7.54 The State completely failed to supervise the Religious Orders in their operation of the Magdalene Laundries. No one sought to understand how these institutions actually operated. The fact that the Religious Orders were in control was enough to excuse official inquiry, inspection or regulation.

(a) Incarceration

7.55 The Irish State had a duty both under its own Constitution and under International Human Rights Conventions to protect the liberty of its citizens.

7.56 Article 40.3.1 of the Irish Constitution protects the personal rights of the citizen and Article 40.3.2. provides that "The State shall ... by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name and property rights of every citizen".

7.57 Similarly, Article 3 ECHR protects citizens of signatory states from torture and cruel inhuman or degrading treatment, Article 4 ECHR protects them from being held in slavery or servitude and Article 5 ECHR protects the right to liberty and security of person. In particular, since ratifying the ECHR on 25th February 1953, Ireland has been committed not to permit detention except after conviction by a competent court or by other lawful authority.

7.58 All of the women and girls held in the Magdalene Laundries had no choice whether to stay (see paragraphs 38 to 41 above). This was certainly the case from the 1930s until the late 1960s. As one survivor of High Park Magdalene Laundry, Drumcondra, recalls, "*every window in the building, every window had bars on it*" and "*All the doors, every door was locked*". Another survivor of Donnybrook Magdalene Laundry says "*At nine o'clock every night you were locked into that cell – winter, summer*".

7.59 However, there was no statutory basis at all in the whole period between Irish independence in 1922 and 1960 for incarcerating any of the women and girls held in Magdalene Laundries. None of them were detained lawfully. After that date, the Criminal Justice Act 1960 allowed one Magdalene Laundry at Sean McDermott Street in Dublin to be used as a remand institution for women and girls. However, this only affected a small percentage of women and girls sent to

Magdalene Laundries after 1960 - all other women and girls incarcerated in Magdalene Laundries after 1960 were detained unlawfully.

7.60 The State was aware of this but did nothing about it. The Cussen Report (Commission of Inquiry into the Reformatory and Industrial School System, 1934-1936) referred to the “unsatisfactory method of disposing” of young female offenders aged 16 to 21. It referred to the practice of giving young women the choice between Prison and being sent to a Magdalene Laundry, before commenting that “*In our view this procedure is undesirable for obvious reasons, chief among them being the absence of specific power enabling the Judges and Justices to commit to these Homes*”. The Cussen Report recommended that “*Statutory powers should be given to both Judges and Justices to commit this class of offender for a definite period, subject to a maximum of three years, to Institutions certified for the reception of particular cases*”. In fact, no such power was ever enacted. Women continued to be sent to Magdalene Laundries as an alternative to Prison without any statutory authority – and the State failed to check whether they had been allowed to leave at the end of their period of punishment. The result was that many stayed for long periods – some for life (see paragraphs 7, 15, 16, 26 above and 94 below).

7.62 The State even failed to properly supervise the treatment of the small group of young women and girls who were sent to Sean McDermott Street Magdalene Laundry on remand pursuant to the 1960 Act. The Sean McDermott Street Laundry was never licensed or inspected – and yet the State was prepared to place women who were still to be regarded as innocent, prior to any trial, beyond direct State protection.

7.63 Furthermore, there was no valid reason whatsoever for the Religious Orders being permitted to incarcerate women and girls who were sent to the Magdalene Laundries for non-judicial reasons (e.g., children leaving the Industrial Schools, unmarried mothers). One survivor, who was 15 years old when taken from her job to the Laundry for her “own safety”, simply says that the nuns “*were looking for cheap labour of course*”. Yet, it would appear that the State used its police force, the Garda Síochána, to return women and girls who managed to escape from the Magdalene Laundries whatever the reason why they were first sent there.

(b) *Failure to insist that the Magdalene Laundries comply with health and safety legislation*

7.64 The Magdalene Laundries operated on a commercial basis, laundering linen and clothing for the State and for private firms and individuals in return for financial/monetary reward. The only non-commercial feature was that their workforce was unpaid. As one survivor put it, “*We worked long hours every day ... scrubbing, bleaching and ironing for the whole of Cork – hotels, hospitals, schools, colleges – for which the nuns charged, of course, though we never saw a penny. It was an industry and they were earning a fortune from our labour*”.

7.65 Work in the Magdalene Laundries was hard. It involved lifting heavy weights in very hot temperatures and the use of toxic chemicals. One survivor states “*We worked in great heat associated with the laundry machine and mangles*”. Another recalls, “*You could stand in half a foot of water sometimes down in the laundry all day*”. And yet another says, “*The laundry work was hard too. I often*

got bleach in my eyes. It was a sore dose. It would be sore for days. And the soap would burn your hands”.

- 7.66 One external witness says, *“by Jesus they worked hard. They broke a lot of sweat in that laundry. The laundry was very hot. It was just basically a sweathouse just to provide Joe Public out there with nice clean sheets”*. Another external witness states that *“the girls could get burns from pouring in soap, splashing into their eyes or pouring in bleach, raw bleach, which they would dilute by 50% ... And sometimes these carboys (10 gallon containers) would break and the bleach would go everywhere and it was a nightmare. And the fumes of the bleach alone were dreadful”*. The clothes for one machine weighed 200 lbs (90 kgs) and were *“cold, wet and very, very heavy”*. Lifting the clothes out of the machines was *“back breaking”*.
- 7.67 The machinery was potentially dangerous. A witness states that the machinery at the Limerick Magdalene Laundry *“had very few safety systems ... they were very primitive ... They had no programmers, no automatic valves and no safety system”*.
- 7.68 The Magdalene Laundries were not exempt from the State’s health and safety legislation. For example, under section 84 of the Factories Act 1955, *“any premises forming part of an institution carried on for charitable or reformatory purposes”* was subject to the provisions of the Act if the premises were used for the washing or cleaning of articles not intended for the use of the institution. In the Parliamentary Debate on this provision, the Minister for Industry and Commerce (Mr William Norton TD) unambiguously stated that *“Once you wash clothes in the institution, not for the institution, then that is a factory. In other words, you have a right to wash clothes for the institution, but if you start to wash other people’s clothes, it is a factory, for the purpose of Section 84”*.
- 7.69 However, the State failed to insist that the Magdalene Laundries comply with legislative measures ensuring workers’ rights (e.g., a working wage, hours of work per day and per week, vacation time, etc.). The women and girls incarcerated in the Laundries received no wage, they were required to work in the Laundries for 6 days a week, usually for very long hours and with few if any breaks. On Sundays, they were *“allowed”* to sew and embroider, clean the convent and work in the fields *“for fun”*, but only under strict supervision. There were no holidays and little (if any) opportunity for outdoor recreation. One external witness recalls that the commercial pressure to ensure that the work was completed was such that *“those poor women had to work every bank holiday in the Laundry as normal, Good Friday as normal, to give the hospitals and the hotels their laundry back”*.
- 7.70 Survivors also state that they did not receive the basic components of a balanced diet, with very little protein or fruit and vegetables. They generally had porridge or bread for breakfast and potatoes, sausage and cabbage for the other meals. One survivor recalls that *“The medical outcome of such a diet”* was that *“I was extremely thin and sickly ... The convent cared for us with absolutely the minimal standards.”* Another survivor recalls, *“We got one egg a year”* on Easter Sunday morning.

- 7.71 Nor did the State require the Magdalene Laundries to comply with the requirement that all commercial operations covered by the 1955 Act keep registers of their workers, listing all women and young people with their ages and specific occupations and sending those details regularly to the relevant Department.
- 7.72 Nor did the State require the Magdalene Laundries to comply with the requirement that all young persons under 18^{lxix} had to be examined by a doctor with a view to the issue of certificates of fitness for employment in factories.
- 7.73 Nor did it supervise the Magdalene Laundries to ensure that they provide safe working conditions.
- 7.74 The State never enforced its statutory obligation in this regard. The then Minister for Education and Science, Mr Batt O’Keefe TD, stated in a letter dated 4th September 2009 that the Magdalene Laundries “*were not subject to State regulation or supervision*”.
- 7.75 The State has since explained the lack of inspection in a response to a Parliamentary Question by the Minister for Jobs, Enterprise and Innovation (Mr Richard Bruton TD) on 23rd June 2011, in which he stated that “*The mere fact that the State has a right to inspect particular premises does not mean that it has an obligation to do so – there neither was nor is any obligation on the State to inspect every workplace*”.
- 7.76 JFM has discovered very detailed annual reports which were discussed at Cabinet level, even prior to the enactment of the 1955 Act. These reveal that a very high percentage of factories were inspected in each year for compliance with the State’s health and safety legislation (in 1938, 97.8% of factories were inspected at least once and between 1945 and 1950, the percentage of factories which were inspected ranged between 41.4% and 69.5%), accidents were investigated, young workers were checked for fitness and prosecutions were brought in cases of non-compliance. The National Archives show that commercial operators of laundries were inspected, were required to keep a register of workers, were required to ensure that young workers under 16 (and later, 18) had certificates of fitness and were prosecuted for breaches of the Factories Act.
- 7.77 Yet, none of Ireland’s ten Magdalene Laundries appear ever to have been inspected between 1922 and 1996. There are no records to that effect – and the survivors cannot recall any inspections. When asked about inspections, one said “*No, no, no, no, no never. Nobody ever came into that place to inspect you. Nobody*”. When another was asked whether any government officials or employees ever visited the laundry – Gardaí, factory inspectors or doctors, she said, “*No, I never remember anything, no*”.
- 7.78 The only explanation is that the State unofficially treated the Magdalene Laundries as being exempt, regardless of the true position in law under its own legislation. The available evidence supports this conclusion - one of the Laundries was managed by an external manager from the 1970s, who states that the Laundries “*were also subject to government inspectors and the big question I have is why didn’t the government take more interest in these places. Why didn’t these inspectors take more of an interest? They just didn’t want to know because*

the nuns were fulfilling a huge social need. These people were in need of help. The government should have given them that help. The nuns were there. They ... filled the void and the government were quite happy, thank you very much, and didn't want to know about it".

- 7.79 The results of the State failing to ensure that the Magdalene Laundries complied with the State's own health and safety legislation were entirely predictable. The manager mentioned above recalls that *"In the old days you had a lot of slippages because of wet floors, clothes on the ground etc ... Nowadays you have health and safety inspectors. You didn't have them in those days"*. He also recalled that *"there were some bad accidents. I was told one woman lost an arm"* in an accident with the 3 metre long roller ironing machine – *"she put her hand in beside the hot roller to pull [an item of laundry] out before it could be properly ironed. The machine severed her arm below her elbow ... It was a horrific accident"*. He went on to say that *" Another woman lost fingers on a hydro (spinner) ... one day one of the women was trying to stop the hydro because one of the brakes wasn't working and the safety lid wasn't working. It had a brake but the brake used to burn out very quickly and she ... caught her hand and whipped a few of the fingers clean off. Now there should have been a safety interlock on that hydro to prevent that door from being opened until it was at a complete standstill"*.

(c) Failure to ensure children were educated

- 7.80 The State had a constitutional duty to educate the children in the Magdalene Laundries and to care for them in cases of parental failure. Article 42.2 of the Irish Constitution provides that *"The State shall ... as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social ...The State shall provide for free primary education ... In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child."*
- 7.81 It is clear from survivor testimony that girls of school-going age in the Magdalene Laundries were not provided with any education. One survivor of the New Ross Magdalene Laundry (who entered age 14 in 1949 and left aged 18 in 1953) states, *"The most important fact to know about the convent is that there was no formal education given to me or the other residents"*. Other than being allowed to read religious books for 2 hours on a Sunday and being given some sewing instruction, she recalls that *"for the most part, our intellectual development was ignored"*. Another who was sent to High Park, Drumcondra at age 17 states in regard to education that *"There was no such thing as education. No reading, writing, anything"*. This lack of education has affected the rest of the lives of survivors who were eventually able to leave the Laundries.

(d) Failure to collect social welfare payments and taxes

- 7.82 Under the Irish social security system, certain benefits (such as old age pensions) require contributions by the relevant workers. As the Minister for Social and

Family Affairs (Ms Mary Hanafin TD) explained in an answer to a Parliamentary Question on 4th February 2010, “*Since 1953, the Social Welfare Acts have defined the various types of employment which are insurable under the social insurance system while also providing for the management and operation of that system ... Clearly, the integrity of the system is dependent on timely and accurate returns being made to the Social Insurance fund by employers, employees and the self-employed – again as laid down in social welfare legislation. A statutory basis therefore exists for, inter alia, the remittance and recording of contributions, inspection of employer records and where necessary, ensuring compliance in matters relating to social insurance contributions*”.

7.83 However, the Minister also confirmed that “*there do not appear to be returns available in relation to any organisation or organisations which may be collectively described as Magdalene Laundries*”.

7.84 Accordingly, it would appear that the State failed to insist that the Religious Orders who operated the Magdalene Laundries as commercial enterprises comply with the Social Welfare Acts.

7.85 The consequence of this failure is that survivors who apply for a statutory old age pension cannot have her years of work in the Magdalene Laundries taken into consideration. Survivors in contact with JFM have repeatedly written to government representatives in an effort to resolve their pension difficulties.

7.86 There is also no evidence that the State ever insisted that the Religious Orders comply with the duty of employers to deduct income tax in respect of women and girls working in the Magdalene Laundries. The fact is that the women were unpaid and they were held in conditions of servitude whereby they could not leave the Laundries. The State can hardly now complain of the expense of providing redress to survivors when it failed to ensure that the women received fair wages for their work and failed to ensure that the Religious Orders complied with their duty as “employers” to account for income tax to the Irish Revenue Commissioners.

(e) *Failure to require death certificates*

7.87 Finally, JFM would like to take the Committee back to the start of the current campaign for recognition by survivors.

7.88 In 1993, having decided to sell some of their land at the former Magdalene Laundry site at High Park, Drumcondra, the Sisters of Our Lady of Charity of Refuge applied to the Department of the Environment for the exhumation of 133 women at High Park Convent, Drumcondra. The exhumation order was granted by the Department of the Environment on 25th May 1993.

7.89 The condition of the Magdalene graveyard at High Park is best explained by a survivor of that Magdalene Laundry. She recalls that women and girls were buried “*at the end of the green*” that the women and girls used to walk around. “*The nun that was in charge, Mother de Chantal, she used to have her beehives in there, just by the graves*”. The survivor recalls that “*they weren’t even marked, the graveyards ... There were no markings – there was nothing in the graveyards*”.

The women were buried “*in some sort of cloth or something*” with “*no priest, no ceremony ... they were just buried there.*”

- 7.90 When the undertakers were carrying out the task of exhuming the bodies on 23rd August 1993, an additional 22 remains were discovered. The Department of the Environment then supplied an additional exhumation order to allow the removal of all remains, without questioning the identity of the 22 women.
- 7.91 The Sisters of Our Lady of Charity of Refuge told the Department of the Environment that they could not produce death certificates for 24 women on the exhumation order who appear under fictitious names. The Sisters of Our Lady of Charity of Refuge also told the Department of the Environment that they could not produce death certificates for a further 34 women on the exhumation order, despite the requirement in Ireland (which has existed for over 100 years) that all deaths be reported and that a death certificate be obtained.
- 7.92 The remains of 154 out of 155 of the women were then cremated and reinterred at Glasnevin Cemetery.
- 7.93 A comparison between the names listed on the Glasnevin grave and the exhumation order reveals the following:
- a. There are a total of 133 names on the exhumation order, of which only 110 are the women’s real names.
 - b. The exhumation order lists a further 23 women under fictional names.
 - c. The exhumation order does not list the extra 22 bodies found in the graveyard.
 - d. Only 54 of the names listed on the grave match those on the exhumation order.
- 7.94 JFM research in comparing data from the 1901 and 1911 censuses with the Magdalene graves (where names are available) reveals that many women spent long periods and often died behind convent walls. JFM was unable to locate death certificates for many of these women. However, to give one example of the lengths of time spent in the Laundries, a woman in the Good Shepherd Limerick grave at Mount St. Oliver Cemetery is recorded in the 1911 census as being incarcerated in the Limerick Magdalene Laundry at 18 years. She died in 1985 at 92 years, having spent 74 years in the Laundry. Another woman spent about 60 years in the Limerick Magdalene Laundry from age 14 until her death in 1989 when in her mid-70s. As a relative has stated:

“She was literally there from when she was a teenage girl to when she died, a long, long time, certainly longer than any prison sentence any criminal has ever got in this country, certainly, which is scary. And a more non-criminal, non-aggressive lady could you meet. A real lady in an old style, a real sweet lady”.

ⁱ JFM greatly appreciates the additional input of Katherine O’Donnell, JFM Advisory Committee Member; Mari Steed, JFM Co-ordinating Committee Member; and Mary McAuliffe, JFM Advisory Committee Member. Additional research assistance was provided by Babiche Routledge and Peter Morcos.

ⁱⁱ Concluding observations of the Committee against Torture, Ireland, U.N. Doc. CAT/C/IRL/CO/1 (2011), www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.IRL.CO.1.pdf

ⁱⁱⁱ Concluding observations of the Committee against Torture, Ireland, *ibid*, para 21:

Magdalene Laundries

21. The Committee is gravely concerned at the failure by the State party to protect girls and women who were involuntarily confined between 1922 and 1996 in the Magdalene Laundries, by failing to regulate and inspect their operations, where it is alleged that physical, emotional abuses and other ill-treatment were committed, amounting to breaches of the Convention. The Committee also expresses grave concern at the failure by the State party to institute prompt, independent and thorough investigations into the allegations of ill-treatment perpetrated on girls and women in the Magdalene Laundries (arts. 2, 12, 13, 14 and 16).

The Committee recommends that the State party institute prompt, independent and thorough investigations into all complaints of torture and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries and, in appropriate cases, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences committed, and ensure that all victims obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible.

^{iv} See Follow-Up webpage on Committee against Torture website:

<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>

^v Irish Government News Service, ‘Appointment of Chairperson of Inter-departmental Committee into Magdalene Laundries – Shatter’, 1 July 2011,

<http://www.merrionstreet.ie/index.php/2011/07/appointment-of-chairperson-of-inter-departmental-committee-into-magdalene-laundries/>

^{vi} Justice for Magdalenes, Submission to the United Nations Committee against Torture, 46th Session, May 2011, www2.ohchr.org/english/bodies/cat/docs/ngos/JusticeMagdalenes_Ireland46.pdf

^{vii} Irish Human Rights Commission, Assessment of the human rights issues arising in relation to the treatment of women and girls in Magdalen laundries,

<http://www.ihrc.ie/publications/list/ihrc-assessment-of-magdalen-laundries-nov-2010/>

The Commission’s Recommendation to government States:

That in light of its foregoing assessment of the human rights arising in this Enquiry request and in the absence of the Residential Institutions Redress Scheme including within its terms of reference the treatment of persons in laundries including Magdalene Laundries, other than those children transferred there from other institutions; that a statutory mechanism be established to investigate the matters advanced by JFM and in appropriate cases to grant redress where warranted.

Such a mechanism should first examine the extent of the State’s involvement in and responsibility for:

- The girls and women entering the laundries
- The conditions in the laundries
- The manner in which girls and women left the laundries and
- End of life issues for those who remained.

In the event of State involvement/responsibility being established, that the statutory mechanism then advance to conducting a larger-scale review of what occurred, the reasons for the occurrence, the human rights implications and the redress which should be considered, in full consultation with ex-residents and supporters’ groups.

^{viii} Justice for Magdalenes, Submission to the United Nations Committee against Torture, 46th Session, May 2011, *supra* note vi

^{ix} We are sharing the following excerpts with permission from the survivors.

Justice for Magdalenes is an advocacy group seeking justice for **all** women who were incarcerated in Ireland’s Magdalene Laundries. Though our message is clear that we campaign for justice for all, we are often asked how many women we “represent”. JFM wishes to open the doors to justice for: survivors who speak out, those who live in silence, those who are still institutionalised, those who have died and the relatives of women and girls incarcerated, many of whom are adopted people and survivors in their own right. Each and every one of these survivors and victims deserve justice, regardless of whether or not they speak out or identify as part of a representative group.

As JFM is an all-volunteer advocacy group, in the official sense, we do not provide services. However many survivors, family members and friends of Magdalene women have reached out to JFM seeking assistance. JFM has had the honour and privilege of hearing the stories of these women, their families and their friends; some of whom have kindly agreed to provide testimony for submission to the Inter-departmental Committee. We submitted the first tranche of testimonies to Senator McAleese on 28 May 2012, totalling 490 pages. Over the coming months we will be gathering further testimonies for submission to the Committee.

In the testimonies already gathered, all survivors told us that they could not leave the laundries, that the doors were locked and the windows inaccessible. If they did try to leave they were returned by the Gardaí, while others decided not to try to escape because they knew the same fate awaited them. They all told us they could not complain, in most cases they remarked that there was nobody to complain to; while others begged to leave, often on a daily basis, but all were refused. Every single survivor confirmed that they were never paid, that no inspections were ever carried out and that no government official ever came to check on them.

^x See Irish Human Rights Commission, Assessment of the human rights issues arising in relation to the treatment of women and girls in Magdalen laundries, *supra*, vii

^{xi} Irish Government News Service, 'Statement on the Magdalene Laundries', 14 June 2011, <http://www.merriestreet.ie/index.php/2011/06/Statement-on-the-magdalene-laundries-2/?cat>
See also Irish Government News Service, 'Statement on the Magdalene Laundries', 15 June 2011, <http://www.merriestreet.ie/index.php/2011/06/Statement-on-the-magdalene-laundries/?cat=12>

xii

Mr. Alan Shatter, T.D.
Minister of Justice and Equality
Department of Justice and Equality
94 St. Stephen's Green
Dublin 2

17 June 2011

Dear Minister Shatter,

Justice for Magdalenes (JFM) welcomes the government's announcement on Tuesday last that it will establish an inter-departmental committee to investigate the State's role in relation to the Magdalene Laundries. We also welcome your plans to meet with the religious congregations and survivors' groups in order to agree how best to afford reparations and restorative justice to the women who spent time in laundries. JFM is eager to participate in both parts of this "two-track" approach to the Magdalene Laundries issue.

We are, nonetheless, concerned that this inter-departmental committee inquiry falls far short of the independent investigation which the Irish Human Rights Commission (IHRC) and the United Nations Committee Against Torture (UNCAT) have recommended. We note that the demands of the IHRC and UNCAT still stand and that UNCAT will review the State's follow-up to its recommendation within one year.

In light of this, we wish to express that our welcome of this committee is based on our trust that the committee will work transparently, quickly and fairly. We further trust that the committee's terms of reference will be comprehensive and will take full account of the State's legal obligations under domestic law and international human rights law.

Given the government's apparent position that this inquiry is a precursor to a State apology and/or State contribution to reparations and restorative justice, it is of the utmost importance that the inquiry does not narrow its focus to direct State involvement in the laundries' operation alone. The committee must also address the issue of State responsibility for human rights violations by private actors, in accordance with the State's legal obligations as emphasised by UNCAT and the IHRC.

In particular, we request that the Minister ensure the following:

- that the committee's terms of reference are published;
- that the committee's terms of reference confirm that the committee is proceeding on the understanding that, as reinforced by the findings and recommendations of UNCAT and IHRC, a State is responsible for human rights violations committed by private actors where the private actor is exercising a public

function, and/or where the State has failed to exercise due diligence in the prevention or investigation of likely or actual human rights violations of which the State had knowledge or ought to have had knowledge, and/or in any other circumstances as prescribed by domestic law or international Conventions to which Ireland is a party;

- that the committee consider evidence from a representative group of women who spent time in Magdalene Laundries;
- that the progress report to be submitted to Cabinet within three months of the committee's establishment, according to the Government's 'Statement on the Magdalene Laundries', is issued no later than four months from the date of that Statement, 14 June 2011;
- that the progress report will be made public;
- that the progress report indicates that the committee is taking an approach which deals comprehensively and fairly with the issues and is in compliance with the State's human rights obligations;
- that the entire committee process concludes as soon as possible and no later than six months from its commencement; and
- that the independent Chair of the committee has extensive experience in the area of human rights law.

Ideally, we would also welcome external representation on the committee, which may include JFM.

We look forward to engaging further with you on this issue in the near future; indeed we take this opportunity to request a meeting with you at the earliest possible date.

Yours sincerely,

Maeve O'Rourke, Harvard Law School 2010 Global Human Rights Fellow;
Mari Steed, Director, Justice For Magdalene co-ordinating committee;
Claire McGettrick, Angela Murphy and Judy Campbell, Justice For Magdalene committees;
Paddy Doyle, author of *The God Squad* ;
Michael Kennedy, former co-chairman of Oireachtas ad-hoc committee/Magdalene laundries.
Tom Kitt, former co-chairman of Oireachtas ad-hoc committee/Magdalene laundries;
Mary McAuliffe, women's studies, School of Social Justice, UCD;
Sandra McAvoy, women's studies, UCC;
Cllr Sally Mulready, chairwoman, Irish Women Survivors Network, London;
Katherine O'Donnell, women's studies, School of Social Justice, UCD;
James Smith, associate professor, English & Irish studies, Boston College.

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

<http://www.inis.gov.ie/en/JELR/MagdelanInterimReport2011Oct.pdf/Files/MagdelanInterimReport2011Oct.pdf>

^{xiv} Inter-departmental Committee Interim Progress Report, *ibid*, para 53

^{xv} Justice for Magdalenes, 'A Narrative of State Interaction with the Magdalene Laundries', submitted on behalf of JFM by James M. Smith, Boston College & JFM Advisory Board Member, http://www.magdalenelaundries.com/JFM_Narrative_State_Interaction.pdf

^{xvi} Justice for Magdalenes, Press Release, *JFM has positive first meeting with Ministers Shatter and Lynch*, 4 July 2011, <http://www.magdalenelaundries.com/press/JFM%20PR%2004-07-11.pdf>

^{xvii}

Mr. Alan Shatter, T.D.
Minister of Justice and Equality
Department of Justice and Equality
94 St. Stephen's Green
Dublin 2

12 July 2011

Dear Minister Shatter,

On behalf of Justice for Magdalenes (JFM), I wanted to write and say thank you for taking the time to meet with us in Dublin last Monday (4 July 2011). We feel that the meeting was positive and productive and as such it represented an important first step in sharing information, raising issues of concern, and listening to our

respective points of view. Again, JFM wants to be part of the government's process because we trust it will lead to restorative justice and reparations for survivors of the Magdalene Laundries at the earliest possible opportunity. We look forward to continuing the dialogue began last week, and we assure you of our continuing participation and support.

We want to confirm that the materials left with your officials for Dr. Martin McAleese have been forwarded to him (i.e., a copy of JFM's "A Narrative of State Interaction with the Magdalene Laundries" and "Appendices," a copy of the "Analysis of 1901 & 1911 Census Data," and the copy of my book)? We plan on writing to Dr. McAleese immediately to request an opportunity to meet with him in person but we trust he is already in receipt of the aforementioned materials? If you could ask Damien Brennan to respond on this question that would be much appreciated.

We wish also to put in writing JFM's continuing concerns regarding the proposed Inter-departmental Committee. It is important from JFM's perspective that the Committee's terms of reference be made available publicly as soon as possible, and certainly no later than the end of the Committee's first meeting which you mentioned would take place this week. Likewise, it is important that Dr. Martin McAleese's powers, as independent chair of the Committee, also be made available publicly. These two issues—the terms of reference & the Chairperson's powers—are vital to ensuring transparency in the government's inquiry. As such, making them publicly available is crucial to ensuring JFM's continued support of the government's twin-track investigative process.

Likewise, we want to reiterate our concern that the process of clarifying and creating a narrative of State interaction with the Magdalene Laundries extend beyond forms of direct involvement (e.g., referring women or girls to the Laundries or supporting the commercial enterprise by awarding contracts to the Laundries and engaging the Laundries to provide laundry services) to include acts of omission, or the ways in which the State failed to exercise due diligence in the prevention of abuse in the Laundries (e.g., the failure to inspect, regulate and monitor the Laundries). As we underscored last week, acts of omission are central to the UN Committee against Torture's response and recommendation regarding the State's obligation towards survivors of the Magdalene Laundries.

We look forward to speaking and meeting with you again as this process continues. Please do not hesitate to contact us if you have any questions and/or if you seek clarification on any of the above.

Yours sincerely,

James M. Smith (electronic signature)

James Smith, associate professor, English & Irish studies, Boston College;
Claire McGettrick, Justice For Magdalene co-ordinating committee & PRO;
Katherine O'Donnell, senior lecturer in women's studies, School of Social Justice, UCD;
Maeve O'Rourke, Harvard Law School 2010 Global Human Rights Fellow;
Mari Steed, Director, Justice For Magdalene co-ordinating committee.

cc. Ms. Kathleen Lynch, T.D., Minister for State with responsibility for Disability, Older People, Equality & Mental Health

Dr. Martin McAleese, Senator, Seanad Éireann, Leinster House, Kildare Street, Dublin 2

^{xviii} Letter from JFM to Mr. Alan Shatter, T.D., 12 July 2011, *ibid*

^{xix} Justice for Magdalenes, Press Release, *JFM has positive first meeting with Ministers Shatter and Lynch*, *supra* note xvi

^{xx} Dáil Éireann Parliamentary Debates, Written Answer from Alan Shatter, TD, Minister for Justice and Equality, to Dara Calleary, TD (19 July 2011), <http://debates.oireachtas.ie/dail/2011/07/19/00248.asp>

389. Deputy Dara Calleary asked the **Minister for Justice and Equality** if he has received correspondence from the Justice for Magdalenes group on the inter-departmental committee's terms of reference, the powers of the independent chair, and the inclusion of acts of omission under the scope of inter-departmental committee's brief; if he has responded to those concerns; and if he will outline that response. [20831/11]

Minister for Justice and Equality (Deputy Alan Shatter): I can confirm that I have received correspondence from the Justice for Magdalenes Group. I have noted their concerns which I might add, were discussed when I

met this group on 4 July. I am confident that their concerns can be addressed through the inter-departmental committee's terms of reference which are to establish the facts of the State's involvement and clarify any State interaction with the Magdalen Laundries and with producing a narrative detailing such interaction. The working arrangements of the committee will be a matter for the chairperson, Senator McAleese who has been asked to submit an interim report within three months which will be then be brought to Government for information. [416]

390. Deputy Dara Calleary asked the **Minister for Justice and Equality** when he will publish the terms of reference for the interdepartmental committee established to investigate the State's role in the Magdalene laundries. [20832/11]

Minister for Justice and Equality (Deputy Alan Shatter): I can refer the Deputy to Parliamentary Question No. 326 which was for written answer on 12 July, 2011.

I can advise the Deputy that the inter-departmental committee is charged with establishing the facts of the State's involvement and clarifying any State interaction with the Magdalen Laundries and with producing a narrative detailing such interaction. The working arrangements of the committee will be a matter for the chairperson of the committee, Senator Martin McAleese.

^{xxi} Justice for Magdalenes, 'A Narrative of State Interaction with the Magdalene Laundries', *supra*, xv

^{xxii}

29 February 2012

Dear Minister Shatter,

I am writing on behalf of the Justice for Magdalenes (JFM) Coordinating Committee to request an update on the status of the government's ongoing investigation into the Magdalene Laundries. In particular, our group requests information on the ministerial track of the investigation, item "2" as described in the government's Statement (14th June 2011).

After meeting with you and Minister for State, Kathleen Lynch, T.D. (4 July 2011), your office requested that JFM develop our Restorative Justice and Reparations Scheme and re-submit it for your consideration. This we did on 14 October 2011. We have heard nothing from your office since. Meanwhile, JFM continues to work closely with the Inter-Departmental Committee. We again met with Senator McAleese recently to discuss additional archival evidence documenting State interaction and a number of related issues.

At this time, JFM is seeking a commitment from you that the twin-tracks of the government's investigation are ongoing simultaneously and that they are not envisaged as consecutive (i.e., with the ministerial track absolutely dependent on the conclusion of the Inter-Departmental Committee's work). From our perspective, it is imperative that the government establishes a threshold for State interaction short of the Committee's final report that will enable discussions to commence regarding an apology and redress. Survivors should not be asked to wait until the publication of the Committee's final report, now unlikely to appear until September 2012, before you begin that work in earnest.

Finally, JFM is already anticipating the June deadline for the government to update the United Nations Committee Against Torture (UNCAT) on progress towards implementing its recommendation on the Magdalene Laundries. We plan to submit our own progress report to UNCAT detailing the State's actions, as well as JFM's interaction with the State, since last May. In that regard, we look forward to your response to this letter.

Yours Sincerely,

James M. Smith (electronic signature)

James M. Smith
JFM Advisory Committee

^{xxiii} Dáil Éireann Parliamentary Debates, Oral Answer from Alan Shatter, TD, Minister for Justice and Equality, to Maureen O'Sullivan, TD (13 March 2012), <http://debates.oireachtas.ie/dail/2012/03/13/00005.asp>

62. Deputy Maureen O'Sullivan asked the **Minister for Justice and Equality** the position regarding the

ongoing investigation into the Magdalene Laundry; in particular, if he will report to Dáil Éireann on the progress made to date on the Ministerial track of the investigation, item 2 as described in the Government's Statement; and if he will offer a commitment that the twin-tracks of the Government's investigation are ongoing simultaneously, that he does not envisage them as consecutive that is the Ministerial track absolutely dependent on the conclusion of the Inter-Departmental Committee's work. [14048/12]

Deputy Alan Shatter: The Government considered the circumstances of women and girls who resided in the laundries at its meeting on 14 June 2011 and decided that it was essential as a first step to fully establish the true facts and circumstances relating to the Magdalene laundries. A number of actions were agreed.

This included the setting up of an inter-departmental committee to establish the facts of State involvement with the Magdalene laundries, to clarify any State interaction, and to produce a narrative detailing such interaction. The committee, under the independent chairmanship of Senator Martin McAleese, has submitted an interim progress report and its final report is expected in the middle of this year.

In addition, the Government also decided that I and the Minister of State with responsibility for disability, equality, mental health and older people, Deputy Kathleen Lynch, should meet with the religious congregations and groups representing former residents of the Magdalene laundries to discuss among other things the question of availability of records, those still in the care of the religious congregations, and facilitating a restorative and reconciliation process.

I am pleased to say that meetings with all concerned took place some time ago. Progress has been made on the various issues including the question of a restorative and reconciliation process between individuals who had been in such institutions and the orders which ran the institutions in question. Matters have not yet been finalised but I hope to be in a position to make an announcement in the near future.

While some issues can and are being progressed, there are other issues which are dependent on the outcome of the work of the inter-departmental committee. I am conscious of the need to progress matters as quickly as possible. However, it is important to emphasise that we are in a process which is seeking to fully establish the facts and it is still too early at this stage to predict what the outcomes might be.

I look forward to receiving the committee's report when the very important work in which it is engaged has been concluded.

Deputy Maureen O'Sullivan: I thank the Minister for that reply. It sounds as if progress is being made but the Minister would have to agree that justice has been delayed far too long for these ladies. The Irish Human Rights Commission and the United Nations Committee Against Torture recommended an apology, redress and that a start would be made to facilitate restorative justice and nothing has happened on any of those recommendations. There has not been even an apology from the State, the Church, religious orders, families or society. Time is of the essence because of the age of these ladies. The Minister was horrified when I suggested previously there could have been a delaying tactic around this issue, and I was glad to hear that expressed. As soon as that report is available mid-year, will the Minister then be ready to commence the implementation of the apology, the redress and the restorative justice process?

Deputy Alan Shatter: I remind the Deputy that in November 2010 the Irish Human Rights Commission in its assessment of human rights issues arising in regard to the Magdalene Laundries Stated:

. . . a statutory mechanism be established to investigate the matters advanced by the JFM, Justice For Magdalenes, and in appropriate cases to grant redress where warranted.

Such a mechanism should first examine the extent of the State's involvement in and responsibility for:

- a) The girls and women entering the laundries
- b) The conditions in the laundries
- c) The manner in which girls and women left the laundries and
- d) End-of life issues for those who remained.

In the event of State involvement and/or responsibility being established, that the statutory mechanism then advance to conducting a larger-scale review of what occurred.

The approach being taken by the interdepartmental committee is consistent with the recommendations of the Human Rights Commission.

As to the observations of the UN Committee Against Torture in May and June 2011, it recommended that there should be “thorough investigations into all allegations of torture and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene laundries and in appropriate cases prosecute and punish the perpetrators” and victims should have “an enforceable right to compensation”.

Persons seeking an investigation with a view to a criminal prosecution should and can make a complaint to An Garda Síochána. As far as I know, no such complaint has been made. Under our legal system, the right to compensation for a tort is enforceable through civil proceedings in the courts. As far as I know, no such proceedings have been taken. It is of considerable importance that the work undertaken by Senator McAleese proceeds so that we get a full and clear narrative.

With regard to the Deputy’s complaint about delays in dealing with this matter, the issue of the Magdalene laundries, the concerns surrounding those who resided within them and the manner in which they were treated have been in the public forum for many years and nothing was done about it. Within a short few weeks of being in government in June of last year, this matter was fully addressed by the Cabinet. Proposals were adopted and by July the interdepartmental committee was established. It has been doing very substantial work.

Together with my colleague, the Minister of State, Deputy Kathleen Lynch, I have met the religious orders, representative groups and others who are concerned about those who lived in the laundries. Some were there for a short few weeks, some for one or two years and others for many years. Many of the women who ended up being resident in the laundries in their late teens or early 20s came from all sorts of different places. Some were left there by their families in circumstances in which the State had no involvement of any description. This is not a simple issue but we are doing our best to address it in a thorough, comprehensive and sensitive way and we are engaging with all sides which are concerned about it.

Deputy Maureen O’Sullivan: I accept more has been done in the past year than previously. Many of the ladies concerned were deprived of dignity in their lives and are also being deprived of dignity in their deaths. The names on the gravestone in Glasnevin do not correlate to those given to the Department. The memorial in Bohermore in Galway has no names on it. The cross in the Mecklenburgh Magdalene laundry has the word “Penitent” on it. As soon as the report is available, will the Minister be in a position to start the process of redress and apology?

Deputy Alan Shatter: I am not going to prejudge what is in the report.

Deputy Maureen O’Sullivan: I presume there will be suggestions.

Deputy Alan Shatter: The reason that work is being done is so that there is a full and accurate narrative which people can rely on as being truthful and correct. The issues the Deputy raises are not issues directly derived from the conduct of the State. There are particular issues in the context of the religious orders.

A number of women who entered Magdalene laundries and remained there throughout their lives are now elderly and are being cared for by the religious orders in circumstances in which there are no family members caring for them. This is a very complicated background. It is not a simple, straightforward situation.

There are, of course, women who feel they were very badly treated and believe that their lives have been substantially blighted by that treatment. The report of the interdepartmental committee will provide us with the additional information we need. It will be published, considered by Government and appropriate decisions will be made arising out of it.

Question No. 63 taken with Question No. 60.

xxiv

5 April 2012

Dear Damien,

Thank you for forwarding Minister Shatter's response to my letter of 29 February last. I have circulated your email to members of the JFM Advisory Committee. Please share the following responses with Minister Shatter:

(i) Is the Minister in a position to clarify the "progress" that has been made on the "restorative and reconciliation process between individuals ... and the orders"? To our knowledge, no one has been in contact with the women

who are in touch with JFM and who have recently provided testimony for submission to Senator McAleese? Therefore, we ask that you please consult with our group prior to finalizing matters in this regard and/or making a related announcement. It is crucial that all groups working with survivors are given the opportunity to prepare the women for a government response--our concern here, as it has always been, is with the women's welfare, managing expectations, and empowering them to respond accordingly. It is of course also crucial that any finalization speak to and be inclusive of the needs and experiences of all Magdalene survivors, and not just the wishes of selected groups.

(ii) JFM appreciates that the work of the Inter-Departmental Committee is crucial to moving this process forward. We are committed to assisting the Committee establish the true facts and circumstances relating to the Magdalen Laundries. We continue to work to bring additional evidence of State interaction with the Magdalene Laundries to the attention of Senator McAleese and the Committee. By way of example, we recently submitted the following additional (new) evidence of State interaction:

--Bi-Annual Returns from the Baby Home, Tuam (a State licensed Mother-and-Baby Home and PAA Institution) to the Department of Local Government and Public Health providing updates on the status of children in the institution's care and naming the whereabouts of the parents as "Mother in the Magdalen Home" (24 cases)

-- National and local newspaper articles signaling 25+ criminal convictions resulting in Judges/courts sending women to a Magdalene convent rather than prison, and in four instances women refusing to go to the Magdalene preferring a custodial prison sentence instead (these are in addition to those Infanticide Cases and Probation Cases detailed in my own book and part of the original JFM "Narrative of State Interaction")

-- Charitable Commissioners Files for the Galway Magdalene Asylum, the High Park Convent, Drumcondra and St. Mary's Magdalene Home, Donnybrook detailing interaction.

We look forward to the publication of the Committee's report.

(iii) As Minister for State, Kathleen Lynch, T.D., can confirm, last June JFM communicated the details of our concerns regarding specific Magdalene survivors still in the care of the religious congregations. Our concerns were acknowledged by Minister Lynch at that time. We will be in touch with Minister Lynch in the near future to again discuss the issue further.

Thank you too for your email yesterday (April 4) confirming receipt of my letter concerning survivors' testimony. We did receive Senator McAleese's response.

Please assure Minister Shatter that we are happy to meet with him at any time that suits if he thinks it would be helpful. The JFM Coordinating and Advisory Committees plan to meet in Dublin on April 26 next and we can make ourselves available at that time.

Many thanks,

Jim Smith
(on behalf of the JFM Advisory Committee)

^{xxv} Dáil Éireann Parliamentary Debates, Oral Answer from Alan Shatter, TD, Minister for Justice and Equality, to Maureen O'Sullivan, TD (25 October 2011), <http://debates.oireachtas.ie/dail/2011/10/25/00007.asp>

42. Deputy Maureen O'Sullivan asked the **Minister for Justice and Equality** that leaving aside the work of the inter-departmental committee being chaired by Senator McAleese, the action he is taking to progress the issue of restorative justice for women of the Magdalene laundry system; his response to the restorative justice and reparations scheme proposed by the Justice for Magdalenes group; when the State will lead on offering an apology and establish the dedicated unit; and if he is seeking legal advice on the proposed commission for financial reparation as prepared by the JFM group. [31295/11]

Deputy Alan Shatter: The Deputy will be aware that the Government considered the circumstances of women and girls who resided in the laundries at its meeting on 14 June 2011. As a first step, the Government decided that it was essential to establish fully the true facts and circumstances relating to the Magdalene laundries and a number of actions were agreed.

This included the setting up of an inter-departmental committee to establish the facts of State involvement with the laundries, to clarify any State interaction and to produce a narrative detailing such interaction. I am pleased to say that the committee, under the independent chairmanship of Senator McAleese, has submitted an interim progress report which was considered by Cabinet this morning and arrangements are being made for its publication this afternoon. I welcome the progress that is being made and, in particular, I am pleased to tell the House that the committee is receiving full co-operation from all concerned, including the religious orders and representative groups of women who were formerly resident in the laundries and those who have been campaigning on their behalf.

The Government decision also charged both myself, as the Minister for Justice and Equality, and the Minister of State with responsibility for disability, equality, mental health and older people, Deputy Kathleen Lynch, with meeting the religious congregations and the groups representing former residents of the laundries. One of the purposes of these meetings was to discuss the putting in place of a restorative and reconciliation process as well as the structure that might be utilised to facilitate such process. All of these meetings have taken place, including with representatives from the Justice for Magdalenes group. My Department recently received from them the document referred to by the Deputy and it is currently being considered. I might also add that the views of other representative groups and the religious orders are also being considered. It is important, therefore, to emphasise that we are engaged in a process which is seeking to fully establish the facts and it is too early at this stage to predict what the outcomes might be.

I am pleased with the work being undertaken and the full co-operation which has been received by the group led by Senator Martin McAleese. The dialogue in which we have engaged directly has been very constructive and I wish to commend Senator McAleese for the Trojan work of both him and his group in a very short period of time.

Deputy Maureen O’Sullivan: I wish to acknowledge the work of the Justice for Magdalenes group, the members of which have done tremendous work. They have taken up a cause that nobody else wanted to deal with for a very long time.

During the recent theatre festival I attended a play which was based in the Magdalene laundry in Seán MacDermott Street. This was an interactive production so I was there as part of the congregation. I was there for approximately one hour and I thought I would never get out of the place. I can only imagine what the women, the ladies, went through.

I acknowledge the Minister’s reply to my question but it seems that many of the issues raised are at the stage of being considered rather than action being taken. These ladies have waited long enough. I do not wish to be cynical and query if the Minister is waiting until they have all died but there is that element about it.

An Leas-Cheann Comhairle: A question, please.

Deputy Maureen O’Sullivan: There are specific aspects to my original question. I ask what is being done in the meantime. I do not believe there has been any advance with regard to the apology or the legal advice being sought by the Minister. When does the Minister expect the final report and is he committed to implementing any recommendations?

Deputy Alan Shatter: When the Deputy sees the interim report which is being published this afternoon she will note that Senator McAleese describes in great detail the progress that has been made. All of the religious congregations have co-operated with him to the extent that all of their records going back over 90 years have been made available to him and to his interdepartmental group. Substantial work is ongoing within each Department which can provide any information from its files of any description with regard to the State’s contact with the Magdalene laundries going back to 1922. All this information is being compiled. This is very important work because the background, the story of the events that occurred over those years, is perhaps a little more complex when it is put in the context of the different eras and decades, than has been portrayed to date.

I very much welcome the constructive progress that has been made. The Government will not pre-empt the work of Senator McAleese’s group in dealing with the religious orders, the Justice for Magdalenes group and the other groups. When that work is complete, other issues will then be addressed. In the meantime a question does not arise and I ask the Deputy to withdraw the suggestion that anyone is waiting for people to die.

This is the first Government to make specific decisions to address the very genuine worries and concerns that have been expressed by those who lived in the Magdalene laundries. We have put in place a process in which

we are also moving forward on other fronts. The possibility of a restorative justice scheme operating is under active consideration between the religious congregations and the former residents. We are looking at the possibility of a repository in which all the records of the laundries are retained. In the meantime, significant progress has been made in a very short period of time by Senator McAleese's group.

Deputy Maureen O'Sullivan: I acknowledge it is this Government which has begun the work. However, an important point needs to be made about the timeframe. Many of these ladies are very elderly and it is being said in certain quarters that there seems to have been a delaying tactic. I look forward to reading the report this afternoon and no doubt there will be a need for a further priority question.

An Leas-Cheann Comhairle: Has the Deputy a question at this point?

Deputy Maureen O'Sullivan: No.

^{xxvi} Dáil Éireann Parliamentary Debates, Order of Business, Alan Shatter, TD (17 December 2009), <http://www.kildarestreet.com/debate/?id=2009-12-17.230.0>

^{xxvii} Dáil Éireann Parliamentary Debates (13 March 2012), *supra* note xxiii

^{xxviii} Letter from JFM to Alan Shatter, TD, Minister for Justice and Equality, 29 February 2012, *supra*, xxii

^{xxix} Dáil Éireann Parliamentary Debates (13 March 2012), *supra* note xxiii

^{xxx} *Ibid*

^{xxxi} Report of the Commission to Inquire into Child Abuse, Chapter 1, paras 1.01, 1.02, <http://www.childabusecommission.com/rpt/01-01.php>

^{xxxii} Dáil Éireann Parliamentary Debates (13 March 2012), *supra* note xxiii

^{xxxiii} Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Office of the United Nations High Commissioner for Human Rights, <http://www2.ohchr.org/english/law/investigation.htm>

Principle 2:

States shall ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill-treatment might have occurred. The investigators, who shall be independent of the suspected perpetrators and the agency they serve, shall be competent and impartial. They shall have access to, or be empowered to commission investigations by, impartial medical or other experts. The methods used to carry out such investigations shall meet the highest professional standards and the findings shall be made public.

^{xxxiv} Such information is required, in order to provide Magdalene survivors with effective access to justice.

See UN General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, <http://www2.ohchr.org/english/law/remedy.htm>

VIII. Access to justice

12. A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

- (a) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;
- (b) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as

that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;

(c) Provide proper assistance to victims seeking access to justice;

(d) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

^{xxxv} Statute of Limitations (Amendment) Act 2000,
<http://www.irishstatutebook.ie/2000/en/act/pub/0013/print.html>

^{xxxvi} Report of the Working Group on the Universal Periodic Review, Ireland, 21 December 2011, para 107.40
<http://daccess-ods.un.org/TMP/9980049.72934723.html>

^{xxxvii} 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

^{xxxviii} Irish Human Rights Commission, Statement to the Human Rights Council on Ireland's first Universal Periodic Review, 15 March 2012,
<http://www.ihrc.ie/publications/list/ihrc-statement-to-the-human-rights-council-on-univ/>
Women's Human Rights Alliance, Oral Statement, 19th Session of the UN Human Rights Council, 15 March 2012,
<http://www.nwci.ie/news/2012/03/15/womens-human-rights-alliance-ireland-oral-statement/>

^{xxxix} Irish Human Rights Commission, Assessment of the human rights issues arising in relation to the treatment of women and girls in Magdalen laundries, *supra* note vii

^{xl} Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Office of the United Nations High Commissioner for Human Rights (hereinafter, "UN Principles"),
<http://www2.ohchr.org/english/law/investigation.htm>

^{xli} UN Principles, *ibid*, 5(a)

^{xlii} Dail Eireann Parliamentary Debates (19 July 2011), *supra* note xx

^{xliii} Istanbul Protocol, Manual on the Effective and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Office of the United Nations High Commissioner for Human Rights (2004) (hereinafter "Istanbul Protocol"),
<http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

^{xliv} Istanbul Protocol, *ibid*, para 107

^{xlv} Inter-departmental Committee, Interim Progress Report, *supra* note xliii, para 12

^{xlvi} UN Principles, *supra* note xl, 3(a)

^{xlvii} Inter-departmental Committee, Interim Progress Report, *supra* note xliii, para 35

^{xlviii} S.I. No. 486 of 2011, Data Protection Act 1988 (Section 2B) Regulations 2011,
<http://www.irishstatutebook.ie/2011/en/si/0486.html>

WHEREAS the Government on 13 June 2011 decided to establish an Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries;

AND WHEREAS the Minister for Justice and Equality, has appointed Senator Martin McAleese to chair the aforementioned Committee;

AND WHEREAS the Committee will perform a function of a public nature in the public interest;

AND WHEREAS it is necessary for the performance of that function and for the purposes of the legitimate interests pursued that personal data be processed;

AND WHEREAS there are reasons of substantial public interest for the facts of State involvement in the Magdalen Laundries to be established;

AND WHEREAS it is necessary for those reasons of substantial public interest that sensitive personal data be disclosed to and processed by the aforementioned Committee;

NOW I, ALAN SHATTER, Minister for Justice and Equality (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), in exercise of the powers conferred on me by section 2B(1)(b)(xi) (inserted by section 4 of the Data Protection Act 2003 (No. 6 of 2003)) of the Data Protection Act 1988 (No. 25 of 1988) for reasons of substantial public interest, hereby make the following regulations:

1. These Regulations may be cited as the Data Protection Act 1988 (Section 2B) Regulations 2011.
2. In these Regulations “Committee” means the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries, established in pursuance of a decision of the Government made on 13 June 2011;
3. Processing of sensitive personal data by a data controller, at the request of the Committee in furtherance of its functions, is authorised for reasons of substantial public interest.
4. Processing of sensitive personal data by the Committee in furtherance of its functions is authorised for reasons of substantial public interest.
5. Sensitive personal data processed in accordance with Regulation 4 shall not be disclosed except in so far as it is necessary for the performance of the functions of the Committee to do so.
6. Sensitive personal data processed in accordance with Regulation 4 shall not be published except with the consent of the data subject.

GIVEN under my Official Seal,
27 September 2011.
ALAN SHATTER,
Minister for Justice and Equality.

^{xlix} Dail Eireann Parliamentary Debates, Written Answer from Alan Shatter, TD, Minister for Justice and Equality, to Dominic Hannigan, TD (2 November 2011), <http://debates.oireachtas.ie/dail/2011/11/02/00275.asp>

369. Deputy Dominic Hannigan asked the **Minister for Justice and Equality** if his attention has been drawn to the proposal to return records of the Magdalene laundries to the religious institutions; if he agrees that in the interests of the victims, a copy of all records should be kept by the inquiry team in a safe and secure place in case access is needed at a future stage; if he will request the inquiry team to ensure that this is done; and if he will make a statement on the matter. [32534/11]

Minister for Justice and Equality (Deputy Alan Shatter): The Deputy will appreciate that the Inter-Departmental Committee which is independently chaired by Senator Martin McAleese was set up by Government to establish the facts of State involvement with the Magdalen Laundries, to clarify any State interaction, and to produce a narrative detailing such interaction. The working arrangements of the Committee are entirely a matter for the committee and the independent Chair.

I can advise that, separate to the work of the Committee, I have held discussions with the religious congregations regarding their records. They have advised me that it is already the practice that individuals who were in a Magdalen laundry and make a request are given access to records relating to them. The religious congregations have also indicated their willingness to discuss the general question of long term retention of and access to records.

¹ UN Principles, *supra* note xl, 4

ⁱⁱ Inter-departmental Committee, Interim Progress Report, *supra* note xiii, para 21

^{lii} Istanbul Protocol, *supra* note xliii, para 118

^{liii} Istanbul Protocol, *ibid*, para 114

^{liv} In formulating these proposals, JFM researched and consulted as widely as possible, given its limited resources. We worked closely with Councillor Sally Mulready and Phyllis Morgan, Senior Outreach Worker, of the Irish Women Survivors Support Group in London, and we consulted directly with Magdalene survivors in Dublin, Limerick, Cork, Galway, Kildare, London and the United States to ascertain their views on what a fair, restorative and practicable process will entail. We also sought the advice of several legal professionals who are experienced in the areas of alternative dispute resolution and personal injury law, in addition to those with extensive experience of the Residential Institutions Redress Board.

JFM's Restorative Justice & Reparations Proposals are available for download at [http://www.magdalenelaundries.com/JFM Reparations 14 October.pdf](http://www.magdalenelaundries.com/JFM_Reparations_14_October.pdf)

^{lv} See s28(6) of the Residential Institutions Redress Act, for the confidentiality requirements of the previous Residential Institutions Redress scheme, <http://www.irishstatutebook.ie/2002/en/act/pub/0013/sec0028.html#sec28>

^{lvi} Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (Dec. 16, 2005) (hereinafter the "Basic Principles"), <http://www2.ohchr.org/english/law/remedy.htm>

^{lvii} Basic Principles, *ibid*, Principle 13: In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

^{lviii} Basic Principles, *ibid*, Principle 11

^{lix} Basic Principles, *ibid*, Chapter IX

^{lx} See on the State's obligation to institute gender-sensitive and transformative reparations: Annual Report of the United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences to the United Nations Human Rights Council on Reparations to women who have been subjected to violence (2010), A/HRC/14/22;

The Special Rapporteur concludes at paragraph 85 of her Annual Report:

Reparations for women cannot be just about returning them to the situation in which they were found before the individual instance of violence, but instead should strive to have a transformative potential. This implies that reparations should aspire, to the extent possible, to subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience before, during and after the conflict. Complex schemes of reparations, such as those that provide a variety of types of benefits, can better address the needs of female beneficiaries in terms of transformative potential, both on a practical material level and in terms of their self-confidence and esteem. Measures of symbolic recognition can also be crucial. They can simultaneously address both the recognition of victims and the dismantling of patriarchal understandings that give meaning to the violations.

See also Inter-American Court of Human Rights, *Cotton Field v. Mexico*, 16 November 2009, http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_ing.pdf

The UN Special Rapporteur describes this significant decision on the obligation to take a gender-sensitive and transformative approach to reparations at paragraph 78 of her 2010 Annual Report:

The Court's sensitivity in capturing the systemic nature of the problem of violence against women is also reflected in its reparations approach. It recognized for the first time that in a situation of structural discrimination reparations should aim at transforming such situation, thus aspiring not only to restitution but also to correction. The Court spelled out the criteria to be applied for the assessment of reparations, which include the following: (i) reparations should have a direct connection with the violations found by

the Court; (ii) they should repair in a proportional manner pecuniary and non-pecuniary damages; (iii) they cannot be a source of enrichment or impoverishment; (iv) restitution is an aim but without breaching the principle of non-discrimination; (v) reparations should be “oriented to identify and eliminate the structural factors of discrimination”; (vi) they should take into account a gender perspective; and (vii) take into account all the measures alleged by the State to have been taken to repair the harm.

See further The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations. (Ruth Rubio-Marin ed., Cambridge Univ. Press 2009);

See further The Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation (2007), http://www.womensrightscoalition.org/site/reparation/signature_en.php

^{lxi} Basic Principles, *supra* note lvi, Principle 20

^{lxii} Basic Principles, *ibid*, Principle 25

^{lxiii} Basic Principles, *ibid*, Principle 21

^{lxiv} Basic Principles, *ibid*, Principle 22

^{lxv} Basic Principles, *ibid* Principle 23

^{lxvi} *See* 2010 Annual Report of the Special Rapporteur on Violence Against Women, *supra* note lxvii:

The Special Rapporteur states at paragraph 62:

Guarantees of non-repetition offer the greatest potential for transforming gender relations. In promising to ensure non-recurrence, such guarantees trigger a discussion about the underlying structural causes of the violence and their gendered manifestations and a discussion about the broader institutional or legal reforms that might be called for to ensure non-repetition. A gender-sensitive reparations programme should seize this opportunity to advance, as part of the venture of constructing a new and more inclusive democratic order, a society that overcomes the systemic subordination of women.

She continues at paragraph 64:

Guarantees of non-repetition, if duly implemented, have the potential to detect the enabling conditions and long-term legacies of gender violence, and can therefore be a suitable platform for broader structural reforms for all women, not just victims, and hence for the construction of a more inclusive and gender-just political order. Furthermore, guarantees of non-repetition can help victims in the rehabilitation process, especially when they are involved and consulted in the process of formulating those guarantees.

See further resources highlighted above at note lx.

^{lxvii} *Ibid*

^{lxviii} In her article “Unmarried Mothers in Ireland 1880-1973” in *Women’s History Review* Vol 20, No 1, February 2011, pp 109-126. See also James M. Smith’s book, *Ireland’s Magdalen Laundries and the Nation’s Architecture of Containment* (Manchester University Press, 2007) at pages 48-54. Professor Smith is a member of JFM’s Advisory Board.

^{lxix} Prior to 1955, the requirement applied to all young persons under 16.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Foreword

Justice for Magdalenes welcomes the government's recent progress towards ensuring restorative justice and reparations for women who spent time in Ireland's Magdalene Laundries, including the Ministers' clear intention to involve all relevant stakeholders in the process. We believe that it is everyone's wish to see this process concluded as fairly and as quickly as possible, and we are grateful for the opportunity to contribute meaningfully to its design and implementation.

In formulating the following proposals, Justice for Magdalenes has researched and consulted as widely as possible, given its limited resources. We have worked closely with Councillor Sally Mulready and Phyllis Morgan, Senior Outreach Worker, of the Irish Women Survivors Support Group in London, and we have consulted directly with Magdalene survivors in Ireland, the UK and the United States to ascertain their views on what a fair, restorative and practicable process would entail. We have also sought the advice of several legal professionals who are experienced in the areas of alternative dispute resolution and personal injury law, in addition to those with extensive experience of the Residential Institutions Redress Board.

As a preliminary issue, Justice for Magdalenes seeks clarification from the Ministers as to exactly which institutions will be covered by this scheme. Justice for Magdalenes has always focused its advocacy efforts on the ten institutions designated as 'Magdalene' laundries by the religious orders which operated them, namely:

1. Galway and Dun Laoghaire (Sisters of Mercy)
2. Waterford, New Ross, Limerick, and Cork (Good Shepherd Sisters)
3. Donnybrook and Cork (Sisters of Charity)
4. Drumcondra and Gloucester/Sean McDermott Streets (Sisters of Our Lady of Charity of Refuge).

This is not to detract from the experience of women who were forced to work in laundry environments in various other institutions; we acknowledge the harm and injustice which was perpetrated in these instances.

As to our proposals for a complete Restorative Justice and Reparations Scheme for Magdalene Laundry Survivors, the essential elements are the following:

1. State Apology;
2. Dedicated Unit within the Department of Justice for Survivors of Magdalene Laundries to facilitate the provision of pensions, lost wages and state services;
3. Commission for Financial Reparation (conditional extension of Residential Institutions Redress Board);
4. Historical Record and Future Generations: Transitional Justice



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

1. State Apology

A State apology should comprise the following elements:

- The State apologises for its failure to protect adequately the constitutional and human rights of girls and women committed to the Magdalene Laundries.
- The State recognises its historic and unlawful failure to intervene and adequately protect all women and young girls in Ireland's Magdalene Laundries from abusive conditions, specifically from wrongful and unlawful detention, inhuman and degrading treatment, and forced labour and servitude.
- The State acknowledges that the Magdalene Laundries were punishing and abusive in nature, that incarceration in the laundries inflicted degrading and inhumane treatment on women and young girls (e.g., limiting educational opportunities, negatively impacting opportunities to marry and causing serious physical and psychological injury), and that the state failed to insist that these institutions comply with various constitutional, legislative, international labour, and human rights measures to which the State was party.
- The State apologises to those young women involuntarily committed and/or illegally detained at these institutions, including girls transferred directly from state-licensed residential institutions to a Magdalene Laundry.
- The State acknowledges that it failed to ensure any measure of regulation and inspection of these institutions and apologises to women committed to the Magdalene Laundries through the State's judicial system and via other government bodies, e.g., the Department of Education, the Department of Health and the Health Services, and by the Police (An Garda Síochána).
- The State acknowledges and apologises for its complicity in the abuse of all women in the Magdalene Laundries by virtue of its ongoing support of the religious congregations operating these institutions, e.g., by providing lucrative contracts of laundry from prisons, hospitals, the military, schools, etc., by consistently referring a labour force to the laundries via the courts, and by providing capitation grants after 1960.
- Finally, the State urges the four religious congregations directly involved in operating the laundry institutions, the Catholic hierarchy who oversaw the congregations, and the families of those women committed to the Magdalene laundries, to issue their respective apologies for the abuse, mistreatment, and abandonment of these women.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

2. Dedicated Unit within the Department of Justice for Survivors of Magdalene Laundries

Following a State apology, a dedicated unit within the Department of Justice¹ for Survivors of Magdalene Laundries should be established to operate as an inter-departmental 'hub' with the remit of facilitating surviving women and their families to access all state social services and financial benefits to which they are entitled.²

The entitlements and services which should be afforded to the women include:³

- A **pension** in accordance with the state's contributory pension scheme and which takes into account the congregations' failure to provide the women with the opportunity to make contributions towards their pensions;⁴
- **Lost wages:** material damages and lost earnings should be calculated according to time spent in the Magdalene Institution(s) and the rate of the average industrial weekly wage for 2011; that is, each woman will be awarded wages and pension contributory payments at this rate for the duration of time she spent in the Institution(s);⁵
- A **statutory entitlement to social housing** and to be considered a priority group along with other priority groups regarding social housing (in particular, for those women still in the care of the religious congregations who would, if afforded the opportunity, seek alternative independent living arrangements);
- For women who wish to return from abroad to live in Ireland, inclusion in and assistance through the **Mulranny Safe-Home Programme** if they are over 60 years of age (including if necessary additional funding to the Safe-Home Programme for this purpose) and consideration of resettlement funding;
- **Medical services**, including disability supports, and counselling and psychotherapy services for survivors and their families which are of their own choosing but which could include services such

¹ As the Department of Justice has been the co-ordinating department and has the most expertise in this area.

² Within the Unit, provision should be made to work with women living abroad (including in the UK where it will be essential to liaise with their representatives and with experts in social welfare and charitable trusts).

³ For best practice suggestions, see for example UN Women, *Progress of the World's Women 2011-2012 (In Pursuit of Justice)*, at page 97:

"Reparations are measures adopted by States that are intended to 'repair' past harms, in particular the systematic violation of human rights associated with periods of conflict or repression. The right to redress is enshrined in numerous human rights treaties...Administrative reparations programmes, which are put in place by governments for a large group of victims, can include individual compensation, pensions, opportunities for education and training, access to health and psychological rehabilitation, measures of collective reparation, as well as memorials, official apologies or other symbolic measures. They provide acknowledgement of violations, a reassertion of the rights of survivors and practical means to redress the impact of crimes."

⁴ Spouses / children of women now deceased should be included in this entitlement.

⁵ Spouses / children of women now deceased should be included in this entitlement.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

as those provided in Ireland by the National Counselling service (which is currently not open to Magdalene Laundry survivors) and similar counselling and psychotherapy services provided in the UK and abroad;

- **Educational funding** for surviving women and the children of women either living or deceased;
- Access to **mediated reconciliation services** with an **apology from the religious congregations**, with a view to securing an acknowledgement from the congregations of the suffering and experiences of women detained in the Magdalene institutions (Justice for Magdalenes has been made aware by a number of the women that they would like the opportunity to meet and seek to reconcile with the congregations who ran the laundries);

To assist and support women in accessing the above entitlements and services, and to assist and support women through the separate financial reparation process, the Unit should ensure:

- A coordinated effort to ensure that the scheme is very **well advertised** in Ireland and internationally, both in print and broadcast media, and that it will remain open for applications for an indefinite period, allowing applicants from abroad to be made aware and make claim appropriately;
- Access to **advice, support and information** from appropriate welfare advice agencies and access to **free legal advice** regarding accessing records and obtaining the assistance required to make an application for services, entitlements and/or financial reparation;⁶
- All possible assistance to women and their families in accessing all existing **records** of the women held by the religious congregations (this would include publication of a simple advice note on accessing records and more targeted assistance if required).
- **Collaboration** with other statutory and voluntary agencies and religious congregations to ensure all possible assistance **in accessing records** (JFM proposes that the Unit convene a roundtable conference at the earliest possible date to establish the whereabouts and conditions of records and how best to advise women seeking records). This may include currently and formerly accredited adoption societies wherein Magdalene survivors lost children to adoption, in Ireland or abroad, or if no longer accredited, a representative of the Adoption Authority of Ireland acting in the society's stead.
- Access to advice on confidentiality, and ongoing support, counselling and advice on **financial management** of reparation monies.⁷

In recognition of the women who are deceased, in support of the women's families, and in furtherance of the transitional justice approach that should guide this overall process, the Unit should:

⁶ Funding should also be made available to survivors advice agencies in the UK working with the women to ensure that there is the capacity available by way of the provision of professional support to women and to assist them in making appropriate applications to the redress scheme.

⁷ In the UK in particular, this should include assistance with setting up personal trust funds where recipients are in receipt of means-tested benefits.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

- Liaise with the Office of Public Works to ensure that the State will fund the upkeep and maintenance of all Magdalene burial plots;
- Work with the religious orders to erect suitable memorial stones, as well as to ensure the complete accuracy of such memorials;
- Liaise with the Office of Public Works to ensure that the State will amend language on burial memorial stones which refer to the women as “penitents,” “residents,” “sinners,” etc.
- Ensure all possible assistance in accessing records to family members seeking to trace their family history, and collaborate in particular with agencies and groups already providing support regarding search and reunion of family members directly impacted by the Magdalene laundries.

In addition, JFM suggests that the Ministers consider any potential overlap⁸ with the Board to be set up under the Residential Institutions Redress (Amendment) Act in order to see how some needs of Magdalene Laundry survivors might be accommodated by the Board.

⁸ Particularly regarding educational assistance.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

3. Commission for Financial Reparation

Central to the formal recommendations of both the United Nations Committee against Torture and the Irish Human Rights Commission is the obligation upon the government to ensure that the women who suffered abuse in the Magdalene Laundries, for which the State and religious congregations are jointly liable, obtain redress in the form of financial compensation.

In the interests of saving time and expense through the use of established procedures, capitalising on the skills and experience of the personnel already in place, and ensuring that Magdalene Laundry survivors receive appropriate redress, JFM proposes that the **Residential Institutions Redress Board be extended to accommodate Magdalene Laundry survivors, subject to the conditions below** (to be incorporated into the legislative amendment to the Residential Institutions Redress Act required to extend the RIRB):⁹

Repeal of certain confidentiality clauses

- S28(6) of the Residential Institutions Redress Act will be amended so that the women are not restricted from publicly discussing or publishing their accounts of their experiences in the Magdalene Laundries and the ongoing effects of those experiences on the rest of their lives.¹⁰
- Whether or not women chose to go through the process of the Financial Reparation Board, they will be facilitated in having their experience recorded, and/or their writings and other papers preserved in UCD's "Magdalene Oral History Project".

Assessment of financial reparation

- It will be an accepted fact that the Magdalene Laundries were by their nature abusive, punitive institutions, in which girls and women were routinely subjected to forced unpaid labour and unlawful and false imprisonment.¹¹ Therefore, every woman who spent time in a Magdalene

⁹ JFM's recommendation in this section complements to a large extent the Minister for Justice's own proposal when in opposition in 2009 (Dail Debates, 17 December 2009):

"Does the Taoiseach intend to introduce legislation in the new year to amend the redress board legislation to extend it to those who suffered barbaric cruelty in the Magdalen laundries? The Department of Justice, Equality and Law Reform now has irrefutable evidence that this State and the courts colluded in sending young women to what were then known as the Magdalen asylums. They ended up in the Magdalen laundries and were treated appallingly. Some of them have never recovered from the manner in which they were treated and their lives have been permanently blighted. Initially in this House the Minister for Education and Science denied that the State had any involvement in this. There is now absolutely irrefutable evidence as a consequence of court records and files that have been examined in the Department of Justice, Equality and Law Reform that the State was directly complicit in many women being placed in these totally inappropriate circumstances."

<http://www.kildarestreet.com/debate/?id=2009-12-17.230.0>

¹⁰ The law of defamation is adequate to protect individuals from being wrongly named as responsible.

¹¹ The acknowledgment that the Magdalene Laundries were abusive institutions derives from the substantial amount of evidence that exists and the general consensus in the court of public opinion and in the opinions of members of the Oireachtas (including the Minister for Justice – see note 9 above) that the Magdalene Institutions were abusive. Though further evidence can be made available, there is a consensus that the story of the Magdalene Laundries happened as has been recounted unanimously by women so far.

See further statement by Michael Woods, Minister for Education, Dáil Éireann, Volume 549, 20 February 2002 (Order of Business. - Residential Institutions Redress Bill, 2001: Report Stage):

JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Laundry will automatically pass a minimum threshold of demonstrated abuse, which will entitle her to a sum of €100,000 (equivalent to a score of 25 on the matrix outlined below);

- In addition to the automatically accepted minimum of abuse suffered, applicants will be entitled to demonstrate further abuse and injuries (through the Victim Impact Statement proposed below and any other evidence which an applicant chooses to provide), according to the following headings (which may be added to depending on the evidence provided by the women):

Type of Abuse	Examples
Physical Abuse	Injuries requiring hospitalisation; Injuries caused while escaping the institution; Deafness caused by blows to ears; Beating causing e.g. a fractured limb or leaving permanent scars; Corporal punishment, but leaving no permanent physical signs; Gross over-work involving inadequate rest, recreation and sleep; Hysterectomies performed for 'psychological' reasons; Enforced psychotropic medication
Emotional Abuse	Depersonalisation e.g. through family ties and friendships being severed or through deprivation of affection; General climate of fear and apprehension; Stigmatisation by staff, e.g. through repeated contemptuous remarks, racist remarks, hurtful references to family; Enforced psychiatric intervention.
Neglect	Inadequate food and malnutrition; Inadequate guarding against dangerous equipment in work-place; Failure to provide legally prescribed minimum of school instruction; lack of appropriate vocational training and training in life skills. Inadequate clothing, bedding or heating. Failure to protect against assault by visitors, staff or other inmates.
Sexual Abuse	Violent anal or vaginal penetration. Victim made to masturbate member of staff or perform oral-genital acts. Sexual kissing; indecent touching of private parts over clothing.

“Amendment No. 7 extends the scope of the redress scheme to those who, as children, were sent to Magdalen Laundries from an institution already covered by the scheme, such as an industrial school, and were victims of abuse while children in the laundry. This extension is within the original intention of the Bill. I am not proposing that victims of abuse who were adults when that abuse took place should be covered by this scheme. This Bill cannot hope to address all the wrongs which occurred. It is, in essence, a measure to right the wrongs done to children where the State was *in loco parentis* and failed in its duty to protect them. In saying this, I must emphasise that I in no way wish to dismiss the fact that abuse of adults could and did occur in Magdalen Laundries or that the abuse was an appalling breach of trust or, indeed, that the victims of that abuse suffered and continue to suffer greatly.”

JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Nature of Injury	Examples
<p>Physical or Psychiatric Illness</p> <ol style="list-style-type: none"> 1. Physical injury 2. Physical illness 3. Psychiatric illness 	<ol style="list-style-type: none"> 1. Loss of sight or hearing. Loss of or damage to teeth. Permanent scar(s)/disfigurement. Hysterectomies for the purpose of controlling 'emotional' behaviour. 2. Sexually transmitted diseases. Respiratory diseases. Skin diseases. 3. Severe depression. Suicide attempts. Personality disorder. Post-traumatic stress disorder.
<p>Psychological Injury/Emotional Damage</p> <ol style="list-style-type: none"> 1. Emotional disorder 2. Cognitive impairment/ educational retardation 3. Psychosocial maladjustment 4. Anti-social behaviour 	<ol style="list-style-type: none"> 1. Inability to show affection or trust Low self-esteem; persistent feelings of shame or guilt. Recurrent nightmares or flashbacks. 2. Literacy level well-below capability. Impoverished thought processes. Limited vocabulary leading to communication difficulties. 3. Marital difficulties involving sexual dysfunction. Low frustration tolerance. Shyness and withdrawal from mixing with people. 4. Substance abuse. Compulsive stealing. Physical aggressiveness.
<p>Loss of Opportunity</p>	<ul style="list-style-type: none"> • Having to refuse employment opportunity/ promotion because of illiteracy. • Need to concoct a false identity and to live a lie with workmates. • Unable to pursue certain occupations, e.g. care work, because of 'record'. • Loss of children to adoption or fostering • Secondary infertility (fearful of subsequent motherhood due to loss of a child to adoption or fostering) • Being too 'late' to marry or feeling too ashamed or fearful to get involved in courtship. • Being too old for or fearful of motherhood • Loss of friendships and community involvement

JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

- The weighting scale for the evaluation of abuse and injury suffered will be as follows:

<i>Elements of redress</i>	Severity of abuse suffered	Severity of injury suffered		
		Physical/psychiatric Illness	Emotional Damage and Pyschological Injury	Loss of opportunity
<i>Weighting</i>	25-40	1-15	1-15	1-30

- The combined scores from the assessment carried out according to the tables above will correspond to financial reparation as follows:

Reparation Band	Total Weighting for Severity of Abuse and Injury/Effects of Abuse	Award Payable by Way of Redress
4	100 or more	€350,000 - €500,000
3	80-100	€250,000-350,000
2	60-80	€150,000-250,000
1	25-60	€100,000-150,000

Clarification and amendment of causation provisions

- Regarding compensation for injuries suffered, applicants will not have the burden of demonstrating conclusively that injuries are/were caused directly by the abuse suffered in the Magdalene institution(s). Rather, once the applicant demonstrates that she spent time in a Magdalene institution, it will be sufficient that injuries shown are generally congruent with the accepted experience of deprivation and abuse in the Magdalene institution(s) at the time.
- Similarly, if the Board is satisfied that the applicant suffered injury while resident in the Magdalene institution, the applicant will not have the burden of proving the abuse that led to the injury. Rather, if the Board is satisfied that the applicant sustained injury while resident in a Magdalene institution and the injury is consistent with abuse which generally occurred in the Magdalene institution(s) at the time, it shall be presumed that the injury resulted from abuse suffered in the institution.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Additional awards

- Where the abuse suffered by an applicant and/or the injury arising from the abuse are considered by the Board to be so serious as to constitute an exceptional case which cannot reasonably be provided for within these redress bands, the Board may deviate therefrom. This is also true where duration exceeds 10 years – representing egregious loss of opportunity – despite that actual abuse or injury may score lower in certain cases.
- The Board may make an additional award to cover the reasonable costs of medical treatment and/or care which the applicant has received in the past, or should, on the basis of the medical evidence available to the Board, need or receive in the future, for the effects of the injury which he or she has suffered. Such an award should not be included in the "general" award assessed on the basis outlined above, but should take the form of an additional award assessed on the basis of the evidence available to the Board.

Deceased applicants

- Spouses/children may make an application on behalf of a woman who has died since 14 June 2011 (the date of the announcement of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalene Laundries).

Non-adversariality

- It shall be a core objective of this extension of the RIRB that the process remains as non-adversarial as possible.
- Although hearings will not be compulsory, where hearings take place, every sitting of the Board should include a person experienced in alternative dispute resolution, such as mediation. In addition, the informality provisions should be strengthened by requiring that the chairperson of a sitting of the Board stresses at the beginning of the hearing the importance of maintaining the informality of the hearing in so far as possible.

Process

- The revised process will be non-adversarial. The Victim Impact Statement (below) will form the core of the claim;
- Applications will be made in confidence to the Board, via an official application form together with any evidence in support, including the Victim Impact Statement outlined below;
- Where the Board is satisfied of an applicant's entitlement to redress, it may make an immediate offer in settlement of the application;
- The applicant may opt for an oral hearing instead of, or in addition to the paper application;



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

- The Board may call the applicant for an oral hearing if it needs clarification on the application. The religious orders will not be represented at these hearings as there is no requirement to safeguard their rights because no fault is being determined;
- An applicant who is dissatisfied with an award following the hearing may apply to a Review Committee. The Committee may uphold, increase or decrease the award.

General

- The tone and process of the Financial Reparations Board should reflect principles 4, 5, and 6 of the *UN Basic Principles*, which state:
 - victims should be treated with compassion and respect for their dignity;
 - they should be informed of their rights and of the scope of the judicial and administrative processes open to them;
 - their views and concerns should be heard at appropriate stages of the process where their personal interests are affected;
 - they should be given proper assistance; and
 - their privacy and where necessary their safety, as well as that of their families and witnesses, should be protected, and unnecessary delay must be avoided.
- Of further relevance are the following recommendations from UN Women, in the *Progress of the World's Women 2011-12 (In Pursuit of Justice)* report:
 - Ensuring women benefit means paying close attention to how programmes are designed and delivered, as well as ensuring that resources are made available for reparations. It is important to look at what kinds of violations are included. Sexual violence has been inadequately covered and to date, no reparations programme has explicitly included forms of reproductive violence, such as forced impregnation, abortion or sterilization.
 - Recipients of reparations should include family members, as well as the direct victim, and take into account ongoing issues that women face, for example in dealing with the material consequences of stigma. Where payments are awarded, it is important to ensure that women can actually access the money, in contexts where they may not have bank accounts, the necessary forms of identification, or exercise little control over their own income.
 - Given the challenges of the burden of proof in cases of sexual violence, consideration could be given to designing reparations programmes that do not require evidence, which may be difficult to provide or place women at further risk. In Chile, for example, the payment of reparations for torture did not require victims to disclose or prove their experiences. The fact that they had been detained in a location known for its extensive use of torture meant that compensation was paid automatically.¹²

¹² UN Women, *Progress of the World's Women 2011-12 (In Pursuit of Justice)*, page 97



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Victim Impact Statement

- We recommend that the following form (which has been designed in relation to the *UN Basic Principles*)¹³ be deployed for the purposes of assessing financial reparation:

¹³ According to the *UN Basic Principles*, article 20:

'*Compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.'



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

Draft Application Form/Victim Impact Statement

1. Name:
2. Date of Birth:
3. Name of Magdalene Institution(s) and dates of confinement:

There is no word limit for the following section. If you would prefer to give your testimony in person or if you would like to opportunity to meet with the Board to discuss your answers to this form – please contact the Board to arrange an appointment.

4. Do you think that your time in the Magdalene Institution(s) affected your potential to earn wages even after you left the Institution(s)? If the answer is 'yes'. Describe how your potential to earn was affected.
5. Please give an account of the physical or mental harm (including sexual abuse) that you directly suffered in the Magdalene Institution(s)
6. Please give an account of the physical or mental harm that you suffered later due to the time you spent Magdalene Institution(s)
7. Please give an account of how you felt your time in the Magdalenes affected your emotions – that is your ability to engage with other people and to enjoy your life.
8. Please detail the money you have spent on legal or expert assistance, medicine and medical services, and psychological and social services in relation to your time in the Magdalene Institution(s).
9. Please give an account of the opportunities you lost due to the time you spent in the Magdalene Institution(s): including employment, education, marriage, motherhood, friendships, community involvement and other social benefits.
10. Please give an account of the opportunities you lost due to the after-effects of the time spent in the Magdalene Institution(s): including employment, education, marriage, motherhood and friendships, community involvement other social benefits.



JFM Restorative Justice & Reparations Scheme for Magdalene Laundry Survivors

4. Historical Record and Future Generations: Transitional Justice

The vision I have of this Inquiry is that it can analyse and understand and explain what happened in the past; it can ascribe responsibility for that - admittedly at a level of some generality - but nevertheless specifying institutions and identifying failures on the part of official bodies where appropriate; it can comment on public and political and social attitudes and on events and policies that underlay those attitudes; it can where appropriate put in context evidence of particular incidents; it can ask how those events can be related to the present; and it can produce recommendations which will have an impact on the treatment of children in care in our modern times.

This Inquiry, in a word, has the potential to make a real and lasting contribution to Irish society and to children now and in the future. If I am right and we actually were to do something of that kind, would that not be an achievement which would stand as a tribute to those people who had suffered abuse in institutions in the State?

Mr. Sean Ryan S.C., *Opening Statement of the Investigation Committee*, (7th May) 2004¹⁴

A central plank of JFM's Restorative Justice and Reparations scheme has been concern for the historical record, evident in our 'Names Project' which seeks to restore the identity and the dignity of all the women who died in the Magdalene Institutions, many lying in unmarked mass graves or under the sign of 'penitent' or 'sinner.'

We are also mindful that in common with many other survivors of trauma, women of the Magdalene Laundries want their experiences acknowledged in the official historical record. To this end the Women's Studies Centre at the School of Social Justice, University College Dublin, in support of JFM, has designed a Magdalene Archival and Oral History project which is being conducted under ethical approval from UCD's College of Human Sciences. The collection of oral histories will provide personal accounts from women who worked in the laundries, religious sisters, visitors to the institutions, children and other family members and will form a crucial part of any further academic and cultural work to be undertaken on this subject. A component of this project is to ensure that the relevant congregations are aware that they can deposit papers with this collection and that all material will be conserved and made available under negotiated terms. Enclosed as an appendix is a full-project description, including aims and objectives, methodology, ethical issues and budget and propose that the State considers funding both the Names Project and the Magdalene Archival and Oral History project as an important component of Restorative Justice.

JFM also asks the State to recognise that due to recent property development and financial concerns on the part of the religious congregations, the buildings of the former Magdalene Laundries are quickly disappearing. We request that the State will fund an appropriate national memorial to commemorate the Magdalene Laundries and the women confined therein. In doing so the State is committed to protect against the erasure of this chapter in the nation's history.

JFM requests that the Department of Education commissions suitable classroom modules for teaching the history of the Magdalene Laundries, and the recent history of the institutional abuse of children in Ireland as well as in-service training for teachers to deliver these modules as part of the secondary schools curriculum. These modules might be an optional component of transition year, the RSE or History syllabi.

¹⁴ 'Address by the Chairperson' Mr. Sean Ryan S.C., *Opening Statement of the Investigation Committee*, 7th May 2004:11-12.