

Justice for Magdalenes (JFM)

A Narrative of State Interaction with the Magdalene Laundries

Submitted on behalf of JFM by

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1. Establishing "Sufficient Interest"

Justice for Magdalenes (JFM) is a not-for-profit, totally volunteer-run organization, with supporters in Ireland, the UK, the US, EU and Australia. We are primarily an online community, with a website, a Facebook site with 1,435 members, and two listserv discussion groups with over 300 members.

We are in touch with and have been contacted by many Magdalene survivors and the children and grandchildren of survivors, and we always try to provide as much assistance as possible and/or refer them to external services where necessary. JFM does not have "members" per say, i.e., we do not ask survivors to sign a membership form or contract. All JFM activities are made available via our website at www.magdalenelaundries.com and/or our facebook page at https://www.facebook.com/home.php?sk=group_210438695709

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 Murphy (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 Dr. James M. Smith (Boston College, and author of *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* [2008]); Maeve O'Rourke (Equality Now, London, and the 2010 Harvard Law School Global Human Rights Fellow); Dr. Katherine O'Donnell (Head of Women's Studies, School of Social Justice, University College Dublin); Dr. Sandra McAvoy (Course Coordinator, Women's Studies, University College of Cork); Dr. Mary McAuliffe (UCD Women's Studies, and President of the Women's History Association

of Ireland); Patricia Burke Brogan (author of *Eclipsed* and *Stained Class at Samhain*), Paddy Doyle (Cappoquin Industrial School survivor/activist and author of *The God Squad*); and Tom Kitt and Michael Kennedy (former TDs and co-chairs of the Oireachtas Ad Hoc Committee on the Magdalene Laundries).

In one shape or another, JFM's core committee has been working on this issue in an advocacy capacity for some 12 years. JFM supports all efforts to bring justice to these women, and recognizes that ours is only one of a number of groups working in this area.

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 €40, money 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.

2. 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 "Restorative Justice and Redress Scheme" for all 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 2.i, below).

On 28 March 2011, JFM submitted a revised "Restorative Justice and Reparations Scheme" to Minister for Justice, Alan Shatter, T.D., (see Appendix 2.ii below).

The revised scheme reflects JFM's ongoing dialogue and consultation with individual survivors in Ireland, the US and the UK. The latter includes the Irish Women's Survivors Support Network located at the London Irish Centre, which is led by London based Labour Councillor Sally Mulready, who also serves on JFM's Advisory Committee.

2. 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 adequately the constitutional and human rights of citizens committed to the nation's Magdalene Laundries.
- apologize to those young women involuntarily committed to, and/or illegally detained in, the Magdalene Laundries, including girls transferred from state-licensed residential institutions directly into the Magdalene Laundries.
- acknowledge that it failed to insist that these institutions comply with various constitutional, legislative, international labour, and human rights measures to which the State was party.
- acknowledge that it failed to ensure any measure of regulation and inspection of these institutions.

- acknowledge and apologizes for its complicity in the abuse of all women in the Magdalene Laundries.

2. ii. A Restorative Justice and Reparations Scheme

JFM suggests that the scheme should comprise the following elements.

Women who spent time in Ireland's Magdalene laundries endured institutional abuse, defined as wrongful and unlawful detention, inhuman and degrading treatment, and enforced labour and servitude. They also experienced, and continued to experience, torture and other cruel, inhuman, or degrading treatment or punishment.

They are asking for the following:

- Reparation commensurate with the extent of the women's experience of abuse at commercial, for-profit, businesses.
- A pension determined in accordance with the Irish state pension and *inclusive* of years worked in the laundries.
- The return of all personal, medical, and detention records.
- Entitlement to compensation determined *solely* on the basis of having spent time in a Magdalene laundry
- Not to be included in any proposed extension of the Residential Institutions Redress Act (2002) due to its judicial and adversarial nature. Such a process would prove distressing and traumatic, especially in view of the women's age and experience.
- Aid in the form of housing assistance for survivors in need.
- Medical assistance for survivors in need.
- An oral history project should be established.
- An appropriate national memorial should be erected.
- Magdalene burial plots must be properly maintained.
- A criminal investigation of the exhumation of human remains from the burial plot at High Park Magdalen Laundry in Drumcondra.

3. Rights Claims¹

3. 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 (see Appendix 3.i, below). 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.²

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

¹ The section “Rights Claims” was written and compiled on behalf of JFM by Maeve O’Rourke (Harvard LL.M, Harvard Law School 2010 Global Human Rights Fellow)

² JFM has gathered additional first-hand evidence from women who spent time in Magdalene Laundries, which is contained in the appendices to JFM’s submissions to the United Nations Committee against Torture and Working Group on the Universal Periodic Review (see Appendix 4,viii, below).

punishment for breaking the rule of silence as having their head shaved and being made to take meals separately from their peers.

3. 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

3. 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 save 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.

3. 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.

3. v. United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Violations

As acknowledged by the United Nations Committee against Torture in its Concluding Observations on Ireland (3 June 2011), Ireland is currently violating its obligations under the UN Convention against Torture by failing to investigate and ensure redress for all victims of torture or other cruel, inhuman or degrading treatment in the Magdalene Laundries.

Justice for Magdalenes (JFM) argues (and submitted to the Committee against Torture) that:

- the State's ongoing failure to deal with the Magdalene Laundries abuse amounts to continuing degrading treatment in violation of Article 16 (given the continued absence of pensions, access to specialised health services, education or compensation for the women; the lack of access to records; and the ongoing stigma and sense of shame associated with the women's incarceration);
- since Ireland ratified the Convention on 11 April 2002, it has failed in its duty under Articles 12 and 13 to promptly and impartially investigate what there are reasonable grounds to believe constituted a more than 70-year system of torture or cruel, inhuman or degrading treatment of women and girls in Ireland's Magdalene Laundries;
- the State has failed in its obligation under Article 14 to ensure the women's right to redress and compensation;
- the State was directly involved in the torture or cruel, inhuman or degrading treatment of women and girls in the Magdalene Laundries; and
- the State acquiesced in the torture or cruel, inhuman or degrading treatment of women and girls because of the State's wilful failure to regulate or inspect the laundries despite its involvement in and knowledge of the laundries' incarcerative and commercial functions.

3. vi. Other International Human Rights Violations

JFM submits that the State's complicity in the incarceration of women and girls in the laundries, its involvement in the laundries' commercial operations, and its knowing failure to regulate and inspect the laundries, violated the State's obligations under the following international Conventions:

- the 1926 Slavery Convention;
- the 1957 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;
- the 1930 International Labour Organisation Forced Labour Convention; and
- the 1957 Abolition of Forced Labour Convention

These arguments are set out in detail in the paper by Maeve O'Rourke, entitled *Ireland's Magdalene Laundries and the State's Duty to Protect* (see Appendix 3. ii).³

JFM has further submitted to the United Nations Working Group on the Universal Periodic Review, due to examine Ireland in October 2010, that through (a) the State's direct placement of girls and women in the Magdalene Laundries and (b) the State's failure to protect the girls and women from conditions and treatment of which it was aware or ought to have been aware because of its judicial and commercial dealings with

³ Maeve O'Rourke, "Ireland's Magdalene Laundries and the State's Duty to Protect," (2011) *Hibernian LJ* 200. This article is in late proof stage, and minor editorial changes may occur prior to publication.

the Magdalene Laundries, the Irish State violated the following human rights (among others) of the girls and women in the laundries:

- the right to liberty and freedom from arbitrary arrest or detention (Art. 40.4 Irish Constitution; Art. 3, 9 UDHR;⁴ Art. 9 ICCPR;⁵ Art. 5 ECHR⁶)
- the right to be free from slavery, servitude and forced or compulsory labour (Art. 4 UDHR, Art. 8 ICCPR, Art. 7 ICESCR,⁷ Art. 4 ECHR)
- the right to be free from torture and cruel, inhuman or degrading treatment or punishment (Art. 5 UDHR, Art. 7 ICCPR, Art. 3 ECHR)
- the right to education (Art. 42 Irish Constitution, Art. 26 UDHR, Art. 13 ICESCR)
- the right to respect for one's private life (Art. 12 UDHR, Art. 17 ICCPR, Art. 8 ECHR)
- the right to freedom of opinion and expression (Art. 19 UDHR, Art. 19 ICCPR, Art. 10 ECHR)
- the right to freedom of thought, conscience and religion (Art. 18 UDHR, Art. 18 ICCPR, Art. 9 ECHR)
- the rights to just, favourable and safe conditions of work, equal pay for equal work and rest, leisure and reasonable limitation of working hours (Art. 23, 24 UDHR; Art. 6, 7 ICESCR; Art. 11 CEDAW⁸)
- the right to a standard of living adequate for one's health and well-being (Art. 25 UDHR; Art. 11, 12 ICESCR)
- the right to take part in the government of one's country or in the conduct of public affairs (Art. 21 UDHR, Art. 25 ICCPR, Art. 7, 8 CEDAW)

Overall, the abuse suffered by the Magdalene women amounted to a grave and systematic violation of their right to equality, non-discrimination and equality before the law (Art. 40 Irish Constitution; Art. 2, 7 UDHR; Art. 2, 3, 26 ICCPR; Art. 2, 3 ICESCR; Art. 2, 3, 15 CEDAW; Art. 14 ECHR) because but for the fact that they were women and girls, they would not have been imprisoned.

Continuing violations of the women's human rights include the violation of their right to an effective remedy (Art. 8 UDHR, Art. 9(5) ICCPR, Art. 13 ECHR) and their right to equality and non-discrimination (as above).

⁴ Universal Declaration of Human Rights, 1948

⁵ International Covenant on Civil and Political Rights, 1966

⁶ European Convention on Human Rights, 1950

⁷ International Covenant on Economic, Social and Cultural Rights, 1966

⁸ United Nations Convention on the Elimination of All Forms of Discrimination Against Women, 1979.

4. 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 4.i, 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 4.ii, below).

In April 2010, An Taoiseach, Mr. Brian Cowen announced that "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 4.iii, below).

In October 2010, Minister for Justice, Mr. Dermot Ahern, T.D., told the Dáil that, "[t]he Magdalen Laundries were private, religious run institutions without any legislative or State mandate for their general operation. As I have previously informed the House, the vast majority of females who entered or were placed in Magdalen Laundries did so without any direct involvement of the State" (see Appendix 4.iv, below).

In June 2010, JFM submitted an inquiry application to the Irish Human Rights Commission (Appendix 4.v, a & b, below). On 9 November 2010, the Irish Human Rights Commission (IHRC) published its *Assessment* of JFM's inquiry application offering 12 conclusions and publishing the following recommendation to the government:

Recommendation:

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 Magdalen 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 (see Appendix 4.vi, below).

The government's established position was reiterated in greater detail during the Adjournment Debate in the Dáil following the publication of the Irish Human Rights Commission *Assessment* on 9 November 2010, when Minister for State Martin Mansergh spoke on behalf of the Minister for Justice, Mr. Ahern (see Appendix 4.vii, below).

In March 2010, Maeve O'Rourke, on behalf of JFM, made a submission to the United Nation's Committee Against Torture (see Appendix 4.viii, below). The State's position with respect to the Magdalene Laundries was again relayed by the Head of the Irish Delegation before the United Nations Committee Against Torture as part of the first ever examination of Ireland on May 24, 2011 (see <http://www.youtube.com/watch?v=tSrDbeO5wYs>).

The Head of the Delegation asserted that (i) the Magdalene laundries abuse happened a long time ago as part of a far distant past and that nations cannot rewrite their history, (ii) the "vast majority" of women entered the laundries "voluntarily" and if minors with their parents' or guardians' consent, and (iii) the State only referred a small number of women "on remand" to one specific institution after the Criminal Justice Act, 1960 provided a statutory basis for doing so.

On 6 June 2011, the United Nations Committee Against Torture published its "Concluding Observations," which included the following statement and recommendation related to the 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 their operations and inspect them, 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 investigation into the allegations of ill-treatment perpetrated on girls and women in the Magdalene Laundries. (Articles 2, 12, 13, 14 and 16)

The Committee recommends that the State party should institute prompt, independent, and 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 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. (see Appendix 4.ix, below).

On 7 June 2011, and speaking in the Dáil during Leaders' Questions Time, An Taoiseach, Mr. Enda Kenny, T.D., reiterated almost exactly the Government's position (see Appendix 4.x, below).

On 14 June 2011, the government issued the following statement on the Magdalene Laundries:

Statement on the Magdalene Laundries

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 utilized 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 (see Appendix 4.xi, below).

5. The State's Complicity

The following sections outline JFM's narrative of State complicity, what the government is now referring to as "State interaction," in the Magdalene laundries. The State's complicity and collusion involves a diverse range of government departments and various agents of the state (including the courts, the Garda Síochána, and social workers).

The evidence, from the State's own archives, underscores numerous instances of direct State involvement in referring women and young girls to the laundries as well as supporting the laundry's commercial enterprise through the awarding of contracts for and engaging in commercial transactions for laundry services.

Of equal importance, this evidence makes manifest the State's failure to exercise due diligence in the prevention (through inspection and regulation) or investigation of likely or actual human rights violations in the Magdalene laundries by private actors. The evidence underlines that the State had knowledge of the conditions within the laundries and of the various populations therein and it failed to act on such knowledge.

6. The Department of Justice

6. 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. The Department of Justice asserts that the judiciary are distinct and separate from the State, and do not acknowledge State complicity in this regard.

To date JFM can document 54 instances whereby women found guilty of a crime were referred to a Catholic Magdalen Laundry (see Appendix 6.a.i, 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.a.ii, below), and a further 4 cases involving Protestant women referred to the Bethany Home (see Appendix 6.a.iii, 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." 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 Report underscores that in such cases the Magdalene institutions offered an alternative to a prison sentence. The State knew that there was no statutory basis for this arrangement (see Appendix 6.a.iv, below).

In 1942, the Department of Justice drafted a memorandum, entitled "Proposed Legislation to Amend the Existing Law in Relation to the Detention in Custody of Young Female Offenders," and "Heads of proposed Bill" for The Criminal Justice (Female Offenders) Bill, 1942. The bill never did become law, but it 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 (see Appendix 6.a.v, below):

- The bill sought to provide legal sanction for what was an informal "makeshift practice" by which the courts sent women to Magdalene Laundries as an alternative to prison
- The Department of Justice memorandum reveals that "there are no positive means of compelling the offender to remain in the convent, if at any time she chooses to leave"

- 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 6.a.v, below).

This "makeshift practice" continued into the 1960s. Hundreds of Irish women and young girls continued to experience torture, cruel, inhuman or degrading treatment or punishment because of the State's non-intervention in this regard.

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 6.a.vi, 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 6.a.vii, below)
- Committal orders stipulate that the State's probation officers escorted the women from the courts to the laundries (see Appendix 6.a.vi-viii, 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 obligation to protect their constitutional and human rights. JFM contends that there is a State obligation to demonstrate conclusively what became of each of these women.

During the recent UN Committee Against Torture examination of Ireland, the Committee's Acting Chairperson, Ms. Felice Gaer, challenged the State's interpretation that these women "voluntarily" entered and remained in these institutions, see <http://www.youtube.com/watch?v=YsUMPiFjUuk>

6. 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 6.b.i, below). Some of these women were confined for up to 3 years.

JFM has asked the Department of Justice the following questions:

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

On 19 January 2010, in response to a Parliamentary Question seeking explanation of this practice, tabled by Ruairi Quinn, T.D., the Minister for Justice, Mr. Dermot Ahern, T.D., responded:

The Probation of Offenders Act 1907 allows a person found to have committed a criminal offence to be subject to a probation order under which the offender is released on entering a recognizance to be of good behavior and subject to conditions. The duration of the order cannot exceed 3 years but if it is breached the recognizance can be forfeit and the offender can be brought before the court for sentencing for the original offence. It has been established that in 1922 and subsequent years courts did on occasion include a condition in a probation order that the female person who had been found to have committed a criminal offence reside in a particular institution for a specified period (not exceeding 3 years). ...

From the files it is clear that payments were limited to the duration of the relevant probation orders. The review at the time indicated that there were 18 "probationers" in Henrietta Street and another 20 to 30 probationers in other institutions mainly in the four Dublin Magdalen laundries. As far as can be made out at this stage, payments were not made to other institutions (except those designated as remand centres after 1960). ...

It appears that these orders/arrangements were made by the courts without reference to any Department of State. The requirements of a probation order, including its duration, would be made known by the court to the offender. The records of such orders are court records (see Appendix 6.b.ii, below).

The Department of Justice is unwilling or unable to produce records documenting the total number of women, and what became of each of these women, placed "on probation" at a Magdalene laundry via the judicial system. It is possible, indeed probable, JFM contends, 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 obligation to protect their constitutional and human rights.

6. 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 6.c.i, below). The "Note" prepared for the Taoiseach Office by the Department of Justice, dated 6 May 1957) reveals that the government was aware of the function of "Gloucester St. Convent":

In other words, the Institution serves as an aid towards rehabilitating girls who are put on probation by the Courts, with this condition attached, as an alternative to sending them to prison. Occasionally, girls a little under 17 may be sent there on probation from the Children's Court, but that seldom happens (see Appendix 6.c.i, below).

The "Memorandum for the Government: Proposed Criminal Justice Bill," prepared by the Department of Justice, explains further:

At present any person of the age of 17 years and upwards who is remanded in custody must be committed to a prison. It has been strongly represented to the Minister for Justice, with particular reference to girl offenders under 21, that this is an undesirable state of the law and that many young persons, including first offenders, are remanded to prison who are subsequently adjudged not to deserve a sentence of imprisonment at all ... The Minister for Justice understands that Gloucester Street Convent would be willing to accept girls who are remanded in custody and other convents in Dublin and elsewhere may also be willing to do so (see Appendix 6.c.i, below).

Significant reservations were raised regarding this arrangement during the Seanad Éireann "Criminal Justice Bill, 1960—Second Stage" debate on 13 July 1960. Numerous members spoke about the stigma attached to the Magdalene Asylums, and how it might influence the subsequent lives of girls "on remand" and awaiting trial. No one spoke more vociferously on this point than Mrs. Connolly O'Brien:

I do not think there is any member of this House who is ignorant of what the stigma would mean to a girl if she had mended her ways, if she had been corrected and was leading a normal and upright life, and had to spend the rest of her life in fear and terror of being charged with having in her youth been an inmate of St. Mary Magdalen's Asylum. I think to a girl when she becomes an adult the stigma of having been a "Magdalen" is even greater than would be the

stigma of having been a “Borstal boy” for a boy delinquent when he becomes an adult. ...

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 having been 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 (see Appendix 6.c.i, below).

Despite these serious reservations, the Criminal Justice Bill became law, and under Section 14 thereof the Department of Finance agreed to pay a capitation grant for every woman so-referred to that institution.

On 19 January 2010, in response to a Parliamentary Question seeking explanation of this practice, tabled by Ruairi Quinn, T.D., the Minister for Justice, Mr. Dermot Ahern, T.D., responded:

It is the Courts who have power to remand a person charged with a criminal offence in custody pending trial and sentencing. The Department of Justice, Equality and Law Reform is responsible for ensuring that there are places of detention which can be used for remand purposes but the Department itself has no power to send a person to a particular institution ...

The records indicate that periods of remand rarely exceeded seven days and one or two days was the norm. Further research is being carried out to establish if more comprehensive records were kept.

Part of the arrangements with the two institutions was that those remanded were to have same rights and privileges as provided for remand prisoners in the 1947 Prison Rules Part III, and that they would be visited from time to time by a Probation Officer and by the Superintendent of Prisons (see Appendix 6.c.ii, below).

The Sean McDermott Street laundry was never licensed, inspected, or came under State regulation as an “approved” institution. Women may have been “visited from time to time” but the institution and the laundry were never inspected. And yet, the State placed innocent women (still awaiting trial) beyond direct State protection.

On 27 May 1969, the Convent of Our Lady of Charity and Magdalen Home, Lower Sean McDermott Street, invoiced the Department of Justice in relation to 21 young girls and/or women who resided at that institution “as a condition of recognizance or on remand under the provisions of the Criminal Justice Act, 1960” between 1 January 1968 and 30 April 1969. The total payment amounted to £545.1.7 covering a total of 1,084 days. The average stay per woman, therefore, was 51 ½ days (see Appendix 6.c.iii, below).

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

Moreover, the Department of Justice is unwilling or unable to produce records documenting the numbers of women referred to the Magdalene Laundries via the courts and/or judicial system since the formation of the State (see Appendix 6.c.iv, below).

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

Former Magdalene women still live at the Sisters of Our Lady of Charity Sean MacDermott Street convent in the charge of the nuns.

6. d. JFM met with senior officials in the Department of Justice on 15 December 2009

- 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
- 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 1993. 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. The State must investigate all exhumations of former Magdalen women's remains
- The Department of Justice has yet to produce records for a single woman referred to the Magdalene laundries via the judicial system (see Appendix 6.d.i, below)?

6. e. JFM met with senior officials in the Department of Justice on 25 June 2010

- Department of Justice officials said that the State “accepts that there was abuse in Magdalene laundries,” as documented by the Ryan Report and other individual survivors’ testimonies.
- Department officials said that they are prepared to work towards an apology, but an apology that would be vetted by the Attorney General to ensure that the State was not admitting any liability.
- JFM informed the Department of Justice that JFM has submitted a formal application to the Irish Human Rights Commission requesting an inquiry into the State’s obligation to provide redress for this population of survivors (see Appendix 6.e.i, below).

6. f. Garda Commissioner Report on High Park Magdalene Laundry, Drumcondra, Exhumations, 23 August 1993

- On the afternoon of the aforementioned 25 June 2010 meeting, the Department of Justice forwarded a letter to me detailing the Garda Commissioner’s report on the 1993 investigation of the High Park exhumations of 155 former Magdalene women’s remains. These human remains were subsequently cremated and re-interred at Glasnevin Cemetery.
- The initial exhumation license was for 133 human remains based on a count of “existing crosses on graves.” Upon the discovery of an addition 22 remains (no one had accounted for the fact that “due to vandalism other crosses had be removed”) the license was re-issued as a General Exhumation license.
- 75 death certificates were identified. Death certificates could not be identified for 58 remains. In the case of 24 of these 58, Death Certificates could not be identified, as the deceased were only known by a religious name.
- The Commissioner’s report concluded, “the Religious Order followed all the appropriate steps in registering the deaths of their residents” (see Appendix 6.f.i, below).

JFM submits a copy of the original Exhumation Order, complete with the list of names attached, as well as a copy of the revised General Exhumation Order (see Appendix 6.f.ii, below).

According to the Department of Justice letter, the Garda Commissioner’s Report also detailed the following relevant information:

Records maintained by the Order show that women stayed for varying lengths of time, ranging from days to many years. A record was created when a woman first came to the home, when they were given a ‘house name’ which was stated to be

for confidentiality reasons. The record also recorded the date of the woman's departure from the home or when death took place. Some women who showed particular spiritual devotion were given special status and a religious title 'Magdalene' followed by the name of a saint or other religious imagery. This group was permitted to have their remains interred in the grounds of High Park Convent. Their gravestones carried the religious title taken as opposed to the 'house names' (see Appendix 6.f.i, below).

If the Garda Commission could establish that such records exist for every woman who entered High Park Magdalene Laundry, JFM asks why such records were not accessed by the Department of the Environment at the time of the exhumations to ascertain the true identity of the women referred to as "Magdalen." Moreover, we ask why these records are not accessible for research purposes to determine the level of State interaction in referring women to this, and to other, institutions?

6. g. Garda Síochána interaction with the Magdalene Laundries

Survivor testimony insists that members of the Garda Síochána brought women to the Magdalene Laundries and/or returned women to the nuns if or when they attempted to escape (see Appendix 6.g.i, below).

During JFM's meeting with the Department of Justice on 15 December 2009, Mr. James Martin, Assistant Secretary, informed us that there was never a statutory basis to support such actions and that if a woman came forward with a complaint the file would be forwarded to the Director of Public Prosecutions.

The nineteenth century historical records—annals and 'penitent' registers—always recorded the "sources of entry," in other words who brought the woman to the laundries (see Appendix 6.g.ii). While the percentages for the police as the source of entry were always small, there is no reason not to presume that this practice continued after 1922. JFM is asking the Inter-departmental Committee to investigate this practice thoroughly.

JFM included four survivor testimonies as part of our submission to the UN Committee Against Torture (see Appendix 4.viii, above). The women's testimony confirms what many, many other survivors and members of the public assert elsewhere.

A former employee of one of the relevant religious congregations told JFM that in the process of digitizing records in preparation for the Commission to Inquire into Child Abuse, including records for one of the Dublin Magdalene Laundries, she came across numerous recorded instances of the Gardaí bringing women to that particular laundry.

A recent newspaper article suggests that at least one senior Garda deliberately subverted the nuns' request for assistance in returning escaped women to their charge (see Appendix 6. g. iii).

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JFM is asking that the Inter-departmental Committee commission a review of police log books at the Garda National Repository to determine if evidence exists to support survivor testimony. Also, we suggest the Inter-departmental Committee chairperson organize a meeting with the Garda Síochána Retired Members Association (GSRMA) and also with retired and/or senior members of the Association of Garda Sergeants and Inspectors to elicit their testimony on interaction with the Magdalene Laundries.

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7. The Department of Education

7. a. *Children in the Magdalene Laundries*

Minister for Education, Mr. Batt O'Keeffe, T.D., asserted 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 4.i, above).

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 joint motion in June 2009 to "cherish all of the children of the nation equally."

7. b. *Evidence of State Complicity*

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 7.b.i, below).

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 (see Appendix 7.b.i, below).

The Kennedy Report continues:

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. A girl going into one of these institutions may find herself in the company of older, more experienced and more depraved women who are likely to have a corrupting influence on her. ...

Finally, the Kennedy Report concludes:

No State grants are payable for the maintenance of those in voluntary Magdalen institutions (except in remand cases in respect of whom 7/- per day is paid) ... It was noted that as no State grants are made for these purposes there is, consequently, no State control or right of inspection of those institutions (see Appendix 7.b.i, below).

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

"617 children ... resident in 'Voluntary Homes which have not applied for approval" (see Appendix 7.b.i, below).

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 "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 the for-profit, commercial Magdalene Laundries, beyond those children transferred from State residential institutions. The Department of Education was aware that these "out of home" settings were exploitative, punitive, inappropriate and unsuitable for the confinement of young girls. 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. The Department of Education never visited, inspected, or licensed these "religious homes"? They were never 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.

7. c. JFM met with senior officials in the Department of Education on 2 February 2010

- 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 (see Appendix 7.c.i, below)

JFM wrote to the then recently appointed Minister for Education, Ms. Mary Coughlan, T.D., on 29 March 2010 asking for information regarding children placed in the laundries as a result of "voluntary placements, Health Authority referrals, etc.," (Appendix 7.c.ii, below). In her response, dated 27 April 2010, Minister Coughlan asserted, "any records which my Department holds could not be relied upon to accurately quantify the numbers" (see Appendix 7.c.iii, 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 sent 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 7.c.iii, below).

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

7. d. Survivors of Magdalene Laundries rejected by the Residential Institutions Redress Board

According to Minister for Education, Mr. Batt O'Keeffe, T.D., Section 1(3) of the Residential Institutions Redress Act, 2002 provides "that an applicant who was resident in an institution and was transferred from that institution to another place of residence which carried on the business of a laundry and who suffered abuse while resident in that laundry shall be deemed, at the time of the abuse, to have been resident in that institution." The justification of this provision, again according to Mr. O'Keeffe, is "that

the State was still responsible for the welfare and protection of children who are transferred to a Magdalen laundry from a State regulated institution” (see Appendix 4.i, above).

All other survivors who were children in the Magdalene Laundries and applied to the Residential Institutions Redress Board (RIRB) routinely had their claims denied on the basis that they had not “established to the satisfaction of the Board” that they “were resident in an institution covered by the said Act or Order as required by section 7 (1) (b) of said Act” (see Appendix 7.d.i, below). Others Magdalene survivors were simply informed that the institution they were resident in does not appear on Schedule 1 (a) of the governing legislation.

The Residential Institutions Redress Board Newsletter (July 2010) states:

883 applications were withdrawn, refused or resulted in no award. By and large applications have been refused as, on the face of the documentation, the application was outside the Board's terms of reference as laid down in the 2002 Act. In other words, the applications did not relate to residential institutions as defined in the Act. (see Appendix 7.d.ii, below)

In a response to a Parliamentary Question on 27 October 2010 seeking to determine how many of these applicants were denied on the basis that the women in question were resident in Magdalene Laundries, Minister for Education, Mary Coughlan, T.D., suggested that “the retrieval and examination of such records would be a costly and labour intensive exercise for the Board” (see Appendix 7.d.iii, below).

JFM contends that a review of these rejected applications to determine how many and/or what proportion of these rejected applications came for survivors who as children experienced abuse in the Magdalene Laundries and the recurrence of specific institutions is warranted as part of the government's current investigation. The majority of survivors in contact with JFM were transferred from Industrial Schools to Magdalene Laundries. In *all* of these cases the survivors' time in the laundry/laundries was not taken into account by the RIRB, in fact these survivors reported that they were reprimanded at the RIRB for even mentioning the word “Magdalene.” Their own solicitors would not assist them in pursuing a right which they already have in law.

In June 2010, the Health Services Executive revised figures upwards to 188 children who died in State care over the preceding 10 year period. The HSE had difficulty documenting this number due to poor and/or unavailable records. JFM contends that the Department of Education and the State must account for every childhood lost to servitude, compulsory labour, and cruel and inhuman treatment in the Magdalene Laundries.

8. The Department of Health and the Department of Local Government

8. a. Women transferred to Magdalene Laundries from State-funded Mother-and-Baby Homes

The Department of Local Government and Public Health knowingly acceded to the transfer of women from state- and local-government-funded mother and baby homes and County Homes into Magdalene laundries. And, as acknowledged by the Department of Justice on 16 December 2009, and reiterated by the Minister for Justice in a response to a Parliamentary Question on 19 January 2010, the State was always aware that there was no statutory basis for confining women within these institutions (see Appendix 6.b.ii, above).

Archival evidence supporting JFM's claims can be traced back to the Commission on the Relief of the Sick and Destitute Poor, which recommended mandatory incarceration for women applying for maternity assistance a second time: "there should be power to detain for a period of two years." Likewise, the commission stipulates that in instances of a third or subsequent admission 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." Signaling mandatory periods of detention in this manner endorsed the practice of transferring women from state-funded mother-and-baby homes into unregulated Magdalene institutions (see Appendix 8.a.i, below).

The Department of Local Government and Public Health Annual Report, 1932-33 underscores that the Commission's recommendations were already adopted as official policy. The *Annual Report* details the State's reliance on Magdalene Laundries to confine women who gave birth to more than one child outside of marriage. The report states:

With regard to the more intractable problem presented by unmarried mothers of more than one child, the Sisters-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 into their institutions. Many of the women appear to be feeble-minded and need supervision and guardianship. The Magdalen Asylum offers the only special provision at present for this class" (see Appendix 8.a.ii, below).

This "special provision" was still in place as late as 1958. At that time, 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." Moreover, seventy per cent of the women in the Magdalene laundry in Galway at the time were "unmarried mothers" according to the Sisters of Mercy who operated the institution (see Appendix 8.a.iii, below).

JFM submits archival evidence documenting the transfer of one Magdalene survivor from the state-funded Good Shepherds Mother-and-Baby Home in Dunboyne to the Good Shepherd Magdalene Laundry in Waterford in 1965. This woman, it should be noted, is registered as the 2,301st entry in the Good Shepherd Magdalene Register in Waterford (see Appendix 8. a. iv, below).

JFM has asked the Government now acknowledge that this “special provision” was indeed State policy. We have asked that it declare how long this “special provision” remained in place. We have asked that it detail how many women entered the Magdalene laundries in this fashion, and how long they remained behind convent walls working in harsh and physically demanding conditions receiving no payment for their labour? We have asked whether the Magdalene laundries in question were ever licensed, inspected or regulated by the Department of Local Government and Public Health? We have asked that the department make available all records detailing the fate of these women. Finally, given the fact that these women were mothers, we have asked the State to account for each of their children. How many of these children were taken into Industrial Schools thereby providing capitation grants for religious congregations? How many of these children were boarded out or placed in foster care?

To date, JFM has received no answers to any of these questions.

8. b. Capitation Grants for confining “Problem Girls” at Magdalene Laundries and other Religious Convents

I attach a copy of a letter (dated 31 July 1972) detailing that the former “Boards of Health” paid capitation grants to the Sisters of Our Lady of Charity for “Problem Girls” sent to the An Grianan institution at High Park, Drumcondra (see Appendix 8.b.i, below).

An Grianan was a “Training Center” for problem girls set up circa 1969 at the High Park Magdalene Laundry. Survivors of the Industrial School at High Park have informed JFM that “An Grianan” was housed in the same building as the Magdalene Laundry, and that the “problem girls” slept in the Magdalene dormitory.

It is notable that “An Grianan” was receiving distinct and separate capitation grants for girls that were “on remand” and “on probation” via the Department of Justice and for “Problem Girls” placed there via the now-defunct Boards of Health.

From JFM's perspective this fact signals a disturbing contradiction—two different government departments were paying distinct capitations grants to the same institution for different populations of “problem girls,” one group being referred

for punitive reasons (Department of Justice), the other being referred presumably for “protective” reasons (Health Board). Was either department aware of the institution’s contradictory populations?

JFM has asked the Department of Health to acknowledge its role in paying capitation grants for “problem girls” referred to “An Grianan.” We have asked that it make public all relevant information for similar payments made to other Magdalene Laundries and religious convents. We have asked that it explain the statutory basis upon which these capitation grants were paid? When did this arrangement originate, and how long did it continue? We have asked whether these institutions were ever visited, inspected, licensed, or regulated. We have asked whether records exist detailing the numbers of “problem girls” confined in this manner? Were any of these “problem girls” single mothers, and, if so, what became of their children? And, ultimately, we have asked that the Department of Health make available all relevant records for the “problem girls” referred to Magdalene institutions under this scheme.

To date, JFM has received no answers to any of these questions.

8. c. JFM met with the Minister for Health on 25 March 2010

- 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 (see Appendix 8.c.i, below).

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.

8. d. Follow up correspondence with Ministers of Health and Local Government, Parliamentary Questions

JFM wrote letters to Minister Mary Harney and Minister John Gormley on 8 February 2010 (see Appendix 8.d.i, below). We again wrote to Minister Harney on 29 March 2010 (see Appendix 8.d.ii, below). And we wrote to Minister James Reilly on 7 May 2011 (see Appendix 8.d.iii, below). Each of these letters presented the evidence and posed the questions outlined above. Letters were acknowledged, but no answers were forthcoming.

JFM also arranged for Parliamentary Questions addressing the information detailed in these letters to be tabled on the following dates: 16 February 2010 (Ruairí Quinn & Caoimhghín Ó Caoláin), 27 April 2010 (Michael Kennedy), 29 June 2010 (Caoimhghín Ó Caoláin & Kathleen Lynch), 30 June 2010 (Michael Kennedy, 2 questions), 3 November 2010 (Caoimhghín Ó Caoláin), 3 May 2011 (Caoimhghín Ó Caoláin) (see Appendix 8.d.iv, below).

On 3 May 2010, Minister for Health, Dr. James Reilly, T.D., in a response to last Parliamentary Question above, revealed that the HSE has produced a report related to these matters. JFM has requested a copy of this report to no avail. Two national journalists have submitted FOI Requests for the same report and have had their requests denied.

JFM contends that the Chairperson of the Inter-departmental Committee must obtain answers to the questions outlined above. It was State policy to transfer women from Mother-and-Baby Homes to Magdalene Laundries. The State paid capitation grants for young "problem" girls sent to religious convents including Magdalene Laundries. The State must account for each of these women and any children born to them.

9. The Department of Defence

9. a. Department of Defence contracts with “institutional” laundries

On 7 May 1941, then Minister for Defence, Mr. Oscar Traynor, during “Oral Answers” in the Dáil stated the following:

No Army laundry contracts previously held by commercial laundries were placed with institutional laundries during any of the last three years. For the current year, that is for the 12 months which commenced on the 1st ultimo, 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. **As, however, these contracts contain a fair wages clause,** I am having the matter reconsidered and will communicate further with the Deputy as soon as practicable. (see Appendix 9.a.i, below)

The context for these remarks was the closure of Dublin District Laundry at Parkgate on 31 December 1938 with the loss of “30 hands.” As reported on 1 March 1939 by Minister for Defence Aiken, the laundry work previous carried out at Parkgate “is now being carried out by contract entered into on a competitive basis with a Dublin laundry firm” (see Appendix 9.a.i, below).

By 1941, this same laundry work was being carried out at institutional laundries, including JFM contends, at Magdalene laundries.

As Mr. Traynor’s remarks reveal, the State was aware of the distinction between “commercial” and “institutional” laundries. His remarks infer that the State held Army laundry contracts with institutional laundries (as opposed to commercial laundries) from 1941 onwards (Appendix 9.a.i, below).

Minister Traynor was mistaken (at best) when he stated the contracts with institutional laundries contained a “fair wages clause.” Given that the women who worked in Magdalene Laundries were not paid for their labour, a “fair wages clause” was moot.

Mary Raftery’s recent *Irish Times* article cites Mary Jones’ book *These Obstreperous Lassies* (Dublin: Gill & Macmillan, 1988) to claim that “at least one laundry was forced to close in 1941 with the loss of 25 jobs. It had just lost an Army contract to the Sisters of Charity Magdalene laundry in Donnybrook” (see Appendix 9.a.ii, below)

9. b. Contemporary Parliamentary Questions

JFM arranged for a Parliamentary Question requesting information on (i) the names of all institutional laundries in receipt of State contracts for Army laundry after 1941, (ii) how long this practice of affording contracts to “institutional” as distinct from “commercial” laundries continued after 1941, and (iii) if fair wage clauses were ever inserted in such contracts awarded to institutional laundries.

Versions of this question were asked on 30 June 2010 (Michael Kennedy), 6 July 2010 (Kathleen Lynch), and 13 October 2010 (Kathleen Lynch) (see Appendix 9.b.i, below).

Finally on 27 October 2010, in response to a question from Michael Kennedy, the Minister for Defence, Tony Killeen, T.D., provided the following information:

The Department recently examined the contents of relevant files that were located following a review of file listings. Given that the initial question related to contracts that may have been placed up to seventy years ago, there was very little material found that referred to institutional laundries and much of what is available is incomplete. It is clear however from the review of files that some institutional laundries had tendered for the award of contracts from the Department. It is apparent from the files that a St Mary’s Laundry (location and status unknown) had tendered for a laundry contract in 1975 but was unsuccessful. There are also references on file to the fact that the Magdalene Laundry in Galway had been unsuccessful in a tender competition held in 1981. It is also apparent from the files that High Park Laundry, Drumcondra and Gloucester Street Laundry, Sean McDermott Street had approached the Department in 1978 asking that they be included on the list of laundries invited to tender for future contracts.

In relation to fair wages, there is a reference on file to a meeting that took place in July 1982 regarding laundry contracts and it is clear that the fair wages clause, as it applied to “Convent Laundries”, was discussed.

The files that are the basis for the information contained in this response are not readily available owing to the Departments imminent relocation to Newbridge. When the files in question become available, I could, if requested, arrange for officials from the Department to meet with the Deputy to show him the relevant records that have been located and which form the basis of this response (see Appendix 9.b.ii, below).

This response suggests that through the 1970s, the religious congregations that operated Magdalene laundries were submitting tenders for Army laundry contracts. Moreover, the July 1982 meeting to discuss “the fair wages clause” signals that this remained a significant concern until that time.

JFM contends that it is likely, subject to a proper investigation of the records in Newbridge, that Department of Defence contracts for Army Laundry were given to institutional laundries, including Magdalene Laundries, after 1941 up to and including 1982.

Finally, JFM is in receipt of information from a former Army quartermaster who handled the annual 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.

JFM contends that the Inter-departmental Committee must shed light on this practice, which facilitated the "servitude" of hundreds of Irish women. The Committee must respond to all the questions outlined above.

9. c. Other government departments availing of Magdalene Laundries on a commercial basis

The recent discovery of a ledger from the High Park Magdalene Laundry in Drumcondra, as reported on by Patsy McGarry in *The Irish Times*, underscores that many other government departments and State-related and State-affiliation organizations used the Magdalene Laundries on a commercial basis (a similar ledger for the Sunday's Well Magdalene Asylum is already in the possession of the National Archives). With reference to the ledger, McGarry reports:

It discloses that ... regular customers for the laundry, believed to be the one at High Park, included the Department of Justice, the Department of Agriculture, the Department of Fisheries and CIÉ ...

An entry for Áras an Uachtaráin, dated March 2nd 1981, lists a bill of £10.84 while one for Guinnesses, dated March 23rd 1981, lists a bill of £10.89. The Department of Fisheries was billed £3.25 on March 16th 1981, while the Department of Agriculture was billed £6.92 on February 9th 1981. The Department of Justice was billed £20.28 on January 19th, 1981. (see Appendix 9.c.i, below)

JFM is asking for a forensic audit of all government department archives to ascertain the extent of commercial interaction with the ten Magdalene Laundries operating in the State after 1922.

10. The Department of Social Protection

10. a. State's failure to enforce statutory obligation under 1953 Social Welfare Acts

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 10.a.i, 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. Minister Mary Hanafin stated:

According to a search of the Department's records in the time available, there do not appear to be returns available in relation to any organisation or organisations, which may be collectively described as Magdalene Laundries.

Minister Hanafin added:

Since 1953, the Social Welfare Acts have defined the various types of employment that are insurable under the social insurance system while also providing for the management and operation of that system (known, since 1979, as Pay-Related Social Insurance (PRSI)). 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 (see Appendix 10.a.i, below).

The religious congregations non-withholding and/or non-submitting of PRSI payments on behalf of the women workers in the laundries and the State's failure to ensure that such payments were withheld and submitted on the women's behalf materially impacts their right to a pension upon reaching retirement age.

Currently, the years that Magdalene survivors worked in the Laundries are not taken into account in determining their statutory old age pensions. JFM contends that this should not be the case, and that it is in the State's power to remedy this situation in the short term.

10. b. Survivor Case Study—\$7.50 a week

In June 2010, JFM submitted details to Minister for Justice, Mr. Dermot Ahern, T.D., to Ms. Kathleen Lynch, T.D., Mr. Michael Kennedy, T.D., and to Mr. Tom Kitt, T.D., related to one Magdalene survivor who our group helped apply for a statutory old age pension. In the early 1950s, the woman (referred to as "AB" in the attached appendix) worked for almost five years at the Good Shepherd New Ross Magdalene Laundry before being placed in a job at the Orthopedic Hospital in Clontarf (see Appendix 10.b.i, below).

On 6 July 2010, Minister Ahern wrote to the Minister for Social Protection, Mr. Eamon O'Cuiv, T.D., forwarding a copy of the document above and requesting a review of the case (see Appendix 10.b.ii, below). Mr. Tom Kitt wrote a similar letter.

On 7 July 2010, Minister O'Cuiv responded to Mr. Kitt's letter outlining the formula by which AB's pension of €12:40 a week was arrived. Minister O'Cuiv concluded that, "It is not possible for my Department to exercise any discretion when deciding a pension claim. The qualifying conditions are statutory and cannot be waived in the interests of individuals" (see Appendix 10.b.iii, below).

On 15 July 2010, I wrote to Minister O'Cuiv in response to the aforementioned letter to Mr. Kitt (I should note that I have power of attorney to act on AB's behalf in this matter). I asked:

Given that _____ did not leave the Good Shepherd Magdalene laundry until 14 August 1953, I have to ask why there are no records for social insurance contributions between 1 January 1953 and this later date? Did the Social Welfare Acts not apply to commercial, for-profit business operated by Catholic religious congregations? Did your department fail in its statutory duty to inspect the records of and ensure compliance with the law on the part of the religious congregations operating Magdalene laundries? If contributions had been submitted on _____'s behalf for the duration between 1949 and 1953, this would have a material impact on her allotted pension (see Appendix, 10.b.iv, below)

I have never received a satisfactory answer to this and to other questions outlined in this letter.

On 26 August 2010, Minister O'Cuiv again wrote to Mr. Tom Kitt, T.D., to confirm that AB was not entitled to any additional backdating of her pension beyond the two years she received as an initial lump sum (see Appendix 10.b.v, below).

10. c. The State's failure to protect, to provide due diligence

JFM contends that not only did the State fail in its duty to protect, to regulate and inspect, to provide due diligence with regard to the Magdalene women's legal, constitutional and human rights, it also failed to insist that the religious congregations who operated these commercial and for profit enterprises comply with the Social Welfare Acts.

Survivors suffer materially in the present as a result. As demonstrated above, when a Magdalene survivor applies for a statutory old age pension her years of work in the laundry are not taken into consideration. If they were, as they should be, many survivors would be entitled to a full old age pension.

The failing, in this instance, is the State's failing—the refusal to ensure the laundries complied with the law. The obligation to provide a present day remedy, in this instance, is the State's obligation.

Magdalene survivors are entitled to a statutory old age pension that takes account of and reflects their time of work in the laundries.

On 15 March 2010, the office of Minister for Social Protection, Ms. Joan Burton, T.D., wrote to inform me that:

Joan Burton, T.D., Minister for Social Protection has asked me to acknowledge receipt of your recent e-mail, regarding statutory pension for women in the laundries and to say that the matter is receiving attention (see Appendix 10.c.i, below)

11. The Department of Jobs, Enterprise and Innovation

11. a. Were the Magdalene Laundries inspected under health and safety regulations?

On 4 February 2010, Mr. Michael Kennedy, T.D. (FF), asked the Minister for Enterprise, Trade and Employment, whether statutory inspections under health and safety regulations were ever carried out at the Magdalene laundries.

Dara Calleary, T.D., Minister for State in the Department of Enterprise, Trade and Employment, and representing Minister Mary Coughlan, T.D., responded:

... For the assistance of the Deputy, I should say that statutory obligations under employment law generally rest with employers. Statutory obligations under occupational health and safety law are primarily a matter for employers although employees also have duties. In both codes, the issue of the existence of an employment contract is central.

While employers may have obligations to keep certain records under both codes, if the matters, which the Deputy may have in mind, are alleged to have occurred a long time ago, it is unlikely that there will be any statutory requirement on employers, should they still exist, to maintain relevant records up until the present day. (see Appendix 11.a.i, below)

11. b. The Factories Act, 1955

Section 84 of the Factories Act, 1955, states:

Institutions:

84.—(1) Where, in any premises forming part of an institution carried on for charitable or reformatory purposes, any manual labour is exercised in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of articles not intended for the use of the institution, but the premises do not constitute a factory, then, nevertheless, the provisions of this Act shall, subject as hereinafter in this section provided, apply to those premises.

2) This Act shall not, except in so far as the Minister may by order direct, apply to any premises which do not constitute a factory if the premises are subject to inspection by or under the authority of any Minister of State (see Appendix 11.b.i, below).

The Magdalene Laundries were never “subject to inspection by or under the authority of any Minister of State,” as the government has asserted on numerous occasion (see “4. The State’s Response,” above).

JFM contends that the Magdalene Laundries were always subject to the provisions of the Factories Act, 1955. Moreover, we ask that the Inter-departmental Committee clarify the implications of this fact in terms of the State’s obligation to protect the women and young girls who worked, unpaid and in dangerous working conditions, in the laundries.

11. c. Historical Dáil Debate

On 4 May 1955, during the “Factories Bill, 1954—Second Stage” debate in Seanad Éireann, Dr. Owen Sheehy Skeffington called for full legal entitlements for workers in institutional laundries:

I notice that Section 84 refers to institutions where certain work is carried on for charitable or reformatory purposes, and where these premises do not constitute a factory the Act will apply ... The workers in such institutions, be they charitable institutions or reformatories, already suffer from one disability. They have not got trade union protection. Factory workers have a union to speak for them, but workers in semi-factories or laundries or whatever they may be, as mentioned in Section 84, have not got that protection. ... Do not these inmates need precisely the same degree of protection as the ordinary worker outside? (See Appendix 11.c.i, below)

When then Minister for Industry and Commerce, Mr. William Norton, T.D., responded during the same debate, and referring to workers in such institutions, he stated:

They should be protected by all means. A section does that by applying the provisions of the Bill to them although the place itself is not a factory. (See Appendix 11.c.i, below)

On 11 May 1955, during the “Factories Bill, 1954—Committee” debate in Seanad Éireann, Dr. Sheehy Skeffington and Minister Norton engaged in heated debate on amendments to Section 84 of the proposed legislation.

Dr. Sheehy Skeffington asserted that the purpose of this section of the legislation was to see to it that the provisions of the Factories Act would apply to factories that “are run in connection with public institutions, either of a charitable or of a reformatory character.” He added:

Consequently, I would commend sub-section (1) of Section 84 because it lays it down that all the benefits with regard to health, safety, welfare and so on, which

are to be granted under this Bill to workers in ordinary factories, are to be granted also to workers in factories attached to and run by institutions, whether they be reformatories, mental homes and or similar establishments (see Appendix 11.c.ii, below).

The debate became most heated in debating whether institutional laundries were to be included and thereby made subject to the proposed legislation. On this point, Minister Norton, when pushed, was unambiguous, stating:

Mr. Norton: 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. (see Appendix 11.c.ii, below)

JFM contends that under this formula, Ireland's ten Magdalene Laundries are factories and as such were subject to the Factories Act, 1955. Indeed, Minister Norton suggested so himself, stating that:

Mr. Norton: Section 84 (1) brings almost every institutional activity within this Factory Bill. (see Appendix 11.c.ii, below)

The exception to this rule, as outlined in the Seanad Debate, were institutions already "under the authority of any Minister," for example State residential institutions such as Industrial and Reformatory schools, which already had a system of inspection in place that was answerable to a Minister of State.

The State considers Magdalene Laundries "private and charitable" institutions (see section 4, above). These institutions carried out laundry "not for the institution" but on a commercial and for-profit basis. They were never subject to State inspection or regulation. JFM contends that the Magdalene Laundries were subject to the Factories Act, 1955, but that the State never enforced its statutory obligation in this regard.

11. d. Current Dáil Debate

On 23 June 2011, the Minister for Jobs, Enterprise and Innovation, Mr. Richard Bruton, T.D., responded to a Parliamentary Question from Caoimhghin O'Caoláin, T.D., on whether the Magdalene Laundries were subject to the Factories Act, 1955, Section 84. He stated:

Subsection (1) is clearly addressed at premises or workplaces which do not constitute a factory. It does provide that certain types of institution may, despite the fact that they "do not constitute a factory", be subject to the provisions of the Act. However, Subsection (2) qualifies this by providing that the Act shall not apply to such institutions if they "are subject to inspection by or under the authority of any Minister of State". 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.

Mr. Bruton concluded his response by adding:

Given the generally acknowledged lack of information about the type of institution mentioned by the Deputy, I do not consider it appropriate, at this juncture, to comment on the possible application of the 1950s code of occupational health and safety to particular institutions (see Appendix 11.d.i, below),

11. e. Mary Raftery on the Factories Act, 1955

In an opinion editorial published in *The Irish Times* on 20 June 2010, Mary Raftery pointed out that:

Shatter's committee should also search the records of the Department of Enterprise, Jobs and Innovation – incorporating the old department of industry and commerce. A focus on files from the 1950s and 1960s on foot of the Factories Act 1955 would be productive. This specified detailed health and safety regulations for a range of establishments, among which the Magdalene laundries are clearly included.

What makes this so important is the requirement for all commercial operations covered by the Act to keep registers of their workers, especially listing all women and young people with their ages and specific occupations.

Further, they were obliged to send these details to the department regularly. Consequently, the department's inspectors had a legal duty to ensure that the names of all Magdalene workers were recorded in these registers and lodged with the State. Given that one of the rigorously applied rules of Magdalene laundries was that the names of all inmates were changed on entry, it would be interesting to see just how these laundries registered their workers. In the eventuality that no such details are discovered in departmental archives, the question then arises of State negligence in ensuring compliance with the law (see Appendix 11.e.1, below).

JFM concurs with Mary Raftery's analysis, and asks that the government's Inter-departmental Committee produce records demonstrating compliance with these provisions of the Factories Act, 1955.

12. The Department of Finance

12. a. The Magdalene Laundries and Tax Payments

On 4 February 2010, Mr. Michael Kennedy asked questions of the Minister for Finance, with respect to whether records exist documenting PAYE payments by the Magdalene Laundries and/or whether there are any records of P35 Annual Statements available.

Then Minister for Finance, the late Brian Lenihan, T.D., responded:

I am advised by the Revenue Commissioners that information submitted by businesses in regard to employee details is confidential to the businesses and employees concerned. It is not clear that the Deputy is making representations on behalf of the employer or employees concerned and accordingly Revenue is not in a position to provide the information requested. (See Appendix 12.a.i, below).

JFM requests that the government's Inter-departmental Committee produce records demonstrating that the Magdalene Laundries complied with all relevant tax codes and that it report publicly if the Committee is unable to do so.

On 2 April 2010, Justice for Magdalenes wrote to the Minister for Finance following up on the aforementioned response to the Parliamentary Question.

...JFM believes that it goes to follow that no taxes were ever paid for women and girl "workers" in the Magdalene Laundries. It is JFM's assertion, therefore, that the sum total of these monies owed by the religious orders to the Revenue Commissioners would go some considerable distance towards funding a redress scheme for Magdalene Laundry survivors.

Given that we are dealing with a situation that involved a prolonged abuse of human and constitutional rights, JFM would urge you and the Revenue Commissioners to make an exception in this particular case and proceed with an investigation to ascertain if taxes were paid on behalf of women and girls confined in Magdalene Laundries. If it is established that no taxes were paid, we ask that you seek to recover these funds from the religious orders and dedicate such funds exclusively to pay, in part, for a redress scheme for Magdalene survivors. (See Appendix 12.a.ii, below)

JFM received neither an acknowledgment nor a response to this letter.

12. b. The Department of Finance and Capitation Payments

JFM asks that the Government's Inter-departmental Committee request all pertinent records from the Department of Finance in relation to all payments from all government departments to Ireland's Magdalene Laundries. This includes payments of capitation grants for women placed "on remand" under the terms of the Criminal Justice Act, 1960, for women placed "on probation" from the courts, and for so-called "problem girls" sent to the Magdalene Laundries and other religious convents via the old Boards of Health.

13. Funding the Religious Congregations

13. a. State funding of Religious Congregations

On 3 May 2010, in response to a Parliamentary Question tabled by Caoimhghin O'Caoláin, T.D., seeking to establish the levels of funding from the Department of Justice given to the four religious congregations that formerly operated Magdalene Laundries over the previous five years, the Minister Alan Shatter, T.D., replied:

I can advise the Deputy that no funding was provided by my Department in the past five years to the religious orders to which he refers. (See Appendix 13.a.i, below)

Responding to a version of the same question on the same day, the Minister for Health, Mr. James Reilly, T.D., replied:

My Department does not routinely fund voluntary organisations for services provided. Some of the organisations referred to by the Deputy are involved in the provision of health services, and are funded directly for such services by the Health Service Executive. Information in relation to this funding is not readily available. However I have asked the Health Service Executive to supply this information to me and I will forward it to the Deputy as soon as possible.

In addition, a discretionary National Lottery fund is administered by my Department and in 2010 the Good Shepherd Services in Cork received €1,500 towards training costs. (see Appendix 13.a.ii, below)

Mr. O'Caoláin followed up on this request for information from the Department of Health, and on 15 June 2011 Minister Reilly provided the following details related to HSE funding of the four religious congregations over the past five years (See Appendix 13.a.iii, below):

I have received the information requested by the Deputy, from the Health Service Executive, and it is set out in the following tables.

Revenue Funding

	2006	2007	2008	2009	2010
	€000's	€000's	€000's	€000's	€000's
Sisters of Mercy	309	521	595	582	511
Sisters of our Lady of Charity	—	—	—	—	—
Sisters of	2,632	15,714	16,489	17,219	16,568

Charity					
Good Shepherd Sisters	2,885	3,453	3,006	2,661	2,602
Total	5,826	19,688	20,090	20,462	19,681

Capital Funding

	2006	2007	2008	2009	2010
	€000's	€000's	€000's	€000's	€000's
Sisters of Mercy	—	—	—	—	—
Sisters of our Lady of Charity	—	—	—	—	—
Sisters of Charity	863	529	—	200	—
Good Shepherd Sisters	—	—	—	—	—
Total	863	529	—	200	—

The HSE gave a total of €87million since 2006 to the four religious congregations who formerly operated Ireland's ten Magdalene Laundries.

JFM is concerned that the State continues to fund religious congregations at these levels when, to date, the four orders have yet to account for all the women and young girls who worked in their Magdalene institutions. We ask the Inter-departmental Committee to follow up this issue.

13. b. State funding of Ruhama

Established in 1989, Ruhama is a Dublin-based NGO which works on a national level with women affected by prostitution and other forms of commercial sexual exploitation (<http://www.ruhama.ie/index.php>).

Ruhama was founded as a joint initiative of the Good Shepherd Sisters and Our Lady of Charity Sisters, both of which had "a long history of involvement with marginalised women, including those involved in prostitution" (see Appendix 13.b.i, below).

These two religious orders are listed as the Trustees of Ruhama, and the heads of the two congregations (Sr. Bernie McNally and Sister Sheila Murphy respectively) are listed at the top of the organization's Board of Directors (see Appendix 13.b.ii, below).

Among its funders, Ruhama lists both the Departments of Justice and Health (see Appendix 13. b. iii, below).

These issues were addressed in a recent Patsy McGarry article in *The Irish Times* (see Appendix 13. b. iv, below).

JFM contends that the aforementioned funding information contradicts that given by both the Minister for Justice and the Minister for Health in their respective responses to Parliamentary Question on 3 May 2010 (see 13.a, above).

Moreover, JFM ask the Inter-departmental Committee why does the State continue to fund two religious congregations working directly with “marginalised women, including those involved in prostitution” when the same two congregations have yet to document conclusively and account for similarly “marginalised” women and young girls placed in their care in the past.

13. c. Religious Congregations’ Contributions to Residential Institutions Survivors’ Trust Fund.

Following the publication of the Report of the Commission to Inquire into Child Abuse (the Ryan Report), the Taoiseach’s statement on 26th May 2009 referred to the Government’s decision to call on the relevant Congregations to provide a substantial additional contribution in view of the moral responsibility they continue to hold in these matters. (see Appendix 13.c.i, below)

On 2 December 2009, the Sisters of Mercy informed the government they would make a €20 million additional contribution towards the establishment of a Trust Fund for survivors of abuse in State residential institutions (see Appendix 13.c.ii, below).

On 13 November 2009, the Religious Sisters of Charity informed the government they would make a €5 million additional contribution towards the establishment of a Trust Fund for survivors of abuse in State residential institutions. (see Appendix 13.c.iii, below)

On 6 November 2009, the Sisters of Our Lady of Charity informed the government they would make a €1.5 million additional contribution towards the establishment of a Trust Fund for survivors of abuse in State residential institutions. (see Appendix 13.c.iv, below)

On 20 October 2009, The Good Shepherd Congregation informed the government they were unable to make additional contributions to the establishment of a Trust Fund for survivors of abuse in State residential institutions. (see Appendix 13.c.v, below).

JFM asks the government’s Inter-departmental Committee to consider Magdalene survivors entitlement to “obtain” redress in the context of the four Religious Congregation’s global assets and contributions to the aforementioned Trust fund to date.

13. d. Sources of State funding for the Magdalene Laundries.

Many of Ireland's ten Magdalene Laundries existed on Convent Campuses that also included Industrial and/or Reformatory Schools, and as such those convents were in receipt of capitation grants for those children (see Appendix 13.d.i, below).

As discussed above (section 9), Magdalene Laundries were in receipt of State contracts for army laundry, and various government departments and agents of the State entered into commercial relationships with Magdalene laundries.

As discussed above (section 6c), at least one Magdalene Laundry (St. Mary's Magdalene, Sean McDermott Street) received women "on remand" and was in receipt of capitation grants for that purpose.

As discussed above (section 6b), a number of Magdalene laundries received women "on probation" from the courts, and were receipt of capitation grants for that purpose.

As discussed above (section 8b), at least one Magdalene Laundry (High Park, Drumcondra) received "problem girls" placed there by the Health Boards, and was in receipt of capitation grants for that purpose.

JFM contends that there is a need for a forensic financial audit of State records to determine the full extent of State funding provided to Ireland's ten Magdalene Laundries.

13. e. Charitable sources of funding for the Magdalene Laundries

The Sisters of Our Lady of Charity at High Park in Drumcondra and at Gloucester Street/Sean MacDermott Street appealed for charitable donations in support of their work with marginalised women and young girls throughout the twentieth century. The High Park and Gloucester Street annual appeal lectures were advertised in national newspapers and on Radio Éireann from the 1920s through the 1960s (see Appendix 13.e.i, below).

Many of the Magdalene Laundries advertised their laundry services in national and religious publications in a manner that stressed their charitable orientation—there is evidence of these advertisements in 1932 during the Eucharistic Congress and as late as the 1970s (see Appendix 13.e.ii, below)

The Magdalene Laundries also received bequests and legacies from all parts of Ireland and beyond. Typically such bequests pointed to the "charitable object" of the convent in question. I am in possession of solicitors' records for 93 such bequests for High Park

Magdalene Asylum alone, dating from 1910 to 1970 (Please contact author for details). A search of "Legal Notices" in national newspapers suggests similar occurrences at many of the other Magdalene Laundries, including Gloucester/Sean MacDermott Street, Donnybrook, and Galway (see Appendix 13.e.iii, below).

At no time, however, did the nuns draw attention to the commercial, for-profit nature of their enterprise or to the fact they were in receipt of capitation grants from various government departments. And they never mentioned the fact that the women and young girls who worked in the laundries were never paid.

JFM contends that the charitable and commercial functions of Ireland's Magdalene Laundries are complex to say the least and certainly need "clarification."

14 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 Magdalen 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 home 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
- Contracted for laundry services with "institutional laundries," including Magdalene Laundries, yet did not insist on a "fair wages clause" as was the norm for similar contracts with "commercial laundries"
- In the guise of various departments, engaged in commercial relationships with various Magdalene Laundries
- Failed in its obligation to ensure that the Magdalene Laundries fully comply with the Social Welfare Acts, 1953
- Failed in its obligation to ensure that the Magdalene Laundries fully comply with the Factories Acts, 1955
- Failed in its obligation to ensure that the Magdalene Laundries fully comply with relevant taxation codes
- Continues to fund the four religious congregations who operated Ireland's ten Magdalene Laundries despite the orders' failure to account for all the women and young girls who worked in their institutions.
- Has yet to produce 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 establish a "Restorative Justice and Reparations Scheme" as requested by survivors and proposed by Justice for Magdalenes (JFM)

Justice for Magdalenes (JFM) has pursued its campaign for justice in good faith. It has made every effort to utilise the political system and State archives to bring relevant material to light. It has shared archival evidence and documentation with State parties, has met with relevant government departments, and presented its case at a number of *Ad Hoc* Committee Meetings in Leinster House. JFM has made submissions to the Irish Human Rights Commission and the United Nations Committee Against Torture.

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 and/or quantify the State's complicity in the Magdalene laundries.

As made evident by An Taoiseach, Mr. Enda Kenny, in recent comments on this issue in Dáil Éireann, the government's position on this matter is consistent with the views presented at the UNCAT hearings by the General Secretary in the Department of Justice (see section 4, above).

In light of the materials submitted above, materials augmented by survivor testimony, we respectfully request that the government change its position, apologize to all survivors, and immediately institute a Restorative Justice and Reparations Scheme.

Thank You.

James M. Smith (on behalf of Justice for Magdalenes, [JFM])

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