



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

Title	Ireland's Magdalene laundries: Confronting a history not yet in the past
Author(s)	O'Rourke, Maeve; Smith, James M.
Publication Date	2016
Publication Information	O'Rourke, Maeve , & Smith, James M. (2016). Ireland's Magdalene laundries: Confronting a history not yet in the past. In Alan Hayes & Maire Meagher (Eds.), A century of progress? Irish women reflect. Dublin: Arlen House.
Publisher	Arlen House
Link to publisher's version	http://arlenhouse.blogspot.com/
Item record	http://hdl.handle.net/10379/15636

Downloaded 2021-05-08T20:32:47Z

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



Ireland's Magdalene Laundries: confronting a history not yet in the past

Maeve O'Rourke & Dr James M. Smith

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

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

This was an Ireland where justice and morality were conflated so that there was much in the way of morality but little in the way of justice, and justice was not done for these women.ⁱⁱ

Statements of An Taoiseach, Enda Kenny, T.D., and An Tánaiste, Eamon Gilmore, T.D.
Dáil Éireann, 19 February 2013

Introduction

On 19th February 2013, the Taoiseach and Tánaiste offered an emotional apology to women who had survived Ireland's Magdalene Laundries – the infamous convents where over 10,000 girls and women were imprisoned and forced into unpaid labour between 1922 and 1996.ⁱⁱⁱ

The apology was the result of a hard-fought campaign by several groups, including Justice for Magdalenes (supported by the National Women's Council of Ireland, Labour Women, the Irish Council for Civil Liberties, Amnesty International Ireland and others), Magdalene Survivors Together, the Irish Women Survivors Support Network (UK), and individual survivors – we know of one who wrote to successive Presidents, Taoisigh and Ministers for Justice over numerous decades recounting her experience and asserting the State's responsibility. It was also the product of the late Mary Raftery's tenacious investigative journalism regarding the exhumation and cremation of Magdalene women in 1993 who had been buried in the grounds of the Magdalene Laundry at High Park, Drumcondra. These exhumations led to the establishment of the Magdalen Memorial Committee (MMC), comprised primarily of relatives and friends of the High Park women, which successfully lobbied the Office of Public Works for a national memorial – the bench and memorial plaque

* Maeve O'Rourke is a barrister at 33 Bedford Row, London. Dr James M Smith is Associate Professor in the Department of English and Irish Studies Program at Boston College. The authors were Advisory Committee members of Justice for Magdalenes from 2009 to 2013 and are currently Advisory Committee members of JFM Research. They wish to acknowledge Claire McGettrick, Mari Steed and Dr Katherine O'Donnell (University College Dublin) as their collaborators and partners in all work by JFM and JFM Research referred to in this essay and thank them for their comments on earlier drafts of this essay.

in Dublin's St Stephen's Green. In 2003, Raftery revealed that the Sisters of Our Lady of Charity had received exhumation licences from the State in 1993 for 155 bodies without producing death certificates for 80 women or the full names of 46 women.^v This prompted Mari Steed, Claire McGettrick and Angela Murphy to join with some of the original members of the MMC to establish Justice for Magdalenes ("JFM"), with the aim of achieving a State apology and redress for all survivors.^v

This chapter describes what is known about the treatment of girls and women in Ireland's Magdalene Laundries and the State's involvement in the institutions' operation, while knowingly failing to regulate them to prevent arbitrary detention, slavery or servitude, forced labour, psychological or physical torture or ill-treatment, denial of education to children, or many other forms of abuse. It outlines the advocacy campaign to bring about a State apology, including JFM's use of domestic and international human rights avenues. The chapter then discusses the redress measures which have been offered to survivors and highlights major shortcomings in the reparation afforded so far. Ultimately, the chapter concludes, more needs to be done to demonstrate that the Irish State (including Irish society) now respects and understands its obligations to protect these and other women's fundamental human rights.

Although this chapter does not address Ireland's Mother and Baby Homes, it speaks to the need for civil society organisations and members of the public to be fully engaged and critically informed as the State's "Commission of Investigation into Mother and Baby Homes and Certain Related Matters" conducts its work and reports its findings on abuses in institutions that, while distinct and separate, operated on similar lines and impacted women in similar ways as did the Magdalene Laundries.^{vi}

Evidence of gross and systematic human rights abuse in Ireland's Magdalene Laundries

Women who spent time in Magdalene Laundries have spoken out about their experiences, from about the 1940s to the late 1970s, by recording oral histories,^{vii} providing testimony to the United Nations,^{viii} giving written and oral testimony to the government's Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries,^{ix} engaging with the Magdalen Commission^x and speaking out in the media.^{xi}

Justice for Magdalenes Research has contributed approximately 3,700 pages of archival material on the Magdalene Laundries to the University College Dublin archives,^{xii} and its website^{xiii} and several academic studies^{xiv} are further sources of information.

In 2011, the Fine Gael/Labour government established an Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries (IDC), the State having maintained in defence of calls for a Magdalene apology over the preceding decade that the institutions were privately owned and operated and that the number of referrals facilitated by the State was insignificant. Although this inquiry drew no conclusions regarding the State's responsibility for abuse or failures to prevent it and was not an

independent, thorough investigation into the abuse itself, the Committee's 1,212-page report revealed significant new information regarding the State's interactions with the institutions. It also provided some statistics about the number of girls and women who entered the Laundries, and their ages and routes of entry and exit – although these were hampered by gaps in the nuns' records, and the original data was not made available for examination outside the Committee.

The sources referred to in the above paragraphs, combined, tell us the following.

Ten Magdalene Laundries operated in Ireland from 1922 until the last remaining institution, at Sean McDermott Street in Dublin, closed in 1996. They were attached to convents in towns and cities around the country and were run by four religious congregations of Catholic nuns: the Sisters of Mercy (Galway and Dún Laoghaire), Good Shepherd Sisters (Cork, Limerick, Waterford and New Ross), Religious Sisters of Charity (Donnybrook and Cork) and Sisters of Our Lady of Charity (Drumcondra and Sean McDermott Street, Dublin).^v

In the Magdalene Laundries, girls as young as nine and women were locked away and forced into penal servitude for a wide variety of reasons. Some had grown up in the care of the nuns, in residential schools funded and regulated by the State, and were deemed unsuited for independence and/or still in need of 'protection' upon reaching the age of release (typically 16 for Industrial Schools and 18 for Reformatory Schools). Some had been sexually abused, by a family member or other person, and the Magdalene served the purposes of 'containing' the problem and avoiding shame in a society that prioritised respectability. Confining the female victim in the Magdalene also protected the perpetrator of the crime. Some girls and women who had given birth to a child outside marriage, oftentimes at a Mother and Baby Home or County Home, and had been separated from their child were then placed in a Magdalene to prevent the same thing happening again and/or because, cast out by her family, she had nowhere else to go.

The State used Magdalene Laundries as alternatives to prison (and in the absence of a female borstal), paying for the detention of girls and women following conviction, on probation and on remand. The State also used these institutions as places to detain girls and women in need of care, under the Health Acts. Priests and family members arranged for women to be confined for many reasons (e.g., land and inheritance disputes, remarriage by a widower, etc.), and a number of girls and women appear to have self-referred because of their need for shelter. The IDC reported that 26.5% of referrals to Magdalene Laundries were made or facilitated by the State. This statistic is called into question by the fact that the Committee treated transfers from other Magdalene Laundries (the second most common known route of entry) as non-State referrals,^{vi} and treated Legion of Mary and NSPCC referrals as neither State nor non-State because they included State and non-State referrals "in unknown proportions".^{vii}

According to the IDC, just over 10,000 girls and women were detained in Magdalene Laundries between 1922 and 1996. This is a significant under-estimate. The Sisters of Mercy could not produce records for the Dun Laoghaire or Galway institutions and the Committee excluded girls and women who entered before 1922 and remained thereafter—referring to such women as “legacy” cases. JFM brought numerous examples to the IDC’s attention of women listed on the 1901 and 1911 censuses who died in Magdalene Laundries post-1922, some as late as 1961, 1967 and even 1985 (in the care of the nuns after the closure of the Limerick institution). It has also emerged that many girls detained in ‘voluntary’ (unregulated but funded by the State) residential children’s and teenage institutions known as “Training Centres”, sometimes on the same grounds as Magdalene Laundries, were forced by the nuns to enter and work in the Laundries for some or all of their days.^{viii}

Once inside the convents, girls and women were imprisoned behind locked doors, barred or unreachable windows and high walls (oftentimes with broken glass cemented at the apex). They were usually given no information as to when or whether they would be released. Upon entry, their names were often changed and they were given an identification number. Many women recall being instructed not to speak about their home-place or family. Their hair was cut and their clothes were taken away and replaced with a drab uniform. A rule of silence was imposed at almost all times in Magdalene Laundries and, in many women’s experiences, friendships were forbidden. Correspondence with the outside was often intercepted or forbidden. Visits by friends or family were not encouraged and were often monitored when they did occur.

The girls and women were forced to work from morning until evening – washing, ironing or packing laundry, and sewing, embroidering or doing other manual labour. These Laundries were run on a commercial, for-profit basis, but the girls and women received no pay. No contributions (‘stamps’) were paid on their behalf to statutory pension schemes. The laundry they washed came not only from members of the public, local businesses and religious institutions, but also from numerous government Departments, the defence forces, public hospitals, public schools, prisons and other State entities such as Leinster House, the Chief State Solicitor’s Office, the Office of Public Works, the Land Commission, CIE and Áras an Uachtaráin (to name but a few).

Punishments for refusal to work included deprivation of meals, solitary confinement, physical abuse, forced kneeling for long periods or humiliation rituals, including shaving of hair. Survivors speak of constantly being under surveillance, being verbally insulted, feeling cold, having a poor diet and enduring humiliating and inadequate hygiene conditions. None of the girls received an education, and survivors dwell on this fact as determining their ‘loss of opportunity’ in later life.

It was common for the girls and women to believe that they would die inside. Many did: comparison of electoral registers against grave records at the Donnybrook location shows that over half of the women on electoral registers between 1954 and 1964 died in that institution.^{ix}

If girls or women escaped – perhaps in the back of a laundry van, out an open door at delivery or collection time, or by scaling the wall – they were often captured and returned by the local Gardaí. The nuns punished escapees, in many cases, by transferring them to a different Magdalene Laundry. If and when a girl or women was released, it was invariably without warning, without money and with only the clothes she was wearing. Some girls and women were given jobs in other institutions run by nuns; many fled abroad as soon as they could.

The State never regulated the Magdalene Laundries, despite its use of the institutions both as places of detention and care, its commercial dealings with them, its knowledge of the detention of young girls of school-going age, and its awareness that the girls and women were working for no pay.^{xxv} The IDC noted that the commercial laundry premises were subject to the Factories Acts, and that Factories Inspectors visited the Laundries from 1957 onwards. According to the IDC’s report, however, the inspectors were concerned with machinery and factory premises only. They did not question the age of the girls or the conditions under which the girls and women worked and lived.

The campaign for an apology and redress

In the early 2000s, the then-government refused to include the Magdalene Laundries in the investigation or compensation scheme concerning child abuse in State-funded, Church-managed residential schools (in other words, the Commission to Inquire into Child Abuse^{xxvi} or the Residential Institutions Redress Board^{xxvii}). Speaking in Dáil Éireann on 12 February 2002, Dr Michael Woods, T.D., then Minister for Education, explained why:

“The laundries differ substantially from the institutions now covered by the Bill in that the residents concerned were for the most part adults and the laundries were entirely private institutions, in respect of which public bodies had no function”.

In 2009, following the publication of the Commission’s report—commonly referred to as the Ryan Report—there were renewed calls to investigate abuses in the Laundries and provide redress to survivors as the media spotlight again fell on ‘historic’ Church-related institutional abuse. The government’s position remained the same: a new Minister for Education, Batt O’Keeffe, T.D., insisted that the Laundries “were not subject to State regulation or supervision” and that the “State did not refer individuals to Magdalen Laundries nor was it complicit in referring individuals to them”.^{xxviii}

Dr. James Smith of Boston College, a JFM advisory committee member, had at this point gathered significant evidence from State archives demonstrating that in fact the State had used Magdalene Laundries as alternatives to prison, and that it was aware of transfers of girls between State-regulated Industrial and Reformatory Schools and Magdalene Laundries at least from the 1970s and similarly aware of transfers between Mother and Baby Homes and the Laundries. There was also evidence to suggest that government departments held service

contracts with the Laundries. Having first circulated draft language towards a distinct Redress Scheme for Magdalene survivors in July 2009,^{xxv} JFM began to gather the support of backbench government and opposition TDs, and over 2009 and 2010 met with several government departments, saw the formation of a cross-party *ad hoc* Oireachtas committee of TDs and Senators dedicated to the issue, gained the formal support of Labour Women and the National Women's Council of Ireland for a distinct redress scheme, and ensured the submission of numerous parliamentary questions on the issue.^{xxv} JFM also wrote, on numerous occasions, to the four religious congregations directly involved, as well as to the Cardinal and Primate of all Ireland and the Archbishop of Dublin.^{xxvi}

In June 2010, and in light of the government's continuing refusal to accept State responsibility for the Magdalene Laundries, JFM submitted a detailed application to the Irish Human Rights Commission (IHRC) seeking an inquiry into the State's failure to protect the human rights of girls and women detained in the institutions between 1922 and 1996.^{xxvii} In it we argued that, far from absolving the State of responsibility for abuse, the failure to regulate and supervise the Laundries while the State used these institutions for various purposes and was aware of their functions amounted to a gross failure to protect women and young girls from slavery, servitude or forced labour, in violation of numerous domestic, European and international legal obligations applicable at the time of the abuse.

Later the same year, in November, the IHRC responded by publishing a 27-page *Assessment* of potential human rights violations by the State and issuing a recommendation to government to immediately institute a statutory investigation into all allegations of abuse and to ensure compensation as appropriate.^{xxviii} The IHRC's intervention led to an adjournment debate in the Dáil, where backbench government and opposition TDs called for an apology and redress for survivors. It also helped generate widespread media coverage, which in turn resulted in significant public and political support for JFM's campaign.

By April 2011, the government (now changed, from Fianna Fáil-led to the Fine Gael/Labour coalition) had yet to respond to the IHRC's recommendation. Maeve O'Rourke, in support of JFM's campaign objectives, made a submission to the United Nations Committee against Torture (CAT) in advance of the CAT's first examination of Ireland's compliance with the UN Convention Against Torture.^{xxix} Four women, survivors of the Laundries living in the United Kingdom, gave their testimony to JFM and, with their informed consent and having anonymised their testimonies, O'Rourke argued to the CAT (in writing and orally in Geneva) that the treatment they recounted amounted to torture or cruel, inhuman or degrading treatment or punishment. The CAT's proceedings, for the first time, were streamed online and JFM was able to share the footage with the women who had provided their testimony.

Although the last Magdalene Laundry had closed before Ireland ratified the Convention Against Torture in 2002, the CAT accepted that the State held continuing obligations under the Convention, since ratification, to investigate allegations of and ensure redress for past torture or ill-treatment which was having significant continuing effects on survivors.^{xxx} The

CAT responded in June 2011, and like the IHRC, issued a recommendation to the Irish government to immediately establish an independent investigation into all allegations of abuse in the Laundries and to ensure redress. The CAT also recommended the prosecution of perpetrators. Moreover, the CAT deemed the issue of such urgency, especially considering the age profile of many survivors, that it earmarked this recommendation as one of four for which the State was given a year to demonstrate direct action. These recommendations were covered by news agencies worldwide, and they galvanised further public support at home and abroad – including through email petitions – for JFM’s campaign.^{xxx}

Just over one week after the CAT’s recommendation, the Minister for Justice, Alan Shatter T.D., announced the creation of an Inter-departmental Committee to establish the facts of State interaction with the Magdalene Laundries (IDC).^{xxxi} Although the Committee had an Independent Chair in then Senator Martin McAleese, its other members were senior civil servants from six government departments which, it turned out, were responsible for referring women to and/or doing business with the Laundries in the past. This is one of the reasons why the UN has never accepted that Ireland has ensured an independent and thorough investigation, as required by international law. The Committee’s mandate was narrow: it did not extend to investigating allegations of abuse or to making recommendations on the basis of its findings regarding State involvement. There were no published terms of reference for the investigation,^{xxxii} there was no public invitation to submit evidence, and the Committee had no statutory powers to compel evidence. At the outset, the Committee agreed with the four religious orders that operated the Magdalene Laundries that it would destroy all copies and return all evidence received from them at the conclusion of its work.^{xxxiii}

The IDC carried out its inquiries over 18 months, during which time it met with a number of Magdalene survivors, approximately half of whom were still living in the care of the nuns at a variety of convent and nursing home locations. Over those 18 months, JFM gathered 3,700 pages of documentary evidence and almost 800 pages of testimony from survivors and other witnesses regarding State involvement.^{xxxiv} We submitted this evidence, along with a 150-page narrative, or, Principal Submission,^{xxxv} to the Committee in August 2012.^{xxxvi}

While the IDC was proceeding, RTE broadcast a number of “Prime Time” documentaries on the Magdalene Laundries – the first documentaries to air on RTE television, despite a number having been made over the decades^{xxxvii} – and national and international newspapers and broadcasters continued to report on the issue.^{xxxviii} JFM also designed a revised set of reparation proposals,^{xi} which we submitted to the Department of Justice at the Minister’s invitation in October 2011. The UN Committee against Torture re-visited its Magdalene recommendation as part of the 1-year Follow-Up procedure in May 2012, by which time JFM had also raised the Magdalene Laundries at the UN Human Rights Council’s Universal Periodic Review of Ireland in late 2011. In July 2012, Dr Geoffrey Shannon, Special Rapporteur on Child Protection in Ireland, called for redress for Magdalene survivors and recommended a full investigation ‘with a view to criminal prosecutions where appropriate’.^{xi}

Finally, the IDC released its report (commonly referred to as the McAleese Report) on 5th February 2013. But, despite much anticipation, the expected apology was not immediately forthcoming. In his comments on the floor of Dáil Éireann that afternoon, the Taoiseach, Enda Kenny, T.D., noted the State's involvement in 26% of placements in the Laundries but failed to comment on other forms of official support of their operation, or the State's abject failure to regulate and supervise them. The Taoiseach did not acknowledge any of the exploitation that had taken place, drawing the Dáil's attention instead to the fact that the report displayed "no evidence of sexual abuse in the Magdalene Laundries". As Dr Katherine O'Donnell, JFM advisory committee member, noted at the time, "it was as if the *only* abuse of women worth noting by Kenny was sexual abuse." The Taoiseach stated that he regretted "the stigma attached to those who worked in Magdalen laundries and stayed in the accommodation there". He then noted the Committee's statistics on duration of stay before calling for members of the Dáil to avoid "jumping to conclusions" in advance of a planned debate on the report two weeks later.^{xlii}

The manner in which the IDC chose to present the evidence it had gathered clearly enabled and was reflected in the Taoiseach's own response on 5th February 2013. Essentially, the Committee's report and Taoiseach's statement implied that, despite the undeniable extent of State involvement with the Magdalene Laundries, the girls and women were not treated as badly as children in Industrial and Reformatory Schools and, in any case, they did not stay confined for very long. Neither of these suggestions withstands scrutiny, not only because of the inappropriateness of the implied 'hierarchy' of abuse or the suggestion that several months or years of arbitrary detention is 'not as bad' as several decades, but also because of the existing evidence to the contrary.

The Committee chose to go outside its remit to include a chapter (the second-last in its report) on "Living and Working Conditions", in which it failed to investigate whether or not the girls and women had been locked into the Magdalene Laundries and whether or not they had been forced to work for no pay. It further failed to inquire into whether or not girls had been denied an education. Chapter 19 begins by stating that, "[i]t is likely that assumptions have been made regarding these institutions based on the evidence of the grievous abuse suffered by male and female children in Industrial and Reformatory Schools in Ireland throughout the twentieth century."^{xliii} It then discusses sexual abuse, of which the Committee reports one allegation only (although the Committee notes that a number of women suffered sexual abuse before being placed in a Magdalene institution).

Regarding physical abuse, Chapter 19 states that "[a] large majority of the women who shared their stories with the Committee stated that they had neither experienced nor seen other girls or women suffer physical abuse", despite Chapter 19 containing paragraph after paragraph of testimony describing constant forced labour as well as some women's evidence of being shaken, 'dug' at with implements and slapped. Chapter 19 classifies as "non-physical punishment" being forcibly returned to a Laundry by the Gardaí, being forced into solitary confinement, being forced to kneel for two hours and having soiled bedsheets pinned

to one's back, and does not classify as punishment at all the hair cutting girls and women were subjected to upon entry. Although Chapter 19 includes a section entitled "Lack of information and a real fear of remaining there until death", it fails to analyse this as evidence of psychological torture or cruel, inhuman or degrading treatment, or abuse at all. The IDC did not include in Chapter 19 (or elsewhere in its Report) one line from the almost-800 pages of testimony submitted by JFM, despite assuring us that our offer to have the testimony sworn was unnecessary.

Regarding duration of stay, the IDC's Executive Summary fails to note several major limitations to its statistical findings. In the Dáil on 5th February 2013, the Taoiseach highlighted the IDC's finding that 61% of girls and women stayed in a Magdalene Laundry for less than one year. When 288 survivors spoke to Mr Justice John Quirke's "Magdalene Commission" later in 2013, only 9% reported being detained for less than 12 months.¹⁴ According to the IDC (although not noted in its Executive Summary), the average duration of stay was 3.22 years. The body of the IDC's report makes clear, however, that its findings were based on only 42% of entry records because duration of stay was recorded in only 6,151 cases (of 14,607 entries, including repeat entries, of which there are records). Furthermore, the Committee treated each transfer between Laundries as beginning a new duration of stay, and the Committee disregarded entirely for these statistics the continued detention, post-1922, of women who had entered before independence.¹⁵ The Committee's statistics on deaths in the Laundries exclude all women who remained in the institutions after their closure and later died in nursing homes, while still in the nuns' care. Its statistics on duration of stay also exclude the continued institutionalisation of these women following the Laundries' closure.

For two weeks following the publication of the IDC's report, JFM and other groups campaigned tirelessly for the government to apologise to the women and ensure reparation. The Taoiseach and a number of Ministers met with women at Leinster House and at the Irish embassy in London, where the women repeated what they had told the Committee about the conditions they had endured and the ongoing impact on their and their families' lives. JFM worked with a number of TDs, from government and opposition parties, to read anonymised survivor testimony from the group's Principal Submission to the IDC into the Dáil record during a Private Members' debate on 12th February 2013. Again, the testimony spoke to the women's lived experience during and after their time in the Laundries and several deputies took the opportunity to assert, "I believe the women." Finally, on 19th February 2013, the day of the much-anticipated State apology, and working alongside Amnesty International-Ireland the Irish Council for Civil Liberties, JFM conducted a briefing on the IDC Report for all members of the Oireachtas at Leinster House.

Apology and 'ex gratia' redress – have we done enough?

The State apology to Magdalene survivors on 19th February was hugely significant. It lifted the silence that shrouded the experiences of girls and women in these institutions since the foundation of the State. It was an attempt – the Taoiseach's words made clear – to relieve the

women of the burden of stigma and shame which Irish society had imposed on them in its effort to rationalise its appalling abuse as acceptable.

On the evening of the apology, the Taoiseach tasked the President of the Irish Law Reform Commission, Mr Justice Quirke, with devising an *ex gratia* redress scheme for the surviving women. Mr Justice Quirke's 'Magdalen Commission' spoke with 337 women about their needs, and also with the religious congregations who had 117 women still living in their care. Of 288 survivors living independently who gave information about their duration of stay in Magdalene Laundries, 68% had been detained for between one and five years and 22% for over five years. 90% of the women had received only primary level education. 66% reported serious health issues, and approximately one third lived alone. According to the Commission's report, one quarter of the women said that their living conditions were not warm and comfortable and "a number of women spoke of having no hot water and no central heating".^{xvi}

In June 2013, the Minister for Justice announced Mr Justice Quirke's recommendations and stated that the government would accept them "in full".^{xvii} The Department of Justice arranged for hundreds of women who had made contact with it and the Magdalen Commission to receive a copy of Judge Quirke's detailed recommendations. The recommendations included a medical card equivalent to the HAA Card provided to State-infected Hepatitis C patients in the 1990s (allowing for wide-ranging private and public health and community care provision) and equal provision of entitlements for women abroad, full contributory State pension payments (although only from August 2013, not backdated to retirement age), lump sum payments from €11,500 to €50,000 (with additional small weekly instalments for women detained for longer than 3 ½ years), and a Dedicated Unit to provide assistance to the women in meeting each other and the nuns if desired, advice regarding educational and housing benefits, a helpline accessible daily and a process to establish a memorial.

Bearing in mind the Constitutional rights violations, trauma and loss of opportunity suffered, the redress recommended was minimal. The government's characterisation of the scheme as *ex gratia* was significant: the measures on offer were "as a gift", rather than as of right or as compensation for wrongdoing by the State. Yet, the women's position – their age; health; and lack of access to legal aid, funds or evidence with which to bring court action if they wished – meant that they would readily accept.

Mr Justice Quirke recommended, and the Department of Justice implemented, a requirement that the women sign away all of their legal rights against the State upon accepting benefits under the scheme. It is highly questionable whether this waiver is compatible with international human rights law or, indeed, the Constitution. The rights to freedom from slavery, servitude, forced labour, torture and ill-treatment are absolute, and therefore are arguably incapable of being signed away in this manner. The scheme never purported to offer full redress, commensurate with the gravity of the harm suffered by each woman. The barrier the waiver presents to litigation is all the more concerning in light of the State's total failure

to ensure accountability for the Magdalene abuses, either through an independent, thorough, statutory investigation with the power to make findings and recommendations or the prosecution of perpetrators. Relatives of Magdalene women who have died were not included in the *ex gratia* scheme. Their rights – as well as the rights of surviving women and their families – to the truth, accountability, access to records, information about the fate and whereabouts of their loved ones, guarantees of non-repetition and other forms of reparation have not been satisfied by the measures provided to date.

In 2013, the UN Committee against Torture wrote to the government asking whether and when it would establish the independent, thorough investigation recommended in 2011, and the UN Human Rights Committee and UN Committee on Economic, Social and Cultural Rights have since repeated the CAT's 2011 recommendation. In response, the government has refused to consider any further investigation, stating that the IDC carried out a "comprehensive and objective" investigation into "the factual position" regarding the Magdalene Laundries.^{xlviii} The government has asserted that the Committee found "no factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions"^{xlix} and that "[t]he facts uncovered by the [Inter-departmental] Committee did not support the allegations that women were systematically detained unlawfully in these institutions or kept for long periods against their will".¹

Writing in 2016, the centenary year of the Easter Rising and the Proclamation of the Republic of Ireland, we find ourselves in a situation where the State, having apologised to the women in 2013, is once again distorting and refusing to acknowledge the reality of the Magdalene Laundries abuse because of the obligations which doing so would entail. As a result, numerous women who died in Magdalene Laundries still lie in unmarked or wrongly marked graves around Ireland. A detailed publication by Claire McGettrick, JFM's co-founder,^{li} explains the failure of the IDC to establish the whereabouts and identities of many women who died in the institutions pre- and post-1922. The religious congregations still refuse to open their records to the public and have never apologised or offered any form of reparation.^{lii} There have been no measures of accountability, and there has been no official attempt to root out and overturn the beliefs, behaviours, policies and structures which allowed the Magdalene Laundries abuse to happen and continue with impunity. The government's current stance in correspondence with the UN suggests that it still does not recognise the gravity of what occurred and, therefore, cannot guarantee that it will not happen to others or in similar ways again.

There have been numerous problems with the administration of the *ex gratia* scheme. As of July 2015, over 500 women had received lump sum payments from the scheme and presumably are now also benefitting from receipt of pension payments.^{liii} However, three years on from the apology, the women still have not received many other elements of the promised *ex gratia* redress, and the healthcare provided to women in Ireland is a vastly reduced version of what Mr Justice Quirke recommended.^{liiv} Survivors living abroad were promised that they would receive equivalent health and community care benefits to those

enjoyed by women resident in Ireland, yet to date they have received no information and many continue to suffer deteriorating health (and a number of women known to JFM have passed away since 2013). The Dedicated Unit, which was supposed to provide services and devise a memorial, has not yet materialised. Survivors of An Grianán “training centre,” who were forced by the nuns to work in the High Park laundry despite being registered as residing elsewhere, are deemed ineligible by the *ex gratia* scheme. Finally, JFM has always been concerned that survivors still living in the care of the religious congregations should have access to independent advocates; despite our repeated requests to government, however, independent advocacy services are not part of the scheme.

It stands to reason that, if it took more than nine decades from independence for State policy regarding the Magdalene Laundries to be reversed, proper reparation will take sustained effort and commitment into the future. In a ‘Follow-Up Report on State Involvement with the Magdalen Laundries’, published in June 2013, the IHRC recommended numerous policy and legislative reforms – alongside effective redress and independent, statutory investigations into allegations of torture or ill-treatment – to counteract the Magdalene legacy. The recommended reforms concern societal attitudes to women and girls; equality legislation; protection from forced labour and servitude; the rights of persons with disabilities; protective frameworks where the State outsources its functions; community based delivery of mental health services; tracing rights for adopted persons; and oversight of exhumations and cremations.^{iv}

It is the least we owe to the women who survived, and those who have died, to continue to question whether we are doing enough to make amends to the extent possible, and whether we have really transformed into the society we want to be – a society that guarantees no repetition of the past in the present or the future. As things stand, we have a long way to go to ensure that the Magdalene women are heard and that their rights, and the rights of all in Irish society, are respected today.

ⁱ Remarks of the Taoiseach, Enda Kenny TD, Dáil Éireann, Magdalen Laundries Report: Statements (19 February 2013), <https://www.kildarestreet.com/debate/?id=2013-02-19a.389>; See also <https://www.youtube.com/watch?v=hOOy17ZpoH8>

ⁱⁱ Remarks of the Tánaiste, Eamonn Gilmore TD, Dáil Éireann, Magdalen Laundries Report: Statements (19 February 2013), <https://www.kildarestreet.com/debate/?id=2013-02-19a.391>

ⁱⁱⁱ For the history of these institutions prior to 1922, see Maria Luddy’s *Women and Philanthropy in Nineteenth-Century Ireland* (Cambridge: Cambridge University Press, 1995), Frances Finnegan’s *Do Penance or Perish: A Study of Magdalen Asylums in Ireland* (Oxford: Oxford University Press, 2004), and James M. Smith’s *Ireland’s Magdalen Laundries and the Nation’s Architecture of Containment* (Southbend, IN: University of Notre Dame Press, 2007). Luddy documents some 10,000 plus women entering these institutions prior to 1900, but cautions that the religious archives she had access to were incomplete and thus the final number is likely higher. See Luddy 125-29 and Smith 190.

^{iv} See Mary Raftery, “Restoring Dignity to Magdalenes.” *The Irish Times*, 21 August 2003: 14. As Raftery explains, the initial exhumation license listed only 133 names, but the discovery of an additional 22 humans remains required an amended license be issued to the nuns, which it was immediately and without any investigation at the time.

^v JFM recognised survivors living in society, in Ireland and also as part of the Irish Diaspora worldwide, survivors still living in the “care” of the religious congregation, the children born to some of these women and

subsequently adopted or raised in residential institutions and blocked as adults from obtaining information about their birth-identities, and, in a special way, the women who died in the Laundries and whose final resting place remained shrouded in doubt and uncertainty.

¹⁰⁰ See Commission of Investigation into Mother and Baby Homes and certain related matters, <http://www.mbhcoi.ie/MBH.nsf/page/index-en>

¹⁰¹ See Evelyn Glynn, *Breaking the Rule of Silence*, <http://www.magdalenaundrylimerick.com>, University College Dublin, *Magdalene Institutions: Recording an Oral and Archival History*, <http://www.magdaleneoralhistory.com>

¹⁰² See Justice for Magdalenes, Submission to the United Nations Committee against Torture (May 2011), http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGO_IRL_46_9041_E.pdf, pp 22-42.

¹⁰³ See Justice for Magdalenes, Principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries (18 September 2012), http://www.magdalenaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf; Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalene laundries (February 2013) (hereafter ‘IDC Report’), <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013>, Introduction (paras 9, 10, 14, 18), Chapter 19.

¹⁰⁴ See Report of the Magdalene Commission (May 2013), <http://www.justice.ie/en/JELR/Pages/PB13000255>

¹⁰⁵ Among others: Julian Vignoles, ‘Magdalene Laundry Institute for Outcast Women’, RTÉ Radio 1, Ireland - Documentary on One (14 November 1992), <http://www.rte.ie/radio1/doconone/2013/0207/647346-radio-documentary-magdalene-laundry-galway/>; *Washing Away the Stain*. 1993. Directed by Sarah Barclay and Andrea Miller. B.B.C. 2 Scotland (16 August); *Witness: Sex in a Cold Climate* (1998). Produced by Steve Humphries. Testimony Films for Channel 4, Great Britain. (16 March), <https://www.youtube.com/watch?v=FtxOePGgXPs>; *Les Blanchisseuses De Magdalen*. 1998. Une Film du Nicolas Glimois et Christophe Weber. Produced by Arnaud Hanelin. France 3/Sunset Preste; “The Magdalene Laundries.” 1999. Narr. Steve Croft, prod. L. Franklin Devine. *60 Minutes*, CBS News, New York (3 January 1999); Mary Norris in Angela Lambert, ‘A very Irish sort of hell’, Sunday Telegraph (2 March 2003); RTE Radio 1, “Liveline” (28, 29 September 2009); TG4, *The Forgotten Maggies* (July 2011); RTE Prime Time, ‘The experiences of some of the Magdalene Laundry women’ (25 September 2012), <http://www.rte.ie/news/player/2013/0205/3401239-the-experiences-of-some-of-the-magdalene-laundry-women/>

¹⁰⁶ This archive replicates the evidence submitted by JFM to the IDC.

¹⁰⁷ See www.magdalenaundries.com

¹⁰⁸ See note iii above. A number of women also spoke to print journalists in the years running up to the State apology and ensuing months.

¹⁰⁹ In the nineteenth-century, Ireland had as many as thirty of these institutions, both Catholic and Protestant, see Luddy, note iii above. And, after 1922, a number of Magdalene institutions continued to operate in Northern Ireland, again both Catholic and Protestant.

¹¹⁰ See IDC Report, note ix above, Chapter 8, p162.

¹¹¹ See IDC Report, note ix above, Chapter 8, p163.

¹¹² On the evening of the apology, the government decided to include two such ‘training centres’, Stanhope Street and St. Mary’s Wexford, in Mr Justice Quirke’s terms of reference for the design of an *ex gratia* redress scheme, but excluded others such as “An Grianán” in High Park, Drumcondra.

¹¹³ See Claire McGettrick, “Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries”, www.magdalenaundries.com/JFMR_Critique_190215.pdf, pp59-60.

¹¹⁴ The 1936 Conditions of Employment Act exempted the nuns operating Magdalene Laundries from the requirement to pay wages.

¹¹⁵ See www.childabusecommission.ie/

¹¹⁶ See www.rirb.ie

¹¹⁷ Letter from Batt O’Keeffe, Minister for Education & Science to Tom Kitt, TD, (4 September 2009), reproduced in Justice for Magdalenes, Information Booklet, http://www.magdalenaundries.com/jfm_booklet.pdf, p.6.

¹¹⁸ See <http://www.magdalenaundries.com/press/JFM%20PR%2006-07-09.pdf>

¹¹⁹ Press Releases documenting these, and other campaign activities are archived by date at, http://www.magdalenaundries.com/press_releases.htm

¹²⁰ Despite productive meetings with Archbishop Diarmaid Martin and Cardinal Sean Brady, who encouraged JFM to petition the Congregation of Religious of Ireland (CORI) to facilitate a meeting with the four congregations, CORI announced on 1st October 2010 that the nuns would not meet with JFM.

^{xxxx} See complete IHRC submission at “Justice for Magdalenes Key Documents,” <http://www.magdalenelaundries.com/>

^{xxxx} See Irish Human Rights Commission, *Assessment of the Human Rights Issues Arising in relation to the “Magdalen Laundries”*, November 2010, http://www.ihrec.ie/download/pdf/ihrc_assessment_of_the_human_rights_issues_arising_in_relation_to_the_magdalen_laundries_nov_2010.pdf.

^{xxxx} See complete UNCAT submission at “Justice for Magdalenes Key Documents,” <http://www.magdalenelaundries.com/>

^{xxx} These effects include psychological and physical trauma, social isolation, poverty (not just due to trauma and the denial of wages or pension contributions while incarcerated, but also – significantly – due to the loss of educational opportunity), and a deeply ingrained sense of stigmatisation and shame. O’Rourke’s submission also highlighted identification difficulties for family members seeking to trace women who had died in Magdalene Laundries.

^{xxx} See, for example, Patsy McGarry’s Opinion-Editorial in the Irish Times, <http://www.irishtimes.com/opinion/state-must-confront-magdalone-tragedy-1.590166>; *The Irish Examiner’s* Editorial, <http://www.irishexaminer.com/viewpoints/ourview/magdalone-scandal--a-just-and-swift-remedy-is-required-156994.html>; and Mary Raftery’s *Guardian* Opinion-Editorial, <http://www.theguardian.com/commentisfree/2011/jun/08/ireland-magdalone-laundries-scandal-un>. JFMR has archived all media coverage from the time at, http://www.magdalenelaundries.com/news_2011.htm.

^{xxxx} Department of Justice and Equality, Statement on the Magdalene Laundries, 14 June 2011, <http://www.justice.ie/en/JELR/Pages/PR11000082>. See the website of the Inter-departmental Committee at <http://www.justice.ie/en/JELR/Pages/PB11000256>

^{xxxx} JFM called for published terms of reference on numerous occasions, see <https://www.kildarestreet.com/wrans/?id=2011-07-19.1888.0&s=magdalen+mcaleese+terms+reference#g1890.0.r>

^{xxxx} See Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries, Interim Progress Report, 20 October 2011, <http://www.justice.ie/en/JELR/Appendix%201.pdf/Files/Appendix%201.pdf>, para 35.

^{xxxx} Again, this testimony was collected after obtaining informed consent and working in accordance with ethical, human-subject criteria.

^{xxxx} See “Principal Submission” at “Justice for Magdalenes Key Documents,” <http://www.magdalenelaundries.com/>

^{xxxx} JFM also met with Senator McAleese on three occasions to discuss submitted evidence and to prompt the Committee to consider various aspects of our findings. Likewise, we twice arranged for the Senator and his assistant to meet with groups of survivors at Leinster House women who had spent time in the institutions themselves and family members searching for information about their relatives. At all times, JFM pursued a policy of openness and full engagement with the work of the Committee, sharing all information — human and archival — that came our way.

^{xxxx} See, note xi above for list of TV documentaries.

^{xxxx} JFM was repeatedly approached by these journalists and producers to facilitate access to survivors (something we agreed to rarely, only if we were aware of a survivor’s desire to speak out in public, and only after ensuring the survivor’s consent was informed and her conditions respected), to share archival resources and to help shape and fact-check the ensuing story.

ⁱⁱ See <http://www.magdalenelaundries.com/JFM%20Reparations%2014%20October.pdf>

ⁱⁱⁱ See <http://www.dcy.gov.ie/documents/publications/5RapporteurRepChildProtection.pdf> and <http://www.magdalenelaundries.com/press/JFM%20PR%2007-25-12.pdf>

^{iv} <https://www.kildarestreet.com/debate/?id=2013-02-05a.192>

^v See IDC Report, note ix above, Chapter 19.

^{vi} See Report of the Magdalen Commission (May 2013), <http://www.justice.ie/en/JELR/Pages/PB13000255>, p42.

^{vii} See ICD Report, note ix above. Chapter 8, at pp194-196, identifies 762 of these women (although this is based on records from eight of the ten Magdalene Laundries only) and notes that, from the 46% of records where duration of stay is known, 62.7% of women spent more than 10 years in a Magdalene Laundry. The route of exit for 55% is noted as “unknown, and stayed in Laundry”.

^{viii} See Report of the Magdalen Commission, note xlv above, p8.

^{ix} See <https://www.kildarestreet.com/debates/?id=2013-06-27a.384&s=Shatter+Quirke+commission#g386>

^x United Nations Human Rights Committee, Replies of Ireland to the list of issues, UN Doc CCPR/C/IRL/Q/4/Add.1 (5 May 2014), para 52; Permanent Mission of Ireland to the United Nations, Follow-up

material to the Concluding Observations of the UN Human Rights Committee on the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights, 20 July 2015, p2

⁴⁸ United Nations Human Rights Committee, Replies of Ireland to the list of issues, UN Doc CCPR/C/IRL/Q/4/Add.1 (5 May 2014), para 53; Permanent Mission of Ireland to the United Nations, Follow-up material to the Concluding Observations of the UN Human Rights Committee on the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights, 20 July 2015, p2

⁴⁹ United Nations Human Rights Committee, Replies of Ireland to the list of issues, UN Doc CCPR/C/IRL/Q/4/Add.1 (5 May 2014), para 54

⁵⁰ See Claire McGettrick, “Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries”, www.magdalenelaundries.com/JFMR_Critique_190215.pdf

⁵¹ See <http://www.irishtimes.com/news/social-affairs/religion-and-beliefs/inquiry-needed-to-compel-congregations-to-reveal-truth-about-treatment-of-magdalen-1.1473458>

⁵² See <https://www.kildarestreet.com/debate/?id=2015-07-14a.346>

⁵³ See Justice for Magdalenes Research, NGO Submission to the United Nations Committee on the Elimination of Discrimination Against Women (2015),

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fIRL%2f21860&Lang=en

⁵⁴ See Irish Human Rights Commission, Follow-Up Report on State Involvement with Magdalen Laundries, June 2013, <http://www.ihrec.ie/publications/list/ihrc-followup-report-on-state-involvement-with-mag/>, pp6-8.