

Justice for Magdalenes

**State Complicity
and
Constitutional Rights**

Submitted by

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Establishing "Sufficient Interest"

Justice for Magdalenes (JFM) is a not-for-profit, totally volunteer-run organization, with members in Ireland, the UK, the US, EU and Australia. We are primarily an online community, with a website, a Facebook site with 721 members, and two listserv discussion groups with over 300 members. We also have non-Internet based members all around Ireland, many of whom are Magdalene survivors. All JFM activities are made available via our website at www.magdalenelaundries.com

JFM is a survivor advocacy group—this is how the organization refers to itself in all public announcements. In other words, JFM advocates on behalf of a population of women—living and dead, some still living in religious institutions, others living in anonymity, and many now speaking about their past—who are not recognized or acknowledged as survivors of institutional abuse by the State, by the Church, or by Irish society.

Justice for Magdalenes sprang from a group founded in 1993 (Madalen Memorial Committee) after the discovery of 155 buried bodies at High Park Convent, Dublin. We actively formed around 2000, with individuals from the Irish adoption community (some of whom also had mothers confined in Laundries) taking over the reins from the original MMC founders, Patricia McDonald, Bláthnaid Ní Chinnéide and Margo Kelly.

JFM is now comprised of a core coordinating committee directed by Mari Steed (an Irish-US adoptee/activist, natural mother and daughter of a Magdalene); Claire McGettrick, PRO, (Irish adoptee/adoption activist); Angela Muphy (Irish adoptee/activist and daughter of a Magdalene); Etta Thornton Varma (Irish adoptee/daughter of a Magdalene); Judy Campbell (activist and researcher); and Lorraine Owens (High Park Industrial School survivor).

JFM also has a very active advisory committee that includes James M. Smith (Boston College, and author of *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* [2008]); Paddy Doyle (Cappoquin Industrial School survivor/activist and author of *The God Squad*); Derek Leinster (Bethany Home Orphanage/School survivor/activist and author of *Hannah's Shame*); Katherine O'Donnell (Senior Lecturer, University College Dublin); Sandra McAvoy (Course Coordinator, Women's Studies, University College of Cork); and Mary McAuliffe (Post-doctoral Fellow, Women's Studies, University College of Dublin). We also have a number of volunteers from the legal and women's studies fields who assist as the need arises on various projects.

In one shape or another, JFM's core committee has been working on this issue in an advocacy capacity for some 12 years.

JFM has not applied for nor has it received funding from the Irish State or from any of the various religious congregations that operated the laundries. Currently, the JFM bank account has less than €500, the vast majority of which was donated by committee members and volunteers.

JFM has a long-standing policy not to make public the names of survivors without their consent. To do so is a breach of their confidentiality and trust. There is a particular stigma still attached to the Magdalene laundries, and many survivors choose to protect the privacy of their established lives from the injustices done to them in the past. No one has apologized to Ireland's Magdalene women; no one has owned up to the fact that what happened to them was wrong. Simply put, many survivors will choose anonymity until this situation changes. JFM is committed to bringing about these changes, but we also realize that even if we are successful some women will always choose to maintain their identity in secrecy.

JFM's Objectives

JFM's primary goals are (i) to bring about an official apology from the Irish State and the Catholic Church, and (ii) the establishment of a distinct redress scheme for Magdalene survivors. Once JFM achieves these objectives, the door will be open to every survivor and/or her family and/or other groups representing Magdalene survivors to pursue their own claim for redress.

On 3 July 2009, JFM circulated "draft language" towards an apology and a distinct redress scheme to all members of the Oireachtas, both the Dáil and Seanad (see Appendix I, below).

(i) An Official Apology

JFM contends that an apology is the crucial first step in effecting restorative justice for victims and survivors of the Magdalene laundries. To date, no one in Ireland has issued an apology for this specific institutional abuse.

JFM asserts that the state should

- Apologize for its failure to protect the basic human and constitutional rights of all the women and children confined in the nation's Magdalene laundries
- apologize to *all* young girls who lost their childhoods in these abusive institutions, whether they were abandoned to the laundry by a family member or transferred there from a residential institution
- acknowledge that it was complicit in referring women to the Magdalene laundries, apologize to all women so-referred, and demonstrate conclusively what became of each of these women
- acknowledge its awareness that the laundry institutions were punishing and abusive in nature, and apologize for its failure to act on this awareness

(ii) A Distinct Redress Scheme

JFM suggests that the following elements should comprise the scheme

- A trust fund to provide compensation in lieu of wages. The religious congregations and the Catholic Church should contribute equal monies to this Trust
- A pension for all survivors of the Magdalene laundries upon reaching the age of 65 years
- Aid in the form of housing assistance for survivors in need. In particular, survivors still in the care of the religious congregations should be offered assistance in seeking alternative independent living arrangements if they so wish
- Medical assistance for survivors in need. Independent counseling services should be provided for survivors of institutional abuse

- All surviving records should be made available in an appropriate manner, and immediate access should be provided to survivors and family members. Such access is crucial to the Adoption search process
- An oral history project should be established to record and archive the experiences of survivors, family members, female religious, and other interested parties
- An appropriate national memorial should be erected and thereby protect against the erasure of this chapter in the nation's history. Likewise, this chapter in the nation's history should be taught as part of the State's educational curriculum
- Magdalene burial plots must be properly maintained. The religious orders should erect suitable and accurate memorial stones, and all language referring to Magdalenes as "penitents," "residents," "sinners," etc., should be amended
- A criminal investigation of the exhumation of human remains from the burial plot at High Park Magdalen Laundry in Drumcondra. Information from the religious congregations related to similar exhumations at other convents must be made available for investigation.

Rights Claims¹

(i) Abuse Suffered in the Magdalene Laundries

The Ryan Report includes evidence of abuse suffered in four Magdalene Laundries, in Chapter 18 of Volume III. The chapter, entitled “Residential Laundries, Novitiates, Hostels and other Out-of-Home Settings,” provides accounts of abuse from witnesses who suffered as children. These accounts, gathered by the State, serve as an indication of the grave harm suffered by all women and girls in Magdalene Laundries throughout the country.

According to one excerpt from the Ryan Report chapter (at 18.25):

Seven (7) female witness reports related to continuous hard physical work in residential laundries, which was generally unpaid. Two (2) witnesses said that the regime was ‘*like a prison*’, that doors were locked all the time and exercise was taken in an enclosed yard. Working conditions were harsh and included standing for long hours, constantly washing laundry in cold water, and using heavy irons for many hours. One witness described working hard, standing in silence and being made to stand for meals and kneel to beg forgiveness if she spoke. Another witness stated that she was punched and hit as a threat not to disclose details of her everyday life working in the laundry to her family.

The chapter states further on (at 18.45):

Four (4) female witnesses reported that their education, social development and emotional well-being were neglected as they were constantly forced to work without pay for long hours, with limited time for education or recreation. The lack of safety, adequate food and a supportive educational environment was frequently commented by witnesses.

It continues further on (at 18.57):

Six (6) female witnesses who were placed in residential laundries reported that the loss of liberty, social isolation and the deprivation of identity had a traumatic impact on them. Friendships were discouraged or forbidden, communication was severely limited by the rule of silence and doors were constantly locked. Two (2) witnesses stated that restrictions on their liberty contributed to a feeling of being treated like a prisoner. They described their punishment for breaking the rule of silence as having their head shaved and being made to take meals separately from their peers.

¹ The section “Rights Claims” was compiled in collaboration with Maeve O’Rourke (Harvard University)

(ii) Constitutional Rights Violations

Justice for Magdalenes (JFM) argues that the complicity of the State in referring women and girls to the Magdalene Laundries, absent any legislative basis on which to do so, violated the Constitutional rights of those women and girls not to be deprived of their personal liberty save in accordance with law. The State further violated their Constitutional right to equality before the law, because they would not have been referred to a Magdalene Laundry, but for their sex.

The treatment of women and girls inside the Magdalene Laundries violated their Constitutional rights, including, but not limited to:

- the right to bodily integrity
- the right to personal liberty
- the right to one's good name
- the right to freedom from torture and inhuman or degrading treatment
- the right to earn a livelihood
- the right to individual privacy
- the right to communicate
- the right to be treated with dignity
- the right to travel
- the right (in the case of children) to an education

(iii) European Convention on Human Rights (ECHR) Violations

It is argued that the State violated the following ECHR rights of the women and girls whom it was complicit in referring to the laundries:

- the right to be free from torture and inhuman or degrading treatment or punishment
- the right to be free from slavery, servitude and forced or compulsory labour
- the right not to be deprived of one's liberty in accordance with a procedure prescribed by law.

In addition, the State failed to protect all of the women and girls who entered the Magdalene Laundries, whether privately or by state referral, from torture and inhuman or degrading treatment at the hands of non-state actors. The State also failed to protect the women and girls from subjection to slavery and forced labour by non-state actors.

(iv) Exclusion from the Residential Institutions Redress Act, 2002 — Denial of a Remedy

The absence of a scheme of redress for Magdalene Laundry survivors and their exclusion from the 2002 Redress Act unjustifiably discriminates against this class of survivors of institutional abuse. The State has offered no compelling reason for such unequal

treatment. The fact that the laundries were private institutions did not absolve the State of responsibility to protect the women and girls within the laundries from the abuse they endured at the hands of religious orders.

The State knew of the nature and function of the Magdalene Laundries. Just as the State held a duty to protect the children in state funded and regulated Industrial and Reformatory Schools, it held a duty to protect the women and girls in the Magdalene Laundries, for the following reasons:

- The State was complicit in referring certain women and girls to the Magdalene Laundries.
- The State had a Constitutional duty to educate the children in the Magdalene Laundries and to care for them in cases of parental failure.
- The abuse suffered by women and girls in the Magdalene Laundries, whether they entered privately or at the hands of the State, amounts to slavery and/or forced labour. The State was obligated at the time of the abuse to abolish slavery and forced labour under international law, international labour law, European human rights law and possibly Irish constitutional law.

Article 13 of the European Convention on Human Rights provides for the right to an effective remedy for violations of Convention rights and freedoms. The ongoing failure of the State to provide a remedy to victims of abuse in the Magdalene Laundries is a violation of this right.

The State's Response

The Minister for Education, Mr. Batt O'Keeffe, T.D., in a letter addressed to Mr. Tom Kitt, T.D., dated 4 September 2009 rejected JFM's proposed distinct redress scheme (see Appendix 2, below). In his letter, Mr. O'Keeffe did not refer to JFM's call for an apology.

Minister O'Keeffe asserted that:

- The state is only liable for children transferred to the laundries from residential institutions
- There is a difference between children taken into the laundries privately or as adults and children transferred from a residential institution
- The laundries were privately owned and operated
- The state did not refer individuals nor was it complicit in referring individuals to the laundries

JFM subsequently wrote to An Taoiseach, Mr. Brian Cowen, on 22 September 2009 challenging each of Minister O'Keeffe's contentions (see Appendix 3, below). The following sections outline JFM's counter-argument and in the process form the basis of our evidence underscoring the State's complicity in the Magdalene laundries.

The State's Complicity

(i) State Complicity: Children in the Laundries

Minister O'Keeffe asserts that "the situation in relation to children who were taken into the laundries privately or who entered the laundries as adults is quite different to persons who were resident in State run institutions" (see Appendix 2, below)

JFM asserts that the State had an obligation to provide for and protect *all* children in Magdalene laundries from institutional child abuse, including but not limited to children transferred from State residential institutions who are currently provided access to redress under the Residential Institutions Redress Act, 2002, Section 1 (3).

The means by which a child ended up in a laundry—whether she was abandoned by a family member or transferred from an industrial school—is immaterial as this did not obviate the State's constitutional obligation to protect her. That surely is what is meant by the Oireachtas's recent joint motion to "cherish all of the children of the nation equally."

JFM therefore asserts that:

- The State was constitutionally obliged to ensure that children receive a "certain minimum education" (Art. 42, sec. 3, sub. 2)
- The State was constitutionally obliged to "supply the place of the parents" in cases where parents "fail in their duty towards their children" (Art. 42, sec. 5)
- These constitutional obligations are particularly relevant given that the abuse suffered by children in the laundries happened "outside the home"
- The European Convention on Human Rights (ECHR), article 13, asserts that people who were abused in institutions have a right to "an effective remedy" in the present day for abuse suffered in the past.

(ii) State Complicity: Workers in the Laundries

The Minister for Education initially characterised survivors as "the former employees of the laundries" (see Appendix 2, below). He later apologised, retracted that characterization, and substituted the word "workers" for "employees" (Appendix 4, below). Survivors characterize themselves as "slaves."

But, if the women were "workers," then the State had a responsibility to ensure that the laundries themselves complied with the Factories Acts and Companies Acts, in terms of safe work practices, fair pay, regular work days, the right of free association, inspection, social welfare withholdings, etc. The State was obliged to penalize forced and/or compulsory labour.

JFM therefore asserts, that:

- The State was constitutionally obliged to "ensure that the strength and health of *workers* and the tender age of *children* shall not be abused and that citizens shall not be forced by economic necessity to enter a vocation unsuited to their sex, age or strength" (Article 45, sec. 4, sub. 2)
- The State is obliged to take action against any employer if they broke the law, but to date has never penalized the religious congregations for their operation of these commercial laundries that relied on forced labor

The State was aware of the distinction between "commercial" and "institutional" laundries (see Appendix 4.1, below). The State held Army laundry contracts with institutional laundries (as opposed to commercial laundries) during the year of 1941. It is possible, indeed probable, that these contracts were with Magdalene Laundries. The statement by the Minister for Defence suggests that: (a) it was State practice in 1941 to insert fair wages clauses into state laundry contracts with commercial firms, and (b) the Minister was aware that there existed some discrepancy between having fair wages clauses in State laundry contracts and holding those contracts with institutional laundries.

(iii) State complicity: Referring Women and Girls to the Laundries

The Minister for Education asserted that the State "did not refer individuals to Magdalen Laundries nor was it complicit in referring individuals to them" (see Appendix 2, below).

Evidence in the national archives contradicts this contention. Indeed, this evidence is plentiful, and as such it underscores that numerous government departments were complicit in referring women and young girls to the laundries.

1. State complicity and the Department of Justice

a. Women referred to the laundries via the courts as an alternative to a prison sentence

The State's judicial system routinely referred women to Magdalene laundries, at least, from the 1920s through the mid-1960s. The State considers these women "voluntary" committals. JFM can document 54 instances whereby women found guilty of a crime were referred to a Catholic Magdalen Laundry (see Appendix 5, below), an additional 26 women referred to Our Lady's Home, Henrietta Street, Dublin (a residential institutional with a laundry, but not a Magdalene Home)(see Appendix 6, below), and a further 4 cases involving Protestant women referred to the Bethany Home (see Appendix 7, below).

The State knew, as early as the "Commission of Inquiry into the Reformatory and Industrial School System, 1934-1936, Report" (i.e., the Cussen Report), that Judges were "reluctant" to send "first offenders" to prison but they overcame this difficulty by sending them to "a Home conducted by a Religious Order, provided the girl consents to go there" (see Appendix 8, below) The Report identifies the chief reason why such a procedure is undesirable as "the absence of specific powers enabling Judges and Justices to commit to these Homes," and concludes that, "a girl who elects to go to a Home may leave at any time." The State knew that there was no statutory basis for this arrangement (see Appendix 8, below).

As a result, the Department of Justice drafted "Heads of Bill" for The Criminal Justice (Female Offenders) Bill, 1942 (see Appendix 9, below), a bill that did not become law, but that none-the-less signals the State's awareness of the need to establish a statutory basis for the courts' uses of these institutions as an alternative to prison:

- The bill sought to provide legal sanction for what in practice was an informal, and therefore legally questionable, arrangement
- A Department of Justice memorandum refers to the Judges' use of these institutions as "a makeshift practice and there are no positive means of compelling the offender to remain in the convent, if at any time she chooses to leave" (see Appendix 9, below)

- The Department never informed the women in the laundries of this fact.
- Drafts "Heads of Bill" proposed certifying the laundries as legal places of detention within the meaning of the Prison Acts, but modeled on the certification and management of Residential Institutions (see Appendix 9, below).

Despite the fact that the Bill was never enacted as law, the "makeshift practice" continued into the 1960s. The Department of Justice never informed women in the laundries that "there was no positive means of compelling" her "to remain in the convent, if at any time she chooses to leave" (see Appendix 8, below)

Evidence of this "makeshift practice" exists in the National Archives:

- The Central Criminal Court case files in the National Archives include numerous committal orders issued by the courts detailing these referrals to the laundries (see Appendix 10, below)
- Some CCC case files include correspondence between Judges and convent Mother Superiors outlining the terms of incarceration. Letters also indicate that the convents would keep the women *after* her sentence had elapsed (see Appendix 11, below)
- Committal orders stipulate that the State's probation officers escorted the women from the courts to the laundries (see Appendix 10 & 11, below). There are no records of the Probation Officers checking to ensure the women were ever released.

The Department of Justice is unwilling or unable to produce records documenting what became of each of these "voluntary committals" referred to the laundries via the judicial system. It is possible, indeed probable, that some of these women lived and died behind convent walls.

The State abdicated responsibility for the women's welfare to the religious congregations, and in the process violated its constitutional obligation to protect their constitutional rights.

b. Women referred to the laundries by the Courts "On Probation"

In March 1944 there were 29 women "on probation" at various religious convents, including 6 Magdalene laundries (see Appendix 12, below). Some of these women were confined for up to 3 years.

JFM has asked the Department of Education the following questions:

- What was the statutory basis for this arrangement?
- Were these women released at the end of their period of probation?
- Was a capitation grant provided to these Magdalen institutions on accepting a woman "on probation"?
- Were these institutions inspected, regulated, or certified by the State?

The Department of Justice is unwilling or unable to produce records documenting what became of each of these women placed "on probation" at a Magdalene laundry via the judicial system. It is possible, indeed probable, that some of these women lived and died behind convent walls.

The State abdicated responsibility for the women's welfare to the religious congregations, and in the process violated its constitutional obligation to protect their constitutional rights.

c. Women referred to the laundries "On Remand" by the Department of Justice

The Criminal Justice Act, 1960 provided for the use of the Sean McDermott Street Magdalene laundry as a Remand Home. Archbishop McQuaid facilitated this arrangement (see Appendix 13, below). The Department of Finance agreed to pay a capitation grant for every woman so-referred to that institution.

The Sean McDermott Street laundry was never licensed, inspected, or came under State regulation as an "approved" institution. And yet, the State placed innocent women (still awaiting trial) beyond direct State protection.

Former Magdalene women still live at this convent in the care of the nuns.

The Department of Justice is unwilling or unable to produce records documenting what became of each of these women placed "on remand" at the Sean McDermott Street Magdalene laundry (see Appendix 25, below). It is possible, indeed probable, that some of these women lived and died behind convent walls.

The State abdicated responsibility for the women's welfare to the religious congregations, and in the process violated its constitutional obligation to protect their constitutional rights.

d. JFM met with senior officials in the Department of Justice on 15 December 2009
(see Appendix 14, below)

- The Department stated unequivocally that it placed women "On Remand" at the Sean McDermott Street Magdalene Laundry and paid a capitation grant for every woman so-referred
- The Department acknowledged that the Courts entered into arrangements with religious congregations for the confinement of women
- The Department stated that there was no statutory basis supporting the courts' use of these institutions or for members of the Garda Síochána returning escapees to the laundries
- The Department acknowledged that a Garda investigation into the exhumation, cremation, and re-internment of 155 former Magdalene women at the High Park, Drumcondra laundry took place in 1992. The Department confirmed that it had written to the Garda Commissioner regarding the matter in November 2009

requesting that he review the 1992 investigation report. JFM is still waiting to be updated on this matter. The State must investigate all exhumations of former Magdalen women's remains (e.g., at the Galway laundry)

- The Department of Justice has yet to produce records for a single woman referred to the Magdalene laundries via the judicial system?

2. State complicity and the Department of Education

The *Reformatory and Industrial School Systems Report, 1970* (i. e., Kennedy Report) documents the State's awareness of two distinct populations of children, in addition to those children transferred from a State residential institution, confined in the laundries and other religious convents (see Appendix 15, below).

a. When it addresses the Reformatory Schools, the Kennedy Report states:

6.18: In some cases, these girls are placed on probation with a requirement that they reside for a time in one of several convents which accept them; in other cases they are placed on remand from the courts. *A number of others* considered by parents, relatives, social workers, Welfare Officers, Clergy, or Gardaí to be in moral danger or uncontrollable are also accepted in these convents for a period on a voluntary basis. From enquiries made, the Committee is satisfied that there are *at least 70 girls between the ages of 13 and 19 years confined in this way who should properly be dealt with under the Reformatory Schools' system (emphasis added)*.

b. When it addresses Industrial Schools, the Kennedy Report asserts that there were:

"617 children ... resident in 'Voluntary Homes which have not applied for approval"

Not all of these Industrial School children were female, and thus not all of them refer to Magdalene laundries, but the State routinely referred to the laundries as a "Voluntary" institutions. JFM contends therefore that it is probable that some of these children in "Voluntary Homes" were indeed in Magdalene laundries.

The Kennedy Report underscores the State's awareness of children being confined in Magdalene Laundries, beyond those children transferred from State residential institutions. The Report's two figures—70 and 617—offer a snapshot for the scale of the problem in 1969-1970.

c. Department of Education awareness and inaction:

The Department of Education was aware that children were confined in these commercial laundry institutions. It was aware that these "out of home" settings were exploitative and punitive. The Department had a constitutional obligation to protect children from such exploitative work conditions. It likewise had a constitutional obligation to ensure a basic minimum education. Did the Department of Education ever visit, inspect, or license these "religious homes"? Were they ever certified or approved?

The Minister for Education has yet to account for each of these children—the 70 in "several convents which accept them," or the 617 children in "Voluntary Homes"—from 1970.

d. JFM met with senior officials in the Department of Education on 2 February 2010
(see Appendix 16, below)

- JFM asked whether the Minister could make public the number of children who "were transferred to a Magdalene laundry from a State regulated institution" as well as the number of survivors who have applied to the Redress Board on the basis of section 1(3) of the Residential Institutions Redress Act, 2002. Both requests were denied on the basis of confidentiality
- JFM asked whether the Minister could now account for every child confined to a Magdalene laundry since the founding of the State
- JFM asked whether the State can produce records for all the women and children it was complicit in referring to the laundries

The Minister for Education, Ms. Mary Coughlan, T.D., wrote to JFM on 27 April 2010. In an earlier letter addressed to Ms. Coughlan, JFM had asked for information regarding children placed in the laundries as a result of "voluntary placements, Health Authority referrals, etc." In her response, Minister Coughlan asserted, "any records which my Department holds could not be relied upon to accurately quantify the numbers" (see Appendix 17, below).

Ms. Coughlan reveals in her response that an internal departmental review recently "identified 261 references of referrals" of children between residential institutions and various laundries. However, the same review only positively identified 3 referrals to Magdalene laundries (one each to Galway, Limerick and Donnybrook). She continues: "A further 95 were to convent laundries, 102 to school laundries and 61 to other laundries. The number of laundries involved is unclear as some locations are listed as school, convent and other laundries" (see Appendix 17, below).

No one can say with any certainty how many of these children were indeed confined in Magdalene institutions. Minister Coughlan has yet to demonstrate what became of the 3 children transferred into the Magdalene Laundries? Can her department demonstrate conclusively the fate of each of the 261 children placed in these convent laundries?

3. State complicity and the Department of Health

a. Women transferred from State-funded Mother-and-Baby Homes

The *Department of Local Government and Public Health Annual Report, 1932-33* details the State's policy of relying on Magdalene laundries to confine women with multiple births outside marriage, women considered "hopeless cases" in the parlance of the day.

With regard to the more intractable problem presented by unmarried mothers of more than one child, the Sister-in-Charge of the Magdalen Asylums in Dublin and elsewhere throughout the country are willing to co-operate with the local authorities by admitting them to their institutions...The Magdalen Asylum offers the only special provision at present for this class (see Appendix 18, below)

This "special provision" was still in place as late as 1956, when The Children's Home, a mother and baby home in Tuam, Co. Galway, licensed and funded by the State, was sending "girls" that had "two confinements ... to the Magdalen Home Laundry in Galway." Seventy per cent of the women in the Sisters of Mercy Magdalen laundry in Galway at the time were "unmarried mothers" (see Appendix 19, below).

b. Capitation Grants for confining "Problem Girls"

On 31 July 1972, the Sister-Charge of "An Grianan," an institution attached to the Magdalene laundry at High Park, Drumcondra, reveals in a letter to the Department of Justice, that the Boards of Health as well as the Department of Justice were paying capitation grants for "problem girls" (£9.90 per week), in the former case, and for girls "on remand" and "on probation" referred via the courts (£7.75 per week), in the latter case (See Appendix 20 below).

The Department of Health has yet to clarify precisely the statutory basis for this arrangement. Likewise, the question remains as to whether this institution was ever licensed, inspected, or regulated as an approved institution?

Despite these capitation grants the State continues to assert that the laundries were "private and charitable" institutions?

c. JFM met with the Minister for Health on 25 March 2010 (see Appendix 21, below)

- JFM asked whether the Minister can reveal how long the "special provision" of transferring unmarried mothers from Mother-and-Baby homes to Magdalene laundries remained in place?
- JFM asked whether the Minister could detail how many women were transferred and confirm how long they remained confined?
- JFM asked whether the Minister could make public all records for payments made to Magdalene laundries used to confine "problem girls"?
- JFM asked whether the Minister could account for children born to these women?

The Department of Health has yet to produce a single record for all these women and children? It is possible, indeed probable, that some of these women and young girls transferred to a Magdalene laundry from a mother-and-baby home lived and died behind convent walls.

4) State Complicity and the Departments of Social and Family Affairs, Finance, and Enterprise, Trade and Employment

On 4 February 2010, Mr. Michael Kennedy, T.D. (FF), asked the Minister for Social and Family Affairs, Ms. Mary Hanafin, T.D., whether records exist "for payments of social welfare by Magdalene laundries in respect of deductions from wages paid to women working in these institutions; if she is satisfied that correct payments have been received by her Department for such workers" (see Appendix 22, below).

The Minister's response underscores that the religious congregations operating the laundries neither withheld such payments nor submitted payments on behalf of the women workers to the State, despite there being a Statutory obligation to do so since 1953.

This non-withholding and/or non-submitting of PRSI payments on behalf of the women workers in the laundries materially impacts their right to a pension upon reaching retirement age.

On the same day, Mr. Kennedy asked questions of the Minister for Finance, with respect to whether records exist documenting PAYE payments by the Magdalene laundries (see Appendix 23, below), and the Minister for Enterprise, Trade and Employment, with respect to whether statutory inspections under health and safety regulations were ever carried out at the Magdalene laundries (see Appendix 24, below). Neither departments were forthcoming in their responses.

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Conclusions

As documented above, the Irish State:

- Was aware of the nature and function of the Magdalene laundries
- Was aware that there was no statutory basis for the use of the laundries by the courts as an alternative to a prison sentence
- Was aware that there was no statutory basis for the use of the laundries by the courts for placing women and young girls "On Probation"
- Enacted legislation to enable the use of the Sean McDermott Street Magdalene laundry as a remand home
- Was aware that children and adolescent girls were confined in the laundries as late as 1970, and that these "voluntary" placements were in addition to children transferred to the laundries from State residential institutions
- Maintained a "special provision" whereby women giving birth to a second child outside marriage at a Mother-and-Baby or County Home could be transferred directly to a Magdalene laundry
- Paid capitation grants to Magdalene Laundries and other religious convents for the confinement of "problem girls," girls "on probation," and girls "on remand" and yet it maintains that these were "private and charitable" institutions
- Never inspected, licensed or certified these homes as "Approved" institutions, rather referred diverse groups of women and young girls into these institutions based on the assumption that the religious congregation would care and provide for them
- Seems incapable of producing a single record/file/documentation for any woman or young girl, or the children born to these women and young girls, referred to the laundries by State agencies
- Refuses to admit its complicity in referring women and young girls to the Magdalene laundries
- Refuses to acknowledge its failure to protect the constitutional rights of these women and young girls
- Refuses to apologize for its role in referring women and young girls to the laundries and therefore impedes "restorative justice" for this population of institutional survivors
- Refuses to enter into discussions with the Catholic hierarchy and/or the relevant religious congregations in an effort to produce records that would enable the establishment of a distinct redress scheme
- Refuses to contemplate the establishment of a distinct redress scheme as outlined by Justice-for-Magdalenes

Justice for Magdalenes has pursued its campaign for justice in good faith. It has made every effort to utilize the political system to present its case. It has submitted archival evidence and documentation and has met with relevant government departments as well as presented its case at an *Ad Hoc* Committee Meeting in the Dáil.

To date, the Irish Government has responded to JFM's campaign with gestures of assistance to individual women/survivors on a case-by-case basis but has yet to produce any records that might enumerate the State's complicity in the Magdalene laundries (see Appendix 25, below).

As made evident by An Taoiseach, Mr. Brian Cowen, in his recent response to a parliamentary question in Dáil Éireann, the government's position on this matter is that "the position of women in such laundries was not analogous with that of children in the residential institutions that were the subject of the Ryan Report" (see Appendix 26, below). JFM disputes the rationale of Mr. Cowen's comparison as the basis upon which to determine the State's culpability in this matter.

We are asking the Irish Human Rights Commission to judge whether the State failed to protect the constitutional rights of women and young girls in the Magdalene Laundries.