



Launch

IHRC Follow-up Report

on State Involvement with Magdalen Laundries

Tuesday, 18 June 2013

Address

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**Irish Human Rights Commission/
Irish Human Rights and Equality Commission**

Good morning,

Having just heard about the conclusions in the Report, I would now like to turn to the recommendations that the IHRC is today making to the Government to address the experience of the women in the Laundries.

That experience, and the hurt caused to the women and girls placed in Magdalen Laundries cannot now be extinguished, but it can be remedied by the State. We know the Government is considering advices received from Mr Justice Quirke as to a scheme that should be established for the women who resided in the Laundries. We trust that Mr Justice Quirke's advice will be thorough, considered and compassionate towards the women involved. The Commission hopes that the Report we are publishing today will also be accepted by Government as providing clear guidance as to how to approach the issue of remedies. The Commission wants to make clear, that the operation of the Magdalen Laundries is a human rights

issue, and it is only possible to provide proper acknowledgment and redress to the women involved if informed by the human rights standards that apply.

This is why Chapter 7 of the Report deals with remedies for breaches of human rights, reviewing the approach taken to the matter by domestic courts, the European Court of Human Rights and various expert committees. What is clear is that the issue of remedies is not a one size fits all solution. All the women had shared experiences, but it should not be ignored that the circumstances of each woman will also be different. Some will have experienced a loss of liberty, others may have been exposed to forced or compulsory labour. Those that entered as children may have lost educational opportunity that has impacted on them for the rest of their lives. This is why the IHRC has recommended a broad range of measures to be put in place for the women concerned. Therefore the first recommendation of the report is:

That the State now put in place a system of redress for those women who resided in Magdalen Laundries. The scheme introduced should provide for individual financial compensation for the impact of the human rights violations concerned. In addition, measures should be put in place to ensure to the greatest extent possible the restitution and rehabilitation of the women. By way of restitution, lost wages and any pension or social protection benefits arising from engaging in compulsory work on an unpaid and unacknowledged basis should be identified and provided to the women concerned.

We also suggest a number of rehabilitative measures, such as interventions in relation to: housing; pensions; health and welfare; education and assistance to deal with the psychological effects of time spent in the Laundries.

As the IHRC compiled its Report we were forcefully struck by the contemporary human rights repercussions of the Magdalen Laundries. While the Laundries have all closed, this is not a purely historical issue. Some of the weaknesses in the protection of human rights in the State that left the girls and women in the Laundries

unprotected, survive to the present day. The major themes that emerge from the history of the Magdalen Laundries, such as discrimination, protection from forced or compulsory labour, institutional care, the right to identity, the regulation of private actors carrying out public functions or providing public services, even the regulation of exhumations, are all areas which the IHRC wishes to shine a light on today. This is in no way to detract from the experience of the women in the Laundries. Rather we ask how we can learn lessons from what happened to them. By knowing that the same wrongs cannot be perpetrated against others – whether by the State or private bodies or individuals - the women can know that some good may come from their experience. None of us want to find ourselves investigating further wrongs in the future that could have been addressed today.

I just want to touch now on those other recommendations in the Report, and which the IHRC has formulated to address the legacy issues arising from the Laundries. Recalling that one of the principal findings of the IDC Report was that the Magdalen Laundries were private institutions but carried out functions on behalf of the State, the IHRC recommends that:

The State and its agencies review its interactions with non-State actors, where such private entities exercise any State function or provide any service on behalf of the State, to ensure that the State is fully complying with its obligation to “respect, protect and fulfil” the human rights of all those within its jurisdiction, by exercising appropriate legislative, contractual or other oversight and accountability measures.

Noting that the initial calls for inclusion of the Magdalen Laundries in the Residential Institutions Redress Act, were met by rejection and denial by the State, and a further ten years passed before the IDC was established to finally establish the facts of State involvement (which we now know was extensive), we recommend that:

The State ensure, in accordance with its international human rights obligations that all credible allegations of abuse, which would, if proved,

entail a breach of the State's human rights obligations, are promptly, thoroughly and independently investigated.

Repeatedly throughout the Report we refer to the gender aspect of the Magdalen Laundries. The treatment of the women was characterised by a denial of equality. A report published just last week from the European Institute of Gender Equality, confirms that we still have a way to go in achieving equality for women in Ireland. The IHRC recognises that inequality is not just a gender issue, but reaches across different groups in society that are disadvantaged in one way or another. For this reason we recommend that:

consideration be given to addressing the gender specific language of Article 41.2 of the Constitution, to address the persistence of stereotypical attitudes towards women and girls, in line with the recommendations of the UN Committee on the Elimination of all Forms of Discrimination Against Women and the recent conclusions of the Convention on the Constitution, 2013.

In addition, we call for:

domestic equality legislation to be amended, so that it more closely reflects the State's international human rights obligations.

The Laundries were commercial enterprises that operated on a low cost basis to provide services to the public and indeed the State. I'm sure it is a shock for all of us to learn that the State benefited from services that were based on forced or compulsory labour in the past. It may also come as a surprise to know that although Ireland ratified the ILO Forced Labour Convention in 1931, there is still no stand alone offence of subjecting a person to forced labour. In fact it appears that no-one has ever been prosecuted in the State for an offence based on forced labour. Yet we know it happens. At present forced labour is dealt with as a constituent of human trafficking, however this approach does not

comprehensively deal with the issue and has been found wanting in other jurisdictions. Therefore the IHRC recommends that the State:

Introduce stand-alone legislation that defines forced or compulsory labour and servitude as a criminal offence in its own right, and address the need for inspections and redress.

Many of the girls and women in the Magdalen Laundries, had disabilities, including intellectual disabilities or a mental illness. The response of the State was to allow such girls and women be placed in Laundries, where, as documented by the IDC, they were less of a burden on the State, and could be cared for more cheaply. The cost analysis was very much to the fore. We now have ample evidence from various inquiries and reports that institutional care does not provide the best outcomes for vulnerable groups. This includes children and persons with disabilities. Nor does such a model of care provide protection from abuse. Despite recommendations by the IHRC and other organisations, residential care facilities for persons with disabilities are still not independently inspected today. Mindful of the history of the Laundries, the Commission makes a number of recommendations in the Report focused on the rights of persons with disabilities, calling for an end to institutional care, and a move to independent supported living in the community. In addition, we recommend a number of changes to the Mental Health Act, 2001 to bring it in line with the State's human rights obligations. Those recommendations are numbered 7, 8, 9 and 10 in the conclusions to the Report.

One of the issues documented in the IDC Report, and which has a particular poignancy, relates to those women who lived out their lives and died while still living in a Laundry. The exhumation of remains of such women in a private burial plot attached to the High Park Laundry in Dublin became the subject of media scrutiny, and attracted public sympathy in 2003. It was revealed that in 1993 the remains in the plot were exhumed, cremated and re-interred in a communal plot, in circumstances where not all the remains were identified or documented. While the circumstances surrounding the exhumation and the subsequent identification of the remains have now been fully set out in the IDC

Report, what still has the ability to cause outrage is the permissive approach of the relevant Government Department to the exhumation and cremation of undocumented remains. This could have resulted in the effective annihilation of the existence of those women. There are two aspects of this event that the Commission considered appropriate to address in its recommendations. The first is the fact that the primary legislation concerning exhumations dates back to 1948, and is bereft of safeguards in terms of ensuring that exhumations are handled in a sensitive manner that takes due account of the interests of surviving family members. Noting that High Park was not the only private plot attached to a Laundry we recommend that this legislation be reformed.

The other aspect of this sad episode, is the plight of persons who are adopted and wish to gain information regarding their origins. This is not an unusual desire. A number of women had children adopted before they entered the Laundries, but what opportunity exists for their children to trace them if this is their wish. Adoption records are dealt with under a veil of secrecy, denying such children any legal right to seek information regarding their origins. This is clearly out of line with our obligations under the European Convention on Human Rights. We therefore recommend to the State that it:

Introduce a system for the provision of information and tracing services to adopted persons (including those who were informally adopted in the past), which fully respects each individual's right to know of their origins in accordance with the Convention on the Rights of the Child.

I want to conclude by coming back to the experience of the women in the Magdalen Laundries:

No Report can fully record the experiences of the girls and women who entered the Magdalen Laundries. There are still stories that have not been told. There are wrongs to be put right. It is our modest wish to assist the process of healing that the Taoiseach's apology started. We hope we have done so with this Report.