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**JUSTICE FOR MAGDALENES RESEARCH**

**NGO Submission to the  
UN Committee on the Elimination of Discrimination  
Against Women in respect of**

**IRELAND**

**(for the 66<sup>th</sup> session)**

**February 2017**

*Justice for Magdalenes Research (JFM Research) was formed by co-ordinating and advisory committee members of the Justice for Magdalenes survivor advocacy group following Ireland's State apology to women who were incarcerated and forced into unpaid labour in Magdalene Laundries. We engage in archival and educational work, with the aim of recording and raising public awareness of the experiences of women held in Magdalene Laundries. The members of JFM Research also continue to assist survivors of Magdalene Laundries in our personal capacities.*

### **Suggested Questions for the Irish government:**

1. Considering the available evidence of systematic torture or ill-treatment, arbitrary detention and servitude or forced labour of girls and women in the Magdalene Laundries and the gaps in publicly available information regarding the identities and/or burial places of those who died in Magdalene Laundries, will the Irish government confirm what steps it proposes to take and in what timeframe to ensure a prompt, independent and thorough investigation into the Magdalene Laundries abuse?
2. Can the Irish government confirm that the Magdalene restorative justice scheme will provide Magdalene survivors with the same range of drugs, medicines, appliances; dental, ophthalmic and aural services; counselling and psychotherapy for family members; and complementary therapies that are available to HAA cardholders?
3. Can the Irish government confirm what steps it will take and in what timeframe to provide equivalent health and community care services under the Magdalene restorative justice scheme to women residing abroad?
4. Can the Irish government confirm what steps it will take and in what timeframe to ensure that women with capacity issues are enabled to benefit from the Magdalene restorative justice scheme?
5. Can the Irish government confirm the timeframe within which all elements of the recommended “Dedicated Unit”, which is an integral element of the Magdalene restorative justice scheme, will be implemented?
6. Can the Irish government confirm what steps it intends to take and in what timeframe to ensure that personal advocacy services are provided to all Magdalene survivors who require them?

## 1 Summary

1.1 Paragraph 5 of the Committee’s List of issues prior to reporting (LOIPR)<sup>i</sup> addresses Ireland’s Magdalene Laundries abuse. The Committee asks Ireland about the following:

- (1) Whether the State will establish an *independent, effective investigation* into the full extent of human rights violations in the Magdalene Laundries, including deprivation of liberty and forced, unpaid labour;
- (2) Whether the State has taken measures to ensure the *prosecution and punishment* of perpetrators of abuse in the Magdalene Laundries; and
- (3) The status of various elements of the *Magdalene “ex gratia” scheme*, including:
  - a. the scheme’s treatment of women who live abroad;
  - b. the provision of health and community care under the scheme;
  - c. the women’s need for adaptation services;
  - d. the experiences of women who have been deemed to lack sufficient capacity to apply to the scheme; and
  - e. the establishment of the promised Dedicated Unit under the scheme.

1.2 In asking these detailed questions, the Committee is adding to previous expressions of concern regarding the Magdalene Laundries by three other United Nations treaty bodies and the Irish Human Rights and Equality Commission.<sup>ii</sup>

1.3 This report by JFM Research (JFMR) replies to the Committee’s questions and to the State’s response (in its combined sixth and seventh periodic reports) to the Committee’s questions. In this report, JFMR makes four main submissions:

- (1) The State has clear reason to believe that gross and systematic human rights violations, with a sex-discriminatory purpose, occurred in Ireland’s Magdalene Laundries and require independent and effective investigation;
- (2) The State has taken insufficient steps to investigate or ensure accountability for the Magdalene Laundries abuse;
- (3) The Magdalene “ex gratia” scheme has not been implemented as promised by the State; and
- (4) The State is failing to ensure access to justice and effective redress for the Magdalene Laundries abuse.

## 2 Evidence of gross and systematic human rights violations requiring independent and effective investigation

2.1 Contrary to the State’s claim that it knows of “no factual evidence” requiring an independent, statutory investigation into the Magdalene Laundries,<sup>iii</sup> two government-appointed bodies have provided clear evidence of gross and systematic human rights violations in the Magdalene Laundries. The State has accepted the contents of the Reports of both the *Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* and the *Magdalen Commission (Report of Mr Justice John Quirke)*, although it refuses to accept their full consequences. The

evidence contained in these two government-commissioned reports is summarised as follows.

### ***Testimony recounted by the IDC***

2.2 Chapter 19 of the Inter-departmental Committee's (IDC) Report is entitled "Living and Working Conditions". Although the IDC had no remit to investigate or make determinations about allegations of abuse,<sup>iv</sup> 118 Magdalene survivors (including 58 women still institutionalised, living in the care of the nuns<sup>v</sup>), and other witnesses to the Magdalene Laundries' operations, gave oral testimony to the IDC. Rather than making findings regarding treatment, the IDC Report often refers indirectly to the women's experiences by conveying their reactions to certain aspects of their treatment. The Report nonetheless provides clear evidence that in many cases:

- (a) Girls and women were ***involuntarily detained in Magdalene Laundries and not free to leave***. Chapter 19 states that "a large number of the women spoke of a very real fear that they would remain in the Magdalen Laundry for the rest of their lives" and the Chapter quotes the evidence of women who believed that they would die in the Magdalene Laundries.<sup>vi</sup> Chapter 19 also contains evidence of women being "reclaimed by members of their families"<sup>vii</sup> and women making plans to try to escape the institutions.<sup>viii</sup> Chapter 19 summarises evidence from several of the religious congregations explaining why they locked doors and gates of the Magdalene Laundries<sup>ix</sup> and cites the testimony of a former novice in a Magdalene Laundry that "both the external and internal doors of the Laundry were locked."<sup>x</sup>
- (b) Girls and women were ***given no information regarding the reason(s) for their detention or their expected release date***. Chapter 19 states that a "very common grievance of the women... was that there was a complete lack of information about why they were there and when they would get out".<sup>xi</sup> Chapter 19 notes that "release was also a source of distress" for a number of women because it was sudden and unexpected.<sup>xii</sup> Chapter 19 states that because of this lack of information, even having been released, "many... were fearful that, for some unknown reason, they might be brought back there again. Some of the women told the Committee that they felt free of this fear only after they left Ireland to live abroad."<sup>xiii</sup>
- (c) Girls and women were ***stripped of their identities***. The IDC Report acknowledges "the practice, in some Magdalen Laundries, of giving "House" or "Class" names to girls and women on entry in place of their given names"<sup>xiv</sup> and acknowledges that "[m]any of the women ... found this practice deeply upsetting and at the time, felt as though their identity was being erased".<sup>xv</sup> Chapter 19 also reports the forced cutting of long hair, which many women found humiliating and degrading.<sup>xvi</sup> The IDC report refers to the fact that women and girls were forced to wear uniforms for many decades of the Laundries' existence.<sup>xvii</sup> Chapter 19 also contains several women's evidence of being forbidden to speak.<sup>xviii</sup>

- (d) Girls and women were ***forced to work constantly***. Chapter 19 contains women’s evidence of being forced constantly to carry out “heavy and difficult” work at commercial laundering, sewing and making handcrafts, including rosary beads and clothing.<sup>xix</sup> Chapter 19 cites women’s complaints of being tired, “soaking wet” and too small to operate laundry machinery safely.<sup>xx</sup> The chapter also cites the religious congregations’ evidence of the daily routine of work and prayer.<sup>xxi</sup>
- (e) Girls and women were ***not paid wages for the work they were forced to carry out***. Chapter 20 states that “[w]ages were not paid either to the girls or women who worked in the Laundries or to the members of the Religious Congregations who also worked there.”<sup>xxii</sup> The Chapter also notes that the Conditions of Employment Act, 1936, exempted the religious congregations from the legislative requirement to pay wages to the girls and women working and living in Magdalene Laundries.<sup>xxiii</sup> Chapter 15 strongly suggests, further, that social insurance contributions were not paid on behalf of girls and women working and living in Magdalene Laundries.<sup>xxiv</sup>
- (f) Girls and women were ***denied contact with the outside world and isolated from the rest of society***. Not only were girls and women involuntarily detained but they were also forbidden from communicating with the outside world other than under strict surveillance.<sup>xxv</sup> Chapter 19 states that women “told the Committee that all letters which they sent or received were read by the Sisters” and that they could not complain about their treatment in their letters out.<sup>xxvi</sup> Chapter 19 also states that visits, if permitted, were generally supervised.<sup>xxvii</sup>
- (g) Girls and women were ***subjected to degrading and humiliating punishments***. Chapter 19 cites evidence of some women being shaken, poked or ‘dug’ at with implements, rapped on the knuckles, slapped or punched,<sup>xxviii</sup> forced to kneel for several hours, put in ‘isolation’, confined in a padded cell or forced to lie and kiss the floor, having soiled bedsheets pinned to one’s back,<sup>xxix</sup> or having one’s hair cut.<sup>xxx</sup> The Chapter also includes some of the religious congregations’ evidence regarding punishments, including prolonged standing and kneeling, and transfer between institutions.<sup>xxxi</sup>
- (h) Girls and women were ***subjected to routine verbal denigration and humiliation***. Chapter 19 states that the “overwhelming majority of the women who spoke to the Committee described verbal abuse and being the victim of unkind or hurtful taunting and belittling comments”.<sup>xxxii</sup>
- (i) Girls and women who died while confined in Magdalene Laundries were sometimes ***buried in unmarked graves*** and sometimes their ***deaths were not registered***. In many cases where graves are marked, there are significant inaccuracies and many names are missing from headstones.<sup>xxxiii</sup> Chapter 16 of the IDC Report acknowledges that in 1993 (only 17 years after a burial plot at High Park ceased to be used as such), one of the religious congregations received permission from the State to exhume and cremate 155 bodies of Magdalene

women, 80 of whom were unidentified. Chapter 16 further notes that no death certificates were located for 15% of women known to have died in all Magdalene Laundries, up to the 1990s.<sup>xxxiv</sup>

2.3 The Irish Human Rights Commission conducted a provisional human rights analysis of the IDC Report's contents "[i]n the absence of a more thorough investigation, as recommended by the IHRC and the United Nations Committee Against Torture".<sup>xxxv</sup> The IHRC's Follow Up Report on State Involvement with the Magdalen Laundries concluded, *inter alia*, that:

- (a) "Magdalen Laundries clearly operated as a **discriminatory regime** in respect of girls and women in the state. The State itself had knowledge of the regime and actively engaged with it, indeed financially benefitting from it in some cases. Society at large accepted the regime, and also supported it by placing sisters, daughters and mothers behind the walls of the Laundries.... **the State appears to have taken no cognisance of the women's right to equality** when it engaged with, and permitted the Laundries to operate",<sup>xxxvi</sup>
- (b) "[W]omen were **deprived of their liberty** while in the Laundries. The **lawfulness of such detention is questionable** in a number of respects",<sup>xxxvii</sup>
- (c) "The placement of children in Magdalen Laundries, either by the State or others, may have given rise to a **breach of the right to education** under the Constitution and the right of access to education under the ECHR",<sup>xxxviii</sup>
- (d) "The **State's culpability in regard to forced or compulsory labour and/or servitude appears to be threefold**... it failed to outlaw and police against such practices...the State or its agents placed girls and women in the Laundries knowing that such girls and women would be obliged to provide their labour in those institutions... the State further supported these practices by benefitting from commercial contracts with the laundries",<sup>xxxix</sup>
- (e) "from the testimonies of survivors it appears that a certain level of **ill-treatment occurred**",<sup>xl</sup> and
- (f) inadequate recording of the identities and burial sites of deceased Magdalene women "could potentially have impacted on the **Article 8 [ECHR] rights of living relatives** of the deceased women to information about their origins".<sup>xli</sup>

#### **Magdalen Commission report / Report of Mr Justice John Quirke**

2.4 In the Magdalen Commission Report, Mr Justice John Quirke (President of the Irish Law Reform Commission and former High Court judge) states that he spoke personally with 173 Magdalene survivors in the course of devising his recommendations for an "ex gratia Scheme" and that "[a]lthough their recollections often provoked emotion, they were entirely credible".<sup>xliii</sup> Mr Justice Quirke's report acknowledges that **forced unpaid labour, involuntary detention, degradation** and

*denial of education* were systemic features of the Magdalene Laundries. His report states, *inter alia*:

- (a) “All of the women who worked within the designated laundries worked without pay, some for very long periods of time”,<sup>xliii</sup>
- (b) “A very large number of the women described the traumatic, ongoing effects which incarceration within the laundries has had upon their security, their confidence and their self-esteem. Many described the lasting effects of traumatic incidents such as escape from the laundries and subsequent recapture and return”,<sup>xliv</sup>
- (c) “The consultation process conducted by the Commission suggested that a large number of young girls and women who were admitted to the Magdalen laundries were degraded, humiliated, stigmatised and exploited (sometimes in a calculated manner)”,<sup>xlv</sup> and
- (d) “A number of the women were deprived of an education when they were admitted to the laundries at an early age and provided with no further education... A very large number of the women received inadequate educational assistance within the laundries at a time within their lives when education was of considerable importance.”<sup>xlvi</sup>

### ***State apology***

2.5 Following publication of the IDC Report (which demonstrated widespread State involvement in the Laundries, including by direct placement of girls and women, through contracts for laundry services and the funding of Laundries as places of care and detention, and by regulating the institutions as factory premises but no further), the Taoiseach (Prime Minister) and Tánaiste (Deputy Prime Minister) apologised to Magdalene survivors on behalf of the State, on 19 February 2013.

2.6 During their speeches on 19 February 2013, the Taoiseach and Tánaiste acknowledged various forms of systematic abuse of girls and women in Magdalene Laundries:

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

*...Nowhere in any of this did the word or concept of citizenship, personal rights and personal freedoms appear, and all the while the high, windowless walls of the laundries stood alongside busy main streets, part of the local economy.*

*What happened to the thousands of women who walked through those doors, down the decades, happened in plain sight, but there is nothing so*

*blind as the blindness imposed by a dominant ideology and a subservient State, a blindness that can subvert what our human intuition knows to be right and wrong, that saw tens of thousands of small children locked up in industrial schools, that often punished the abused rather than the perpetrator, that would banish a young woman from her community for the so-called crime of getting pregnant, that did not question a long absence by a sister, niece or aunt and that did not trouble itself about an industry built on unpaid, involuntary labour.*

*The most reliable litmus test of freedom, and of the separation of church and state, is how that state treats its female citizens. By this standard, Ireland was, until recent decades, a virtual theocracy. It was a country where women were cast out for having sex outside of marriage, where they were denied contraception, denied work if they were married and, as we have seen, committed to an institution, sometimes for little more than being an inconvenience.*

*This was an Ireland where justice and morality were conflated so that there was much in the way of morality but little in the way of justice, and justice was not done for these women.*<sup>xlvi</sup>

### **3 Lack of effective investigations or accountability**

- 3.1 JFMR agrees with the Irish Human Rights and Equality Commission's position (as stated in its report to the Committee for the LOIPR) that ***the IDC was not an independent, thorough and effective investigation*** into human rights violations in the Magdalene Laundries. Although the IDC conducted important preliminary investigatory work, its limitations included (a) its narrow remit, which was confined to establishing the facts of State involvement with the Magdalene Laundries and did not extend to investigating allegations of abuse; (b) its lack of powers to make findings and recommendations in relation to human rights violations; (c) its lack of public hearings or public access to the evidence it considered; (d) its lack of a public call for evidence; (e) its membership, which was drawn from the government departments involved in the Magdalene Laundries' operation; (f) its decision to destroy all copies of evidence it received from the religious congregations responsible for running the Magdalene Laundries; and (g) the ongoing lack of public access to the archive of State papers which informed the Committee's report or the archives of the relevant religious congregations.
- 3.2 JFMR knows of several Magdalene survivors who have made complaints to An Garda Síochána (the Irish police force) regarding their treatment in Magdalene Laundries. Despite these complaints and the evidence summarised above, no action has been taken to hold perpetrators of abuse (including the State itself) accountable.

- 3.3 The State’s redress scheme for Magdalene survivors is strictly “ex gratia”, meaning that it is offered as a gift, and not as of right arising from acknowledged wrongdoing.<sup>xlix</sup> In addition (as explained below), the scheme has not been fully implemented as promised. The ***State has evaded accountability*** for human rights violations in the Magdalene Laundries by refusing to establish an independent, thorough and effective investigation and by conditioning the Magdalene “ex gratia” Scheme payments and supports on the signing of a legal waiver granting the State ***immunity from suit***. The Terms of the ex gratia Scheme (attached as an Appendix to JFM Research’s submission to the Committee for the LOIPR) require applicants to ‘waive any right of action against the State or any public or statutory body or agency arising out of my admission to and work in’ a relevant institution.
- 3.4 The State has ***failed to hold the religious congregations or any individual perpetrators accountable for human rights violations*** in the Magdalene Laundries. The State has failed to establish independent and effective investigations into human rights violations in the institutions, and it has ***destroyed all copies of the evidence it received from the religious congregations*** through the IDC.
- 3.5 The State has also repeatedly stated (including in its Report to the Committee) that it knows of ***“no factual evidence to support allegations of systematic torture or ill-treatment of a criminal nature”*** in Magdalene Laundries. This is an unequivocal statement that the Irish State does not consider what is known about the Magdalene Laundries system – that it routinely incarcerated girls and women and forced them to work unpaid for months, years and even decades in humiliating and degrading conditions – to have amounted to criminal behaviour. In light of this statement, it is unsurprising that there have been no prosecutions. This is a highly troubling position for the State to adopt, not only because it is an obstacle to Magdalene survivors’ access to justice but also from an educational and preventive point of view. JFMR suggests that the common law crimes of false imprisonment, assault and/or battery outlawed much of the treatment experienced by girls and women in Magdalene Laundries. Furthermore, to the extent that the Magdalene Laundries regime was allowed to operate as it did, this was in gross violation of the Irish Constitution, the European Convention on Human Rights and numerous international human rights treaties to which Ireland was – and is – a party.

#### **4 Magdalene “ex gratia” scheme**

- 4.1 Although the State’s report to the Committee fails to acknowledge this, ***the State has not fully implemented the recommendations of Mr Justice John Quirke*** for a redress scheme, despite the government agreeing in June 2013 on the Parliamentary record to accept all of Mr Justice Quirke’s recommendations “in full”.<sup>1</sup>

##### ***Health and community care***

- 4.2 JFMR repeats the claim set out in detail in JFMR’s report to the Committee for the LOIPR that the medical card provided to Magdalene survivors in Ireland under the

*Redress for Women Resident in Certain Institutions Act 2015* does not provide the full range of health and community care services which Mr Justice Quirke recommended.

- 4.3 JFMR wrote to the National Director of Primary Care at the Health Service Executive on 25 February 2016 to ask for clarification regarding all ways in which the women's entitlements under the RWRCI card differ from those already available under the standard medical card, as many women in contact with JFMR – and indeed JFMR – are still struggling to understand this fully. JFMR asked for a written response so that the information can be easily disseminated to survivors and also for a meeting with the National Director. JFMR received an acknowledgement letter from the National Director's office on 15 March 2016 but has received no subsequent, substantive, response to date.
- 4.4 In 2015, the Minister for Justice promised to establish a fund, separate to the RWRCI card, to provide access to complementary therapies under the "ex gratia" scheme (the HAA card, the equivalent of which Judge Quirke recommended, includes access to massage, reflexology, acupuncture, aromatherapy and hydrotherapy). To JFMR's knowledge, this fund has not been established to date.<sup>li</sup>

#### ***Women living abroad***

- 4.5 Magdalene survivors who live abroad have not yet been provided with health and community care services under the "ex gratia" scheme, despite their advanced age and despite having signed away all of their legal rights against the State regarding the Magdalene Laundries under the required waiver.

#### ***Adaptation services***

- 4.6 JFMR does not have quantitative information regarding how the "ex gratia" scheme has responded to Magdalene survivors' needs for home care and home adaptation services. However, JFMR is concerned that, in general, these services are wholly insufficient to meet the need of older women and men in Ireland. A 2016 study by University College Dublin, Age Action, the Irish Association of Social Workers and the Alzheimer Society of Ireland found that the insufficiency of home care services in Ireland "regularly meant that older people did not receive the level of service that their care needs assessment indicated" and that "[a] worrying consequence of this was unnecessary or premature admission to long-term residential care". The report continued, in respect of home care services: "[t]he available scarce resources are spread so thinly now that older people needing support in some areas [of the country] must wait for a person receiving a service to die or move into a nursing home to gain home help or home care package hours".<sup>lii</sup> JFMR is concerned that Magdalene survivors, who in many cases are particularly vulnerable due to the effects of trauma and/or a lack of family support, are at risk of premature or unnecessary institutionalisation in nursing homes as they grow older if they are not provided with sufficient home care and home adaptation services.

### *Particularly vulnerable survivors*

- 4.7 The Assisted Decision-Making (Capacity) Act 2015 has not yet been commenced (apart from the establishment of a working group regarding codes of practice for advance healthcare directives pursuant to SI no 517 of 2016). JFMR is concerned that approximately 40 women, whom the Department of Justice has determined as having capacity issues, seemingly have not been able to benefit from the “ex gratia” scheme.<sup>liii</sup> JFMR believes that these women, and the women who are still living in the custody of the religious congregations who ran the Magdalene Laundries (some of whom do not have family members or others to assist or advocate for them), require access to personal advocacy services.

### *Dedicated Unit*

- 4.8 The State’s report to the Committee suggests that the Dedicated Unit recommended by Mr Justice Quirke has been established. This is not the case. The following aspects of the recommended Dedicated Unit have not been implemented:
- (a) practical and, if necessary professional, assistance to enable those women who wish to do so to meet with those members of the Religious Orders who have similar wishes to meet and interact;
  - (b) similar practical assistance to meet and interact with other Magdalen women;
  - (c) the acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme’s administrator, after consultation with an advisory body or committee, has decided to construct or establish;
  - (d) investigative and other help and assistance in obtaining such sheltered or other housing as they may be entitled to; and
  - (e) investigative and other help and assistance in obtaining such educational assistance as they may be entitled to.<sup>liv</sup>
- 4.9 While the government is failing to implement aspects of the “ex gratia” scheme concerning a memorial, the last Magdalene Laundry building in Ireland with its contents largely intact is currently subject to a planning permission application for demolition by commercial property developers. Recent video footage of the interior of the Donnybrook Magdalene Laundry building<sup>lv</sup> suggests that a large volume of paperwork remains inside, alongside artefacts from its time as a Magdalene Laundry before the Religious Sisters of Charity sold the building in 1992. JFMR has submitted a detailed objection to the planning permission application, including on the basis that no consultation has taken place with Magdalene survivors and family members [**JFMR’s submission is appended to this report**]. A woman formerly incarcerated in Magdalene Laundries has also objected formally. The Archaeological Assessment accompanying the planning permission application cautions that women’s remains may be buried, unmarked, on the site. It further notes the heritage significance of the laundry site, including the building’s internal features and machinery relevant to its past use.

## 5 Access to justice and effective redress

- 5.1 In summary, Irish State is failing to ensure access to justice and effective redress for the Magdalene Laundries abuse as a result of, among other things:
- (a) the State’s provision of limited financial payments and healthcare to Magdalene survivors on a strictly “ex gratia” basis and without reference to their experiences of abuse;
  - (b) the State’s requirement that Magdalene survivors waive any right of action against the State or any public or statutory body or agency arising from their time in a Magdalene Laundry in exchange for “ex gratia” payments;
  - (c) the State’s failure to implement several aspects of the “ex gratia” scheme which it promised upon the scheme’s establishment;
  - (d) the State’s failure to backdate the women’s pension payments under the “ex gratia” scheme to pensionable age;
  - (e) the State’s refusal to acknowledge that human rights violations occurred in Magdalene Laundries;
  - (f) the State’s refusal to accept responsibility for human rights violations in Magdalene Laundries;
  - (g) the State’s repeated public statements that there is no evidence that girls or women were systematically detained unlawfully in Magdalene Laundries;<sup>lvi</sup>
  - (h) the State’s repeated public statements that there is no evidence that girls or women were kept for long periods against their will in Magdalene Laundries;<sup>lvii</sup>
  - (i) the State’s public position that the majority of entrants into Magdalene Laundries were not “confined” there in any legal sense;<sup>lviii</sup>
  - (j) the State’s persistent refusal to acknowledge forced labour of girls and women in Magdalene Laundries as a form of physical abuse or a human rights violation;<sup>lix</sup>
  - (k) the State’s repeated public statements that there is no factual or credible evidence to support allegations of systematic torture or ill-treatment of a criminal nature having occurred in Magdalene Laundries;<sup>lx</sup>
  - (l) the State’s failure to institute an independent, thorough investigation into systematic human rights abuse of girls and women in Magdalene Laundries;
  - (m) the public inaccessibility of State and Church records regarding the Magdalene Laundries;
  - (n) the State’s failure to hold any institutions or individuals to account for human rights abuse of girls and women in Magdalene Laundries;
  - (o) the absence of any official measures to ascertain the identities and whereabouts of the graves of numerous women who died in Magdalene Laundries;
  - (p) the persistence of barriers to accessing justice in the Irish courts for victims of torture or ill-treatment, including the strict application of the Statute of Limitations, which has no exceptions in the interests of justice or the Rule of Law; and the State’s established practice of pursuing litigants for the costs of failed actions, even where they raise important or novel human rights issues; and
  - (q) the State’s failure to review domestic legal structures which do not provide effective protection from torture and ill-treatment, notably the State’s failure to ensure adequate regulation of social care services and its failure to ratify the Optional Protocol to the Convention Against Torture.

## APPENDIX 1: ENDNOTES

<sup>i</sup> Committee on the Elimination of Discrimination Against Women, *List of issues and questions prior to the submission of the combined sixth and seventh periodic reports of Ireland*, UN Doc CEDAW/C/IRL/QPR/6-7, 16 March 2016, para 5, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIRL%2fQPR%2f6-7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIRL%2fQPR%2f6-7&Lang=en)

<sup>ii</sup> In 2011, the Committee Against Torture declared that it was “*gravely concerned*” by Ireland’s failure to protect women and girls involuntarily confined in the Magdalene Laundries. The Committee recommended that the State: (a) *institute prompt, independent and thorough investigations into all complaints of torture and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries*; (b) *in appropriate cases, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences committed*; and (c) *ensure that all victims obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible*.

The Committee Against Torture has queried Ireland’s compliance with its recommendations in its May 2013 letter from the Committee’s Rapporteur for Follow-Up to Ireland and in the Committee’s List of issues prior to Ireland’s submission of its second periodic report under the Convention. Furthermore, the Human Rights Committee and Committee on Economic, Social and Cultural Rights have both condemned Ireland’s failure to comply with the Committee Against Torture’s 2011 recommendations.

See Letter from Felice D. Gaer, Rapporteur for Follow-Up on Concluding Observations, Committee against Torture, to Mr Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva (22 May 2013),

[http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT\\_CAT\\_FUL\\_IRL\\_12936\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_FUL_IRL_12936_E.pdf) ;

United Nations Committee against Torture, List of issues prior to submission of the second periodic report of Ireland, UN Doc CAT/C/IRL/QPR/2 (17 December 2013),

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en) ; United Nations Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Ireland, UN Doc CCPR/C/IRL/CO/4 (19 August 2014), paras 10, 25,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en) ; United Nations Human Rights Committee, Letter from Sarah Cleveland, Special Rapporteur for Follow-up to Concluding Observations, to Her Excellency Ms Patricia O’Brien, Permanent Representative of Ireland to the United Nations Office at Geneva (15 April 2016); United Nations Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland, UN Doc E/C.12/IRL/CO/3 (19 June 2015), para 18,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%20C.12%20IRL%20CO%203&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%20C.12%20IRL%20CO%203&Lang=en) ; United Nations Committee against Torture, List of issues prior to submission of the second

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[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en) ; United Nations Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Ireland, UN Doc CCPR/C/IRL/CO/4 (19 August 2014), paras 10, 25,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en) ; United Nations Human Rights Committee, Letter from Sarah Cleveland, Special Rapporteur for Follow-up to Concluding Observations, to Her Excellency Ms Patricia O’Brien, Permanent Representative of Ireland to the United Nations Office at Geneva (15 April 2016); United Nations Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland, UN Doc E/C.12/IRL/CO/3 (19 June 2015), para 18,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%20C.12%20IRL%20CO%203&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%20C.12%20IRL%20CO%203&Lang=en)

<sup>iii</sup> Ireland, Combined sixth and seventh periodic reports to the United Nations Committee on the Elimination of Discrimination Against Women, UN Doc CEDAW/C/IRL/6-7, para 41

<sup>iv</sup> Letter from Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva to Ms Felice D Gaer, Rapporteur, United Nations Committee against Torture (8 August 2013),

[http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT\\_C\\_IRL\\_CO\\_1\\_Add-2\\_14838\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT_C_IRL_CO_1_Add-2_14838_E.pdf), p 6.

See also the Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries, February 2013, <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013> (“IDC Report”). The Chair’s Introduction to the IDC Report states that, with regard to “the question of the conditions

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experienced by and the treatment of women in the Laundries”... “[t]he Committee does not make findings on this issue.” (Introduction, p VII).

<sup>v</sup> IDC Report, Introduction, para 23.

<sup>vi</sup> IDC Report, Ch 19, paras 52, 130.

<sup>vii</sup> IDC Report, Ch 19, para 57.

<sup>viii</sup> IDC Report, Ch 19, paras 58, 59.

<sup>ix</sup> IDC Report, Ch 19, paras 69-71.

<sup>x</sup> IDC Report, Ch 19, para 112.

<sup>xi</sup> IDC Report, Ch19, para 51.

<sup>xii</sup> IDC Report, Ch 19, paras 55, 130.

<sup>xiii</sup> IDC Report, Ch 19, para 28.

<sup>xiv</sup> IDC Report, Ch19, para 63.

<sup>xv</sup> IDC Report, Introduction, para 15.

<sup>xvi</sup> IDC Report, Ch 19, para 42.

<sup>xvii</sup> IDC Report, Ch18, para 71; Ch 19, paras 16, 48; Ch 3, para 9.

<sup>xviii</sup> IDC Report, Ch 19, para 39.

<sup>xix</sup> IDC Report, Ch 19, paras 35, 39, see also para 131.

<sup>xx</sup> IDC Report, Ch 19, para 39.

<sup>xxi</sup> IDC Report, Ch 19, para 64 – 68. See also extracts from a document entitled ‘Magdalen Home Rules and Horarium’, IDC Report, Ch 19, para 143.

<sup>xxii</sup> IDC Report, Ch20 para 33.

<sup>xxiii</sup> IDC Ch 5, para 150

<sup>xxiv</sup> IDC Report, Ch 15, paras 90 – 107.

<sup>xxv</sup> See extracts from a document entitled ‘Magdalen Home Rules and Horarium’, IDC Report, Ch 19 paras 139 – 142.

<sup>xxvi</sup> IDC Report, Ch 19, paras 44 – 47.

<sup>xxvii</sup> IDC Report, Ch 19, para 48, 49. See also extracts from a document entitled ‘Magdalen Home Rules and Horarium’, Ch 19, paras 139 – 142.

<sup>xxviii</sup> IDC Report, Ch 19, para 35.

<sup>xxix</sup> IDC Report, Ch 19, para 38.

<sup>xxx</sup> IDC Report, Ch 19, para 43.

<sup>xxxi</sup> IDC Report, Ch 19 , paras 72- 78. See also extracts from a document entitled ‘Magdalen Home Rules and Horarium’, Ch 19 para 144

<sup>xxxii</sup> IDC Report, Ch 19, para 37.

<sup>xxxiii</sup> Claire McGettrick and Justice for Magdalenes Research, ‘Death, Institutionalisation & Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues’ (19 February 2015),

[http://www.magdalenaundries.com/JFMR\\_Critique\\_190215.pdf](http://www.magdalenaundries.com/JFMR_Critique_190215.pdf)

<sup>xxxiv</sup> IDC Report, Ch 16, see also Irish Human Rights Commission, *Follow Up Report on State Involvement with Magdalen Laundries*, June 2013 (“IHRC Follow-up Report”), p101, <https://www.ihrec.ie/documents/ihrc-follow-up-report-on-state-involvement-with-magdalen-laundries-june-2013/>

<sup>xxxv</sup> IHRC Follow-up Report, Executive summary, p 4.

<sup>xxxvi</sup> IHRC Follow-up Report, para 76.

<sup>xxxvii</sup> IHRC Follow-up Report, para 171.

<sup>xxxviii</sup> IHRC Follow-up Report, para 185.

<sup>xxxix</sup> IHRC Follow-up Report, para 229.

<sup>xl</sup> IHRC Follow-up Report, para 237.

<sup>xli</sup> IHRC Follow-up Report, para 254.

<sup>lii</sup> Report of Mr Justice John Quirke/ Report of the Magdalen Commission Report on the establishment of an ex gratia Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries, May 2013, (“Magdalen Commission Report”), para 4.09,

<http://www.justice.ie/en/JELR/Pages/PB13000255>

See also 4.05 After detailed discussion the Commission concluded that, in order to discover the present needs and interests of the Magdalen, it was necessary to speak to them personally. The resultant “conversation” between the Commission and the Magdalen women was intended to be both an information gathering process and an opportunity for the Magdalen women to convey directly to the Commission who they were, where they were, what their circumstances were and what could be done to assist them and make their lives more comfortable. It was anecdotal in nature, has not been scientifically validated and was not and does not purport to be scientifically based. The information compiled was processed and collated and was used by the Commission in order to obtain an informal understanding of the needs and interests of the Magdalen women and of particular categories and sub-sets of those women.

<sup>liiii</sup> Magdalen Commission Report, p8.

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- <sup>xliv</sup> Magdalen Commission Report, para 5.13.
- <sup>xlv</sup> Magdalen Commission Report, para 3.03.
- <sup>xlvi</sup> Magdalen Commission Report, para 5.09.
- <sup>xlvii</sup> Remarks of the Taoiseach, Enda Kenny, TD, during the apology on 19 February 2013. See Dáil Éireann, Magdalen Laundries Report: Statements (19 February 2013), <https://www.kildarestreet.com/debates/?id=2013-02-19a.387>; See also <https://www.youtube.com/watch?v=hOQy17ZpoH8>
- <sup>xlviii</sup> Remarks of the Tánaiste, Eamonn Gilmore TD, during the apology, *ibid.*
- <sup>lix</sup> Magdalen Commission Report, para 1.01.
- Mr Justice Quirke’s Terms of Reference requested him to advise, within three months of 19 February 2013, on the establishment and contents of an “ex gratia Scheme (to operate on a non-adversarial basis)”, which would include an “ex gratia Fund” from which “ex gratia payments” would be made, and “supports (including health services such as medical cards, mental health services and counselling services and other welfare needs)... for women who require such supports as a result of their experiences in the Laundries.”
- <sup>1</sup> See Department of Justice, Press Release, 26 June 2013 <http://www.justice.ie/en/JELR/Pages/PR13000256>; Alan Shatter, TD, in response to PQ from Eamonn Maloney, TD, on 27 June 2013 <https://www.kildarestreet.com/debates/?id=2013-06-27a.384&s>
- <sup>ii</sup> Written Reply from Frances Fitzgerald, TD, Minister for Justice, to Joan Collins, TD, 24 March 2015, <https://www.kildarestreet.com/wrans/?id=2015-03-24a.951&s=magdalen+complementary+therapies+frances+fitzgerald#g953.r>; See also <http://www.rte.ie/news/2015/02/19/681413-magdalone-women/>
- <sup>iii</sup> Donnelly, S., O’Brien, M., Begley, E. and Brennan, J. (2016). *“I’d prefer to stay at home but I don’t have a choice” Meeting Older People’s Preference for Care: Policy, but what about practice?* Dublin: University College Dublin.
- <sup>liii</sup> Written answer from Minister for Justice, Frances Fitzgerald TD, to Joan Collins, 24 March 2015, <https://www.kildarestreet.com/wrans/?id=2015-03-24a.951>
- <sup>liv</sup> See Magdalen Commission Report, pp 11-12.
- <sup>lv</sup> <https://www.youtube.com/watch?v=YETH7W0yCBg&t=165s>
- <sup>lvi</sup> Letter from Gerard Corr to Felice Gaer, Rapporteur, CAT, dated 8 August 2013: “The facts uncovered by the Committee did not support the allegations that women were systematically detained unlawfully in these institutions or kept for long periods against their will”; Ireland, Replies to the Human Rights Committee’s List of Issues prior to reporting, May 2014, para 54.
- <sup>lvii</sup> Letter from Gerard Corr to Felice Gaer, Rapporteur, CAT, dated 8 August 2013; Ireland, Replies to the Human Rights Committee’s List of Issues prior to reporting, May 2014, para 54
- <sup>lviii</sup> Ireland, Report to CAT, January 2016, para 248.
- <sup>lix</sup> Letter from Gerard Corr to Felice Gaer, Rapporteur, CAT, dated 8 August 2013 (re JFM testimonies submitted to McAleese – ‘although four referred to isolated incidents of physical punishments the remainder made no reference to physical abuse’); IDC Report, Chapter 19; Ireland, Report to CAT, January 2016, para 240; Ireland, Report to CEDAW, September 2016, para 41.
- <sup>lx</sup> Letter from Gerard Corr to Felice Gaer, Rapporteur, CAT, dated 8 August 2013; Ireland, Replies to the Human Rights Committee’s List of Issues prior to reporting, May 2014, para 53; 57; Ireland, Follow up material to the Concluding Observations of the UN Human Rights Committee, July 2015, p2; Ireland, Report to CAT, January 2016, para 240; Ireland, Report to CEDAW, September 2016, para 41.

**APPENDIX 2:**  
**JFM RESEARCH SUBMISSION TO DUBLIN CITY COUNCIL RE:**  
**PLANNING APPLICATION TO DEMOLISH FORMER MAGDALENE LAUNDRY**  
**BUILDING AT DONNYBROOK, DUBLIN 4**

**JFM RESEARCH**

[www.magdalenelaundries.com](http://www.magdalenelaundries.com)

**JUSTICE FOR MAGDALENES RESEARCH**

**Submission to Dublin City Council**

*regarding the proposed property development*

*at the former Magdalene Laundry at*

*Donnybrook, Dublin 4*

**4<sup>th</sup> October 2016**

*Justice for Magdalenes Research (JFM Research) was formed by co-ordinating and advisory committee members of the Justice for Magdalenes survivor advocacy group following Ireland's State apology to women who were incarcerated and forced into unpaid labour in Magdalene Laundries. We engage in archival and educational work, with the aim of recording and raising public awareness of the experiences of women held in Magdalene Laundries. The members of JFM Research also continue to assist survivors of Magdalene Laundries in our personal capacities.*

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PACE

## 1. Introduction

Justice for Magdalenes Research (JFMR) makes this submission to Dublin City Council (DCC) in relation to the proposed development (**Application Reference: 3621/16**) at the site of the former Magdalene Laundry operated by the Religious Sisters of Charity at Donnybrook, Dublin 4.

The main aim of JFMR is to provide for the advancement of education of the general public by researching the Magdalene Laundries and similar institutions and by providing information and support to the women who spent time in the Magdalene Laundries and their families.

## 2. Consultation with survivors and family members

JFMR appreciates the developer's willingness to acknowledge the history of the Donnybrook site.<sup>1</sup> However, to our knowledge, no consultation has taken place with survivors and family members regarding the proposed development at the former Magdalene Laundry at Donnybrook. We submit that DCC and the Department of Justice should facilitate this consultation.

### 2.1 Dublin City Council

We welcome DCC's 'Vision Statement' in its 2015-2019 *Corporate Plan*<sup>2</sup> for a council that is '*open, innovative, progressive and which provides leadership by engaging fully with its citizens and stakeholders*'. We further welcome DCC's values<sup>3</sup> of being '*open and inclusive*', whereby the Council is '*willing and available to listen and interpret the views of the people of the city to create and deliver an inclusive city for its people*'; and of '*respect*',

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<sup>1</sup> *Planning Report*, Pg 24. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581685.pdf>

<sup>2</sup> *Dublin City Council Corporate Plan 2015-2019*, Pg 16. Available from: [http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015\\_2019.pdf](http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015_2019.pdf)

<sup>3</sup> *Dublin City Council Corporate Plan 2015-2019*, Pg 17. Available from: [http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015\\_2019.pdf](http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015_2019.pdf)

because of which the Council has pledged to be *'mindful and respectful when making decisions on behalf of Dublin's ever diversifying community in order to advance the city according to the views of all its people. We will respect equality and human rights for all citizens as part of this value'*.

We also note DCC's *'Mission Statement'*<sup>4</sup> to *'provide quality services for its citizens and visitors and act to protect and promote Dublin's distinct identity in a way that acknowledges our past and secures our future'*. On 3<sup>rd</sup> May 2016, (then) Lord Mayor Criona Ní Dhalaiigh exemplified this ideal in a powerful gesture, by presenting JFMR with a Dublin Lord Mayor Award on behalf of Magdalene Laundry survivors. We were honoured to have a number of survivors and family members with us on the night of the award ceremony; two of the survivors had been incarcerated in Dublin laundries, and four of the deceased women whose family members were present were also confined in Dublin laundries. The survivors reported to us afterwards how much it meant to them to be honoured by the Dublin Lord Mayor. The experience touched them deeply and all of the women said they will never forget the experience. Former Lord Mayor Ní Dhalaiigh's actions are evidence of the power of acknowledgement and inclusivity, particularly for groups which have been marginalised. We urge DCC to follow her example by ensuring that the voices of those who are affected most by the Donnybrook development are heard.

## **2.2 The Department of Justice**

In *The Magdalen Commission Report*,<sup>5</sup> Mr Justice John Quirke's sixth recommendation concerned the establishment of a Dedicated Unit, which would (amongst other things<sup>6</sup>)

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<sup>4</sup> *Dublin City Council Corporate Plan 2015-2019*, Pg 16. Available from:

[http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015\\_2019.pdf](http://www.dublincity.ie/sites/default/files/content/YourCouncil/CouncilPublications/Documents/DCCCCorporatePlan2015_2019.pdf)

<sup>5</sup> <http://www.justice.ie/en/JELR/Pages/PB13000255>

<sup>6</sup> Judge Quirke's 6<sup>th</sup> recommendation is outlined in full below:

*I am therefore recommending that the State should establish, fund, staff and accommodate a small Dedicated Unit which should be charged to provide the following services for eligible Magdalen women:*

- *A helpline accessible daily by the women to assist them to obtain the health, monetary and other benefits to which they will now be entitled*

facilitate the *'acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme's administrator, after consultation with the advisory body or committee referred to below has decided to construct or establish'*. Judge Quirke said that the committee referred to *'should be broadly representative of the majority of Magdalen women and should include representatives of eligible women currently living within the UK or elsewhere'*.

Although the government accepted Judge Quirke's recommendations in full,<sup>7</sup> it has not implemented several aspects of the scheme (including the full healthcare package for all women who have signed up to the scheme) and has not followed through on the establishment of a Dedicated Unit as recommended. We suggest that the proposed development at Donnybrook is an ideal opportunity to rectify this deficiency. As a starting point, we propose that the Department of Justice immediately make contact with survivors who have expressed an interest in the ex gratia scheme to ascertain their views on the Donnybrook development, the issue of a memorial, and their needs in terms of what the Dedicated Unit should comprise. This consultation should be conducted by a suitably qualified facilitator with experience in dealing with vulnerable populations.

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- *Investigative and other help and assistance in obtaining such sheltered or other housing as they may be entitled to.*
  - *Investigative and other help and assistance in obtaining such educational assistance as they may be entitled to.*
  - *Practical and, if necessary professional, assistance to enable those women who wish to do so to meet with those members of the Religious Orders who have similar wishes to meet and interact.*
  - *Similar practical assistance to meet and interact with other Magdalen women.*
  - *The acquisition, maintenance and administration of any garden, museum or other form of memorial which the Scheme's administrator, after consultation with the advisory body or committee referred to below has decided to construct or establish.*

*The Unit should be established after the Scheme's administrator has first consulted with and received written submissions from an advisory body or committee representing the needs and interests of the Magdalen women. That body or committee, in turn, should be broadly representative of the majority of Magdalen women and should include representatives of eligible women currently living within the UK or elsewhere. A simple appeal process to a single agreed independent person should also be provided to resolve disagreement or dissatisfaction with preliminary decisions made by the Scheme's administrator in respect of the matters identified above.*

<sup>7</sup> <http://www.justice.ie/en/JELR/Pages/PR13000383>

### **2.3 Survivors in institutionalised settings**

We are also conscious that a number of former Magdalene women are still living in the Donnybrook complex in an institutionalised setting in the custody of the Sisters of Charity.<sup>8</sup> These women are physically closer to the proposed development than any other resident in the Donnybrook area. Their lives were irreparably damaged by the Donnybrook laundry; and as is the case with the vast majority of women we have encountered in similar situations, it is likely that the majority of them were confined as young women or girls, thus spending most of their lives confined within the Magdalene Laundry system. Therefore, absolutely every effort should be made to ensure that this group of women is consulted about what happens at Donnybrook, again, through a suitably qualified facilitator. In the event of any demolition works and subsequent development, it is imperative that the process is explained to them, to ensure that they are not distressed by the changes taking place so close to them. We note that the developer and DCC have reached '*agreement in principal*' [sic]<sup>9</sup> on the requirements of *Part V* of the *Planning and Development Act, 2000*, in relation to the provision of social housing. We suggest that the women living in the institutionalised setting on the Donnybrook complex be afforded an opportunity to live in any social housing which is included in the proposed development (with the appropriate living supports in place), if this is what they wish.

### **2.4 JFMR position on the future of the Donnybrook site**

JFMR believes that the views of Magdalene survivors and their families (including relatives of deceased women) should be afforded the highest priority. The positions we take as an organisation are always guided by the views of survivors and family members who are in contact with us. In considering our position we were mindful of the *Archaeological Assessment* carried out at the site of the proposed development, which

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<sup>8</sup> In 2013, the Sisters of Charity told Judge Quirke that a total of 39 women were still living in their care. (Magdalen Commission Report, Pg 28)

<sup>9</sup> *Planning Report*, Pg 43. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581685.pdf>

states: 1) that Donnybrook is *'the last Magdalen Laundry building which still contains much of its contents from when it was used as a Magdalen Laundry, much of which is intact'*<sup>10</sup> and 2) that *'...[t]here are no clear records as to what happened to some of the women who operated within the laundries once they died. It remains a possibility that some are buried within the area of proposed development.'*<sup>11</sup> We are also concerned that another part of Ireland's difficult history – one which remains contested (see **Section 5**) – is about to be erased. With these issues in mind, we believe that the State is morally obliged to purchase the building from its existing owners so that it can be preserved as part of the historical record of what happened in Ireland's Magdalene Laundries. We realise however, that the State may not be willing to follow through on such a proposal, and therefore the contents of this submission take into account the possibility that the demolition of the site may go ahead.

### **3. Unmarked graves**

#### **3.1 Background**

Justice for Magdalenes (now JFMR) was established in 2003 on foot of serious questions raised by the late Mary Raftery about the exhumations at the former Magdalene Laundry at High Park.<sup>12</sup> Since our organisation began, for JFMR and for survivors, those who died deserve justice every bit as much as those who are living. Therefore, we are extremely

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<sup>10</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 11. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>

<sup>11</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 19-20. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>

<sup>12</sup> In 1993 when the Sisters of Our Lady of Charity of Refuge decided to sell some of their land at High Park, Drumcondra, the Magdalene women who were buried in a graveyard on that land were exhumed and reinterred at Glasnevin Cemetery. There was much criticism of the exhumations at the time; however, in 2003 when Mary Raftery investigated the matter, troubling details of the circumstances surrounding the exhumations emerged. The Sisters had applied to the Department of the Environment for the exhumation of 133 women, however when the undertakers were carrying out the task of exhuming the bodies an additional 22 remains were discovered. The Department of the Environment was notified and it supplied an additional exhumation licence to allow the removal of 'all human remains' at the relevant site. It also emerged in 2003 that when they were making their application for an exhumation licence, the Sisters of Our Lady of Charity of Refuge told the Department of the Environment that they could not produce death certificates for 58 women, 24 of whom were listed under quasi-religious names.

concerned by the findings of the *Archaeological Assessment* at the proposed development site at Donnybrook (discussed further below). The Magdalene Names Project<sup>13</sup> is a JFMR initiative which began in 2003 and at its inception it involved photographing the Magdalene graves and recording the names of those who died in the laundries so that they could be honoured and remembered. After the Magdalene graves are photographed, the names are inputted manually into databases using photographs taken at the grave sites and thus far, the final resting place of 1,663 women has been recorded. This includes 312 women who are interred in the graveyard adjacent to the proposed development at Donnybrook (see **Fig 1** below).<sup>14</sup>

More recently, the Names Project has expanded into the examination of archives, including digitised census records, electoral registers, exhumation orders, cemetery records and newspaper archives. The archival electoral registers have been particularly useful in ascertaining the duration of stay for many of the women confined in the laundries. JFMR has been able to obtain electoral registers for the Donnybrook laundry for some of the years between 1954-1964. The average number of women who were registered to vote during this time in Donnybrook was 102. Our analysis of the registers reveals that 63.1% of women confined in Donnybrook between 1954-55 were incarcerated for a minimum of nine years, while 67.9% of those in 1955-56 were incarcerated for a minimum of eight years. Analysis of the available electoral registers for 1954-64 indicate that over half of the women registered to vote during that time are buried in the graveyard at the site of the former laundry.<sup>15</sup>

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<sup>13</sup> <http://magdalenelaundries.com/name.htm>

<sup>14</sup> *Death, Institutionalisation and Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues*, Table 2, Pg 20. Available from: [http://www.magdalenelaundries.com/JFMR\\_Critique\\_190215.pdf](http://www.magdalenelaundries.com/JFMR_Critique_190215.pdf)

<sup>15</sup> For further details please see *Death, Institutionalisation and Duration of Stay: A critique of Chapter 16 of the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues*, Table 2, Pg 57-60. Available from: [http://www.magdalenelaundries.com/JFMR\\_Critique\\_190215.pdf](http://www.magdalenelaundries.com/JFMR_Critique_190215.pdf)



**Fig 1: Section of graveyard at Donnybrook**

### **3.2 *Archaeological Assessment* findings**

JFMR welcomes the thoroughness with which the *Archaeological Assessment* at Donnybrook was carried out; however, its findings give us cause for great concern. It is now 23 years since the High Park exhumations, and we fear that during this year of commemorations, we are in danger of repeating history if this issue is not dealt with appropriately and sensitively. The *Archaeological Assessment* observes that because of the religious orders' poor record keeping, their failure to register deaths, the lack of requirement to notify Local Authorities about burials in the orders' private plots and, '*the lack of transparency and cooperation of the religious orders...it is impossible to state with certainty the number of burials which may exist within the grounds of the original convent,*

which includes the proposed development area'.<sup>16</sup> We also note, with concern, the Assessment's finding that:

*It is possible that ground disturbances associated with the proposed development will have an adverse and negative impact on archaeological deposits or features that survive beneath the current ground level. This includes possible burials relating for the former use of the site as a Magdalen Laundry.*<sup>17</sup>

In the event that the proposed development proceeds, we submit that the developer should make efforts to ascertain whether or not burials have taken place on the site. In this regard, we note the letter from Irish Archaeological Consultancy to DCC of 26<sup>th</sup> August 2016, which states that ground penetrating radar would not be '*of any great benefit or value*'.<sup>18</sup> Therefore, in the event that the proposed development is permitted to proceed, we request that DCC add a condition whereby if any human remains are discovered, that all demolition works will be immediately stopped and suitable experts are brought in to examine the site and ascertain the identity of those who are interred there and what became of them.

## **5. Memorial**

As we have stated above, JFMR believes that survivors' views should be of paramount importance when considering any kind of Magdalene Laundry memorial, and we recognise that for some women, having a piece of art which honours their lives will mean a great deal. We note the developer's suggestion that DCC include a condition that the developer '*commission and deliver a piece of public art for this site. The exact design and location of the piece shall be agreed in writing with the Planning Authority*'. We note that

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<sup>16</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 13. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>

<sup>17</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 21. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>

<sup>18</sup> Letter from Faith Bailey, Irish Archaeological Consultancy, to Principal Planning Officer, Dublin City Council, 26<sup>th</sup> August 2016. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581634.pdf>

the rationale behind the memorial is *'[i]n the interest of visual amenity'*.<sup>19</sup> The developer has had discussions with the Public Art Department at DCC *'on how best to recognise the complex social history associated with the site'* and says that *'[a]dvice from the Public Art Manager would be greatly appreciated in terms of assisting with the potential location, brief, selection process and procedure for this commission'*.<sup>20</sup> While we appreciate the developer's desire to acknowledge the history of the building, and the willingness to seek advice on the issue, we must point out a glaring omission: consultation with survivors and their family members, and we again refer to our recommendation above that DCC and the Department of Justice facilitate a thorough consultation. We also respectfully suggest that in lieu of *'visual amenity'*, the rationale behind the memorial should be *'respect and acknowledgement for those who were confined in the former laundry on this site'*.

Furthermore, we are anxious to emphasise that 1) no memorial should ever act as a means to draw a line under an issue, particularly one which remains contested; and 2) given the human rights abuses which were committed in the laundries, we submit that in addition to any physical memorial(s), more 'active' methods of memorialisation are required so that we can learn from what happened in these institutions.

### **5.1 *Ex gratia* scheme and independent inquiry**

As noted above, the Irish government has not rolled out the *ex gratia* scheme in the way that Judge Quirke recommended. Furthermore, in response to the United Nations Committee Against Torture's observations<sup>21</sup> that the McAleese inquiry *'lacked many elements of a prompt, independent and thorough investigation, as recommended by the Committee [Against Torture] in its Concluding Observations'*, the Irish State asserted (just a few months after Enda Kenny's official apology) that *'[n]o factual evidence to support*

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<sup>19</sup> *Planning Report*, Pg 24. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581685.pdf>

<sup>20</sup> *Planning Report*, Pg 8. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581685.pdf>

<sup>21</sup> Letter of 22<sup>nd</sup> May 2013 from Felice D. Gaer, Rapporteur, Office of the United Nations High Commissioner of Human Rights, Committee Against Torture to Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva to. Available at: <http://www2.ohchr.org/english/bodies/cat/docs/followup/IrelandFurtherInfo22May2013.pdf>

*allegations of systematic torture or ill treatment of a criminal nature in these institutions was found* by the McAleese Committee, and *‘in light of facts uncovered by the McAleese Committee and in [the] absence of any credible evidence of systematic torture or criminal abuse being committed in the Magdalene Laundries, the Irish Government does not propose to set up a specific Magdalen inquiry body’*.<sup>22</sup>

Given that the Irish State’s official position is that *‘[n]o factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found’* and in light of the government’s failure to fully implement the *ex gratia* scheme, JFMR suggests that the most fitting memorial to the women confined in the Magdalene Laundries would be:

- i. the establishment of a *‘prompt, independent and thorough investigation’* which should be *‘independent, with definite terms of reference, and statutory powers to compel evidence, and retain evidence obtained from relevant religious bodies’*;<sup>23</sup> and;
- ii. the full implementation of Judge Quirke’s recommendations.

## **5.2 Active memorialisation**

In recent years, JFMR has been working to ensure that the history of the Magdalene institutions is properly recorded, in order to leave an ‘active’ legacy with which survivors, family members, friends, researchers and the Irish public can engage. In doing so, our aim is to contribute towards a greater understanding of what happened in the laundries,

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<sup>22</sup> Letter of 8<sup>th</sup> August 2013 from Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva to Felice D. Gaer, Rapporteur, Office of the United Nations High Commissioner of Human Rights, Committee Against Torture. Available at: [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT\\_C\\_IRL\\_CO\\_1\\_Add-2\\_14838\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/CAT_C_IRL_CO_1_Add-2_14838_E.pdf)

<sup>23</sup> Letter of 22<sup>nd</sup> May 2013 from Felice D. Gaer, Rapporteur, Office of the United Nations High Commissioner of Human Rights, Committee Against Torture to Gerard Corr, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Ireland to the United Nations Office at Geneva to. Available at: <http://www2.ohchr.org/english/bodies/cat/docs/followup/IrelandFurtherInfo22May2013.pdf>

and so that similar abuses which may be happening to vulnerable populations in the present day can be more easily recognised.

We have gathered an archive of over 4,000 pages relating to the Magdalene Institutions; this archive has been scanned and will soon be available on-line.<sup>24</sup> We have also been gathering material for a 'virtual digital museum' where images, audio, transcripts and archive can be put on-line for people to learn from and donate to. As noted above, through the Magdalene Names Project, JFMR has been working on collating a complete list of names of women who died within the Magdalene walls from a variety of archival sources (as we do not have access to the records that the religious orders hold) and we are working to commemorate the women with appropriate headstones. We have also been involved for the past five years in co-organising the commemoration of the women buried at Magdalene grave sites around the country (always on the Sunday closest to International Women's Day).

Through the Irish Research Council project *Magdalene Institutions: Recording an Oral and Archival History* we have assisted with the collection of oral histories with over 90 people (survivors, relatives and others associated with the laundries) – these are being processed and are being put online.<sup>25</sup> 'Sara W', a survivor of the Donnybrook laundry, took part in the pilot phase of the oral history project, and her testimony offers a vivid insight into the harsh conditions at Donnybrook:

*'I was asking them [the nuns] every day, I told them I wanted to leave, every day'*

*'...the doors were locked every night – the room door was locked and...the windows used to be up very high, like a small little window...and I used to climb up the top of the bed to look out the window'*

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<sup>24</sup> <http://www.waterford-today.ie/waterford-today-news/8732-heritage-week-heritage-council-and-wit-to-make-magdalene-archives-searchable-online-8732.html>

<sup>25</sup> <http://magdaleneoralhistory.com/>

*'I never seen daylight for two years'*

*'At nine o'clock every night you were locked into that cell – winter, summer'*

*'You could stand in half a foot of water sometimes down in the laundry all day'*<sup>26</sup>

Sara attempted to escape from Donnybrook, however after one night of freedom, she was returned by the Gardaí. She spent two years in Donnybrook and was then sent to Peacock Lane Magdalene Laundry in Cork (also run by the Sisters of Charity) for a further two years. Her mother had died during that time, but the religious sisters had not told her.

### **5.3 Laundry chimney as a memorial**

The *Archaeological Assessment* observes that the laundry chimney, which is a protected structure within the proposed development area, has been suggested by DCC as *'a way of honouring the women who were forced to work (in the Magdalene Laundry)*<sup>27</sup> We wish to stress again that it is the views of survivors which matter most, particularly in this regard, but nonetheless, we can see the merit in having the chimney as a physical memorial to the women who lived and died behind the walls at Donnybrook. However, a stark memorial in the form of the laundry chimney will only ever be appropriate in the context of the full acknowledgement by the Irish State of the abuses that took place in the Magdalene laundries and in the context of the full implementation of the *ex gratia* scheme.

### **5.4 Artefacts**

In Section 8.5 of the *Planning Report*, the developer has expressed a willingness to donate *'the contents, religious items, fixtures and fittings of the now-defunct laundry to a suitable Dublin-based museum'*.<sup>28</sup> The *Archaeological Assessment* recommends that 'a

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<sup>26</sup> For further anonymised extracts from survivor testimonies see: *State Involvement in the Magdalene Laundries*, JFMR's Principal Submission to the Inter-Departmental Committee on the Magdalene Laundries:

[http://www.magdalenelaundries.com/State\\_Involvement\\_in\\_the\\_Magdalene\\_Laundries\\_public.pdf](http://www.magdalenelaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf)

<sup>27</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 11. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>

<sup>28</sup> *Planning Report*, Pg 38. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581685.pdf>

*full measured, written and photographic record be made of the former laundry site, prior to demolition of the structures. This should include any internal features and machinery relevant to its past use*.<sup>29</sup> In this context, JFMR points out that there is one almost entirely intact Magdalene Institution in the hands of DCC on Sean MacDermott Street and we suggest that if the proposed development proceeds, artefacts that are salvaged and recorded from the Donnybrook site might find a place there.

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<sup>29</sup> *Archaeological Assessment at The Crescent, Donnybrook, Dublin 4*, Pg 21. Available from: <http://www.dublincity.ie/AnitePublicDocs/00581659.pdf>