

# Justice for Magdalenes

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## JUSTICE FOR MAGDALENES (JFM)

## IRELAND

**Submission to the UN Committee against Torture regarding its**

**Follow-Up to Ireland's most recent State Party Report**

**and**

**List of Issues for Ireland's next State Party Report**

**7<sup>th</sup> March 2013**

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## Introduction

Justice for Magdalenes (JFM) warmly welcomed the Irish government's state apology to Magdalene Laundry survivors on 19<sup>th</sup> February 2013. In particular, JFM welcomed the government's acceptance of State involvement in the Magdalene Laundries in all of the five areas investigated by the Inter-Departmental Committee, as well as the inclusion of all surviving women in the apology and ensuing compensation and reparation scheme.

The Taoiseach's (Prime Minister) full speech is available here <http://www.merrionstreet.ie/index.php/2013/02/taoiseach-enda-kennys-statement-on-magdalene-report/?cat=11> and the Tánaiste's (Deputy Prime Minister) speech is available here <http://www.merrionstreet.ie/index.php/2013/02/tanaistes-statement-on-the-magdalene-laundries-report/?cat=11>.

In addition to apologising, the government announced on 19<sup>th</sup> February 2013 that the President of the Irish Law Reform Commission, Mr. Justice John Quirke, would be charged with investigating and reporting back to government with recommendations **within three months** as to the "establishment of an ex gratia Scheme (to operate on a non-adversarial basis)" for survivors of the Magdalene Laundries.

The government also made available on the Department of Justice website a form for the "registration of preliminary expression of interest in the receipt of benefits from the Magdalen Laundry Fund" by women who spent time in Magdalene Laundries and are still alive. The form can be accessed at <http://justice.ie/en/JELR/Pages/MagdelenFundForm>.

The government's terms of reference for Mr Justice Quirke are set out below. In the section that follows, we (JFM) also set out our initial concerns, queries and recommendations with regard to these terms of reference and the design and implementation of a reparations process.

We are cognisant of the Committee's recent publication of **General Comment No 3** on the implementation of Article 14. We would ask the Committee to monitor the design and implementation of the forthcoming Magdalene Laundries reparations process and to make recommendations to, and engage in dialogue with, the Irish government as it deems appropriate.

## Terms of reference for Mr Justice John Quirke

The government's terms of reference for Mr John Quirke, published on Tuesday 19th February 2013, and available at <http://www.merrionstreet.ie/index.php/2013/02/terms-of-reference-for-mr-justice-quirke/>, are as follows:

Mr Justice Quirke will, taking into account the findings of the "Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalene Laundries", be asked to do the following:

- (i) to advise on the establishment of an ex gratia Scheme (to operate on a non-adversarial basis) including identifying the criteria and factors to be taken into account to facilitate the early establishment and effective conduct of an ex gratia Scheme for the benefit of those women who were admitted to and worked in a Magdalene Laundry and in the Laundry operated in the Training Centre at Stanhope Street, Dublin, taking into account criteria determined to be relevant, including work undertaken and other matters as considered appropriate, to contribute to a healing and reconciliation process;
- (ii) to examine how best to operate (as part of that Scheme) an ex gratia Fund, of a sum sufficient to meet the recommendations of Mr Justice Quirke, the nature and amount of ex gratia payments to be made out of the Fund and on the determination of applications for payment in an effective and timely manner that ensures the monies in the Fund are directed only to the benefit of eligible applicants and not on legal fees and expenses.
- (iii) to examine how the Government might best provide supports (including health services such as medical cards, mental health services and counselling services and other welfare needs) as part of the Scheme for women who require such supports as a result of their experiences in the Laundries.
- (iv) to consider the approach to be taken in circumstances in which a payment has already been made by the Redress Board by way of redress to a former resident of an industrial school, where such payment included a sum specifically due to the direct transfer of that person from an industrial school to a relevant Laundry and their time or part of their time spent in a Laundry or Laundries.
- (v) to examine the effect, if any, of the making of an ex gratia payment to a person who is resident in the UK and how best the making of any such payment should be structured so as not to adversely affect their existing entitlements to benefits and supports.
- (vi) to advise as to what steps or measures are appropriate to ensure that ex gratia payments or supports or assistance provided are dis-regarded for the purposes of determining entitlement of Social Welfare payments and/or income tax liability.
- (vii) to report back to Government within three months with recommendations.

## **JFM's concerns and queries regarding Mr Justice Quirke's terms of reference**

JFM wrote to all TDs (members of parliament) on 27<sup>th</sup> February 2013, in advance of a parliamentary debate on the Report of the Inter-departmental Committee to establish the facts of state involvement into the Magdalene Laundries. JFM cited its preliminary concerns and queries regarding Mr Justice Quirke's terms of reference and the proposed reparations process as follows:

### *1. Three-month process to be undertaken by Mr Justice Quirke:*

- Will Mr Justice Quirke be commissioned to implement the process that he recommends after three months?
- Will the process be on a statutory footing with independent statutory powers?
- Will the process be transparent?
- Will there be an appeals process?
- Will there be independent monitoring of the process?
- Will this process be carried out in a fair, fast, accessible, non-adversarial and transparent manner?
- Will the government make available to survivors and their families free independent advice and advocacy assistance in relation to this scheme?
- Will the government meet with JFM to discuss its Restorative Justice and Reparations Scheme, submitted in October 2011 and requested by Minister Alan Shatter?

### *2. Need for services and supports for survivors:*

- JFM has seen a significant rise in the number of queries to its volunteer-run information service (both phone and email based). As an unfunded, all-volunteer organisation, we are not equipped to adequately serve the needs of this vulnerable population.
- The queries mostly concern the need for support and the registration process.
- JFM has been calling for the establishment of a helpline and a dedicated unit in the Department of Justice since last September, but to no avail.
- Survivors need a point of contact so they can be referred to appropriate services.

### *3. Institutionalised survivors*

- What measures are being put in place to help this particularly vulnerable group of women to engage with the registration and reparations process?
- Will a guardian ad litem or independent advocate be provided for those who need one?

- What plans are in place to ensure permanent advocacy for these survivors in their places of residence?

#### *4. Family members*

- Will the Department of Justice put in place measures to assist family members of deceased Magdalene women in engaging with the process?
- What steps are being taken to ensure that sons and daughters of Magdalene survivors, other relatives and also victims who were adopted, have access to their records and their relative's records?

#### *5. Deceased women*

- What steps are being taken to ensure that Magdalene grave records are accurate and up to date?
- What steps are being taken to ensure that there is access to Magdalene graves?
- What steps are being taken to ensure the upkeep of Magdalene graves?

#### *6. Women outside Ireland*

- Are there mechanisms in place to reach out to women who have emigrated to the UK, US, Canada and elsewhere?

#### *7. Impact on benefits*

- Will redress/reparations have an effect on current benefits received by Magdalene survivors?
- What measures are being put in place to ensure they are not penalised?
- Will the process ensure that the making of an ex gratia payment to a person who is resident outside of Ireland and the UK is structured so as not to adversely affect their existing entitlements to benefits and supports?

#### *8. Access to the McAleese Report*

- Will the Department of Justice ensure that copies of the McAleese Report are provided to survivors with no internet access, including survivors who provided testimony to the Inter-departmental Committee but are yet to receive the Report?

## **Conclusion**

As an independent, voluntary advocacy organisation that seeks to open the door to justice for all Magdalene Laundry survivors, JFM believes that the Committee's expert input is necessary to ensure that the forthcoming reparations process is independent, open, transparent, accessible and fair. Crucially, this process must provide justice to the women, by responding to the full extent of the human rights violations that they suffered.

JFM acknowledges and welcomes the government's apology on 19<sup>th</sup> February 2013 and its appointment of Mr Justice John Quirke. Nonetheless, JFM remains concerned that the women's rights to reparation and redress have not yet been vindicated by the government. The government has not yet complied with the Committee's June 2011 Recommendation to "ensure that all victims obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible."

JFM has written to the Minister for Justice, Mr Alan Shatter, TD, and Mr Justice John Quirke to ask for meetings to discuss our queries and concerns, to represent the wishes and feelings of the many women and families who are in contact with us, and to engage constructively in the design of this process.

JFM submitted its Restorative Justice and Reparations Proposals to the Minister for Justice in October 2011, at his request, but we have never received a response to that submission. Our proposed scheme was designed in consultation with women in the UK, Ireland and the US and with advocates and service providers in the UK. It was appended to our Follow Up Submission to the Committee in May 2012.

JFM looks forward to the Committee's engagement with the government on this issue and we are available to assist the Committee in providing any further information that may be required.