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Dáil debates

Tuesday, 9 November 2010

Reform of Structures of Government: Motion Report on Magdalene Laundries

8:00 am



Tom Kitt (Dublin South, Fianna Fail)

I strongly support the recommendations of the Irish Human Rights Commission that the Government initiate a statutory inquiry into the human rights violations arising from the treatment of women and young girls in the Magdalene laundries. I welcome the fact the Attorney General will now examine the IHRC report in consultation with the relevant Departments. The IHRC concluded that for these women and girls who entered the laundries following a court process there was a clear State involvement in their entry despite the statements to the contrary by various Ministers. In light of the report I believe the survivors of Magdalene laundries should receive an apology from the State and a distinct redress scheme for survivors of the laundries should be established. The survivors of the Bethany Home should be treated in the same way. I believe it was a major error to exclude the Magdalene laundries from the Residential Institutions Redress Act 2002 and the subsequent redress scheme.

There are no records available of any women or young girls who were referred to laundries by State agencies, or the children born to them. Neither is there any clear information on whether or how girls or women left the laundries, or if they had a choice in doing so. All of this information should be made available. To this end, I ask CORI and the four religious congregations that operated the laundries to agree to meet Justice for Magdalenes to deal with the issues of records, compensation and other related matters.

I pay tribute to Dr. James Smith of Boston College and the Justice for Magdalenes group, with whom I first came into contact in August 2009, for their relentless efforts in seeking justice for survivors of Magdalene laundries. Dr. Smith is in the Visitors Gallery tonight with Dr. Katherine O'Donnell. They and their group have met with many obstacles at State and church levels along their journey but today is a very significant day for them in their campaign and it will give them great strength to see this campaign through until restorative justice is achieved in the case of the Magdalene survivors.



Michael Kennedy (Dublin North, Fianna Fail)

It is my privilege and that of Deputies Tom Kitt and Kathleen Lynch to work on an *ad hoc* committee in the Houses in trying to assist the Justice for Magdalenes group. Like Deputy Kitt, I want to welcome Dr. James Smith and his colleague, Dr. Katherine O'Donnell. I commend them on the fantastic work they have done to date against great obstacles.

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Deputy Tom Kitt referred to the recommendations of the Irish Human Rights Commission report, the launch of which we had the privilege of attending today. Redress is one matter but a State apology is a very simple issue. Women have been referred to these laundries going back to the foundation of the State and right up to 1996. One might excuse the dark ages of the 1920s, 1930s and 1940s but 1996 is just 14 years ago and these laundries were still in operation. We need a State apology. We need to say the simple word "I'm sorry" to these women. Many of them are very old, and nearing death in some cases. If they heard a State apology simply saying the State was sorry for incarcerating them, many of these women would die happy.

It is not too much to ask the State to say "I'm sorry" for referring to these women as penitents and as sinners. Ordinary human beings like the rest of us had the stigma that they were sinners or penitents attached to them. It is not too much to ask that their birth names would be recorded. Many of them were given religious names when they went into these institutions, their children were taken away from them for adoption and their birth records have not been handed over to their siblings or their children. I see no reason we cannot, as an institution of the State, say "I'm sorry" for not doing that.

I believe the State owes an apology to these women for refusing them their freedom, for not protecting their constitutional rights and for not giving them a proper education. The State has to be culpable for referring these ladies to laundries directly from our courts. When one considers how particular we are today about rules and regulations in working institutions, these ladies had no working wage, no maximum hours of work and no holiday time, and there were no inspections, regulations or safe working conditions in any of these institutions. That was the responsibility of the State.

The State should immediately say "I'm sorry" to these ladies. It should remove the words "penitent" and "sinner" from burial stones. We should have the common decency to erect memorial stones throughout the country at the location of these institutions. We should have the responsibility of examining the legislation with regard to why there was no record showing these ladies were cremated and buried in a mass grave at High Park in Drumcondra. We feel very strongly on this issue. I urge the Government to establish the redress scheme and make the apology.



Kathleen Lynch (Cork North Central, Labour)

If I were voiceless, I could ask for no better champion than Dr. James Smith, who is in the Visitors Gallery tonight. None of the three Deputies involved is saying this just because he is present, and we have said it in private to those who would listen. He is a man who took on a story that has shamed us as a nation. If anything cries to the heaven for revenge and to be put right, this story does so. Yet, these people do not ask for revenge, nor does he. They simply ask that the terrible wrong done to them be recognised and that the State stand up and say "We were wrong and we are sorry for what you have suffered". I do not make the distinction between those who were put in as a direct responsibility of the State and those who were put in by society in all its forms, whether it was the busybody on the street, the social worker, the local priest or otherwise.

Over the weekend, I heard a news story about a kidnapped woman whose husband worked for a major financial institution. It must be the most awful thing to happen. All of the agencies of the State rose up to find that woman and to bring her safely back to her family. All I could think of was why the agencies of the State which were charged with the responsibility in regard to these women did not go into these institutions and ask "Are you here of your own

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free will? How long are you supposed to be here for? Would you like to leave?â€œ None of us did that. Even for those who were put in by their families or by society, when they managed to escape - and it was â€œescapeâ€œ - they were captured by the police and returned.

Those were awful times, although not that long ago. The State is as culpable as the institutions in which these women were held because the State allowed this to continue. We are not seeking revenge, nor are these women or their children. What they are seeking is a recognition of who they were and what their lives were. They do not have that because there is a blanket refusal to release records, which needs to happen.

I know that within these institutions there were many fine people. This cannot go on another generation; it must be dealt with. As long as it is not dealt with, it will continue. We may not be here but someone else will be. I ask the Minister of State to go back to Cabinet and tell those who sit around that table that this can go on no longer. We have dealt with one awful period of our history and this is another part of our history that we need to address. We can either deal with it now or in the future but, one way or the other, we will have to deal with it. On behalf of the State, I ask the Minister of State to stand up and say: â€œWe are sorry, it should not have happened and we should not have allowed it to continueâ€œ.



Martin Mansergh (Minister of State with special responsibility for the Arts, Department of Arts, Sport and Tourism; Minister of State with special responsibility for the Office of Public Works, Department of Finance; Tipperary South, Fianna Fail)

I thank Deputies Michael Kennedy, Tom Kitt and Kathleen Lynch for raising this issue.

I am speaking on behalf of the Minister for Justice and Law Reform, Deputy Dermot Ahern, who I am sure will take careful note of the forceful views that have been expressed on all sides of the House.

I have great sympathy for those who ended up in Magdalen laundries. We are dealing with a very sad and shameful chapter in our social history. The laundries existed in an era when Irish society could be harsh and hostile to the less fortunate and those who did not comply with what was perceived as respectable. Life in an institution can be a poor substitute for the emotional and other support normally found in a family setting. Officials of the Department of Justice and Law Reform have met individuals who were in such institutions as well as representative groups such as Justice for Magdalenes. There is no question about their integrity or commitment. Any records available to the Department have been shared with the groups concerned and officials will continue to provide all assistance possible to the individuals and interest groups seeking available records. That was made abundantly clear in the meeting with Justice for Magdalenes.

Turning now to the specific issue at hand, section 9 of the Human Rights Commission Act 2000 provides a statutory mechanism whereby the Human Rights Commission may conduct an inquiry into any relevant matter. I understand that in June 2010 Justice for Magdalenes formally requested the commission to carry out such an inquiry into the treatment of women and girls who resided in Magdalen laundries. The commission has today published its assessment of that request and has decided that it will not carry out the requested inquiry. That is a decision for the commission and I do not propose to make any comment on that aspect of the assessment report.

The report is an assessment of the human rights issues arising in regard to the Magdalen laundries. It touches on areas that fall within the remit of a number of Departments, including the Departments of Justice and Law Reform, Environment, Heritage and Local Government,

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Health and Children, Enterprise, Trade and Innovation, Education and Skills and Health and Children. To the best of my knowledge, the Human Rights Commission did not seek information or observations from these Departments on the issues that were being assessed. Similarly there is no indication that information or observations were sought from the religious congregations and other groups which ran the Magdalen laundries and mother and baby homes and the reputations of which are at issue.

The report includes 12 conclusions, many of which are not definitive and use language such as "questions arise" or "may have breached its obligations". Nevertheless, it is surprising that a body such as the Human Rights Commission apparently did not think it appropriate to provide an opportunity for other perspectives to be taken into account before it published its conclusions on the issues. Such consultation would have allowed the commission to provide a much more comprehensive overview and could have informed its conclusions.

In this context, it must be pointed out that the Human Rights Commission did not make a definite finding that there were human rights violations. The report discusses allegations and the possibility that there were human rights violations.



Kathleen Lynch (Cork North Central, Labour)

The Minister of State's script was obviously written by officials in the Department of Justice and Law Reform.

9:00 am



Martin Mansergh (Minister of State with special responsibility for the Arts, Department of Arts, Sport and Tourism; Minister of State with special responsibility for the Office of Public Works, Department of Finance; Tipperary South, Fianna Fail)

In this House, we have to respect the rights of those who have suffered abuse but there also has to be some regard to the constitutional rights of those accused of wrongdoing. The Human Rights Commission has decided that it should not carry out a statutory inquiry but has recommended that a statutory mechanism be established to investigate the matters advanced by Justice for Magdalenes and in appropriate cases to grant redress where warranted. It advises that such a mechanism should first examine the State's involvement in and responsibility for those entering laundries, their conditions, their departure and end of life issues. In the event of State involvement or responsibility being established a larger review should be conducted and redress should be considered.

The details of the report will be considered by the relevant Departments and the Office of the Attorney General. I fully appreciate the wish of Deputies in this House to raise the report. However, it was only published this morning and it behoves all of us to give careful and detailed consideration to what it says before giving a detailed response. For clarity it may be helpful to touch on some of the issues that will have to be considered. Besides the provision in the Human Rights Commission Act 2000 for a statutory inquiry, the other statutory mechanism for inquiries include the Tribunals of Inquiry (Evidence) Acts 1921 to 2004 and the Commission of Investigation Act 2004.

At first reading the subject matter of an inquiry as proposed by the Human Rights Commission seems to encompass both Magdalen laundries and mother and baby homes. No time limit is set. We are dealing with what happened to a large number of people over an extended period of time starting in the 1920s, although the exact figure is unclear. These were privately run

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institutions and, as the Human Rights Commission concludes, the available public records are poor and incomplete. The challenges facing any statutory inquiry, whether a tribunal of inquiry or a commission of investigation, should therefore not be underestimated.

We are all familiar with the excellent work done by the Commission to Inquire into Child Abuse. That was an inquiry primarily into industrial schools which were provided for by statute and funded by the Exchequer. The inquiry alone cost over €120 million and if the cost of redress is included the total cost amounted to €1.36 billion. In the current economic climate, the Government will have to take into account the practical difficulties, including the level and degree of practical co-operation that would be given by interested parties, that any potential inquiry might face, as well as resource implications. We must learn from the lessons of other investigations, and not least be mindful of the age profile of the group we are all concerned to assist in the best way possible.

I will also clarify the extent of the criminal justice system involvement in Magdalen laundries, which was frequently aimed at not giving such women a criminal record. Under the Probation of Offenders Act 1907, where a court of summary jurisdiction thinks a criminal charge is proved against the accused the court may, without recording a conviction, discharge the person conditionally on his or her entering into recognizance to be of good behaviour and to appear for conviction and sentence at any time during such period not exceeding three years as may be specified in the order; or where a person has been convicted on indictment, a court may release the offender on probation conditionally on his or her entering into recognizance to be of good behaviour and to appear for sentence at any time during such period not exceeding three years as may be specified in the order. Courts did impose conditions in some probation orders that the accused female should reside in the Henrietta Street home or a Magdalen laundry for a specified period. This mechanism was used both for relatively minor cases tried in the District Court as well as in serious cases.

It is important to note that the courts did not have any power under the Probation of Offenders Act to order a female to be detained in a home or laundry as an alternative to prison. The person was not detained in custody but if the convicted female did not abide by any of the conditions of the probation order, including residing in the Home, the recognizance could be forfeit and she was liable to be brought before the court again for sentencing. Probation orders are of a specific and limited duration of no more than three years and are of no effect once they expire. There are no central records that would show the number of probation orders requiring a female to reside in particular homes.

A preliminary examination of the records of the High Court sitting as the Central Criminal Court in the period from 1945 to 1950 indicate that a number of women charged with murder pleaded guilty to manslaughter or concealment of birth. The sentence they received was either imprisonment suspended on condition that the convicted person enter into a recognizance, be bound to the peace and enter an institution, most commonly but not always a Magdalen laundry, for a specific period; or enter into a recognizance, be bound to the peace and enter an institution for a specific period with the possibility that she might be called to have a sentence imposed within that specified period.

One year's residence in an institution was the most common period imposed. In only one case, in which a five-year period was imposed, did it exceed two years. The accused had legal representation in all of the cases. In one or two cases, a named probation officer was designated to escort the convicted person to the institution. The numbers involved seemed to have been one or two a year.

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The courts have the power to remand a person charged with criminal offences in custody pending trial and sentencing. In these cases, the periods of remand were normally quite short and would rarely exceed seven days. The Department of Justice and Law Reform is responsible for providing places for people remanded in custody. In October 1960, the then Minister for Justice approved two institutions in Dublin - St. Mary Magdalen's Asylum in Seán MacDermott Street and Our Lady's Home in Henrietta Street - for use as a remand institution for females between the ages of 16 and 21, pursuant to the Criminal Justice Act 1960. Arrangements were made to ensure those remanded had the same rights and privileges provided for remand prisoners in the 1947 Prison Rules Part III, and would be visited from time to time by a probation officer and the superintendent of prisons.

All the evidence available suggests that the number of women who entered Magdalen laundries through the criminal justice system was small. It is worth noting that no complaints have been received from any of these women. I have listened on behalf of the Minister to the strongly held views that have been expressed by each of the three Deputies. I am sure their views represent the feelings of most Members of the House and most people outside it. As I said, the Government will consider carefully the points made by the Human Rights Commission in today's report.



Tom Kitt (Dublin South, Fianna Fail)

I would like to make a final point.



Brendan Howlin (Wexford, Labour)

I am afraid that is not possible, as the Deputy well knows.



Tom Kitt (Dublin South, Fianna Fail)

The Minister of State said "there is no indication that information or observations were sought from the religious congregations and other groups". As I said in my contribution, representatives of Justice for Magdalenes have been trying to meet officials from CORI and the four congregations. I ask the Minister of State to make sure that happens.



Brendan Howlin (Wexford, Labour)

I am sure the Deputy can pursue that directly with the Minister of State.

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