



**Briefing for Minister for Children and Youth Affairs, Charlie Flanagan TD,  
on  
Establishing Terms of Reference for Commission of Investigation into Mother  
& Baby Homes**

*Compiled by*

**Adoption Rights Alliance (ARA) and Justice for Magdalenes Research  
(JFMR)**

**30<sup>th</sup> June 2014**

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**Briefing for Minister for Children and Youth Affairs, Charlie Flanagan TD, on  
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**SECTION ONE: Key points for Terms of Reference**

The Commission of Investigation into Ireland's Mother and Baby Homes will make an enquiry into the following six issues as they pertain to the lives of children born out of wedlock and their mothers since the foundation of the state in 1922:

- i. Infant mortality rates;
- ii. Adoption practices;
- iii. Vaccine trials and medical experimentation;
- iv. Forced labour and incarceration of unmarried girls and women who gave birth to babies or were seen to be 'at risk' of becoming mothers;
- v. Conditions in the institutions, including neglect, denial of adequate medical care and cruel punishment of unmarried mothers and their infants and children; and
- vi. Burials of unmarried mothers and their children and other women who remained in recarceral institutions.

**SECTION TWO: Detailed Proposal on Procedure of Commission of Investigation**

***List of Institutions***

In order to compile a list of institutions which we expect the Commission might investigate we suggest that at a minimum the Commission examine (i) all institutions licensed by and operating

under the Registration of Maternity Homes Act, 1934, (ii) those institutions under the denominations of "and other 'special', 'auxiliary', and 'extern' institutions operating under the terms of the Public Assistance Act, 1939, (iii) Magdalene institutions and (iv) private institutions and adoption facilitators. In Section Five we list the institutions which the Commission must investigate and while we consider it comprehensive, it cannot be considered exhaustive as there is a probability that there were a number of private nursing homes and *ad hoc* arrangements that are not fully captured in this list.

In establishing the terms and conditions of the Commission it would be advisable to add a clause to the listed institutions to enable the Commission to investigate those smaller (and more short-lived) institutions which remain unknown at this stage. This clause might be phrased thus: 'The Commission will examine other institutions and arrangements in the State which were involved in the birthing and infant care of children born outside wedlock.'

### ***Issues and Questions/Purpose of the Commission***

JFMR and ARA suggest that the Commission of Investigation should focus on the issue of children born out of wedlock in Ireland since 1922 rather than institutions *per se*. We understand that this issue gives rise to six distinct fields of inquiry:

- i. Infant mortality rates;
- ii. Adoption practices;
- iii. Vaccine trials and medical experimentation;
- iv. Forced labour and incarceration of unmarried girls and women who gave birth to babies or were seen to be 'at risk' of becoming mothers;
- v. Conditions in the institutions, including neglect, denial of adequate medical care and cruel punishment of unmarried mothers and their infants and children; and
- vi. Burials of unmarried mothers and their children and other women who remained in recarceral institutions.

All of the above issues should be examined within a human rights framework, in that findings of fact should be reached and recommendations made regarding all potential violations of Constitutional, European and international human rights. The Commission must be capable of establishing, and must establish, the truth. Establishing the truth is the first element of the right to an effective remedy and is a pre-requisite to the other elements of an effective remedy – justice and reparation (including guarantees of non-repetition).<sup>i</sup>

### ***Phases***

The phases (or modules) of the Commission should be:

#### **A. Phase One: Gathering the Archive – deadline of 6-12 months**

- Gathering relevant documentation from national and regional HSE and county archives relating to this issue;
- Gathering documents from all Diocesan and Religious Orders archives in Ireland, at the Vatican and in any 'mother house' for the religious orders operating these institutions (e.g., Sisters of the Sacred Heart in England, Sisters of the Good Shepherd in Angers, France);
- Gathering documents from adoption agencies;

- Gathering documents from Adoption Authority of Ireland;
- Interviews with surviving members of the Adoption Board since its inception in 1953;
- Gathering documents from past ‘private’ adoption facilitators and institutions;
- Gathering documents from international organisations and States;
- Initial archaeological and documentary surveys of burial sites.
- National and international advertising campaign inviting oral and written submissions to the Commission from all interested parties who can provide evidence (experiential and documentary) of the issues above.
- Consideration of oral and documentary evidence that needs to be compelled and initiation of that process.

## **B. Phase 2: Continuation of Archive Gathering & Release of Reports of the Commission**

### ***Irish Research Council***

The Commission might consider liaising with the Irish Research Council (IRC) to devise a competitive tendering process for a Principal Investigator who will bring together a team of scholars (from a range of fields) to analyse the archive compiled under Phase 1 of the Commission in a defined time period (max. 24-36 months). We believe that this strategy will result in the most comprehensive, authoritative and cost-effective method of compiling reports to answer questions arising in the six key fields of enquiry. There are funds earmarked for the decade of commemorations which might be used to fund this aspect of the Commission’s work.

### ***Gathering/analysis of oral testimony***

The Commission should adopt a non-adversarial approach to the gathering of testimony from people born out of wedlock, natural mothers and next-of-kin. Hearings should be optional (there being an invitation for written evidence) and should be undertaken by a panel including at least one expert in alternative dispute resolution. Hearings should be confidential for children born out of wedlock, natural mothers and next-of-kin unless they request otherwise. Other hearings should be open to the media with reporting restrictions imposed to the extent required to protect Constitutional rights to privacy.

### ***Preservation of evidence***

Children born out of wedlock, natural mothers and next-of-kin should have the option of deciding whether they wish their evidence to be destroyed at the Commission’s conclusion or preserved, anonymously or otherwise. All other evidence gathered by the Commission should be preserved in a public archive, with all necessary personal confidentiality protections.

### ***Independent advocacy and support service***

Throughout the Commission’s work, there must be a properly resourced independent advocacy and support service to assist children born out of wedlock, natural mothers and next-of-kin in engaging with the Commission. This must be accessible to children born out of wedlock, natural mothers living in Ireland and living abroad, including in the UK, USA, Canada, and Australia. Branches of this service could be located in existing community law centres and other accessible locations. Crucially,

the service will need a well-staffed helpline, accessible daily and widely advertised. We recommend that psychological support and legal representation be provided, in-house and/or on a referral, capped-fee basis, to enable children born out of wedlock, natural mothers and next-of-kin to provide written evidence to the Commission and/or to engage in an oral hearing where desired.

### ***Interim reporting***

The Commission should issue reports every six months, listing the evidence received and reviewed so that children born out of wedlock, natural mothers and other interested parties have the opportunity to comment.

### ***Advisory Board***

In the interests of transparency and communication with children born out of wedlock, natural mothers, advocates and other interested parties, we recommend that the Chairperson of the Commission establish an Advisory Board, representative of key stakeholders that will meet on a monthly basis to facilitate two-way communication. This would include updates on progress, feeding issues to the commission and enabling individual children born out of wedlock, natural mothers to reach out to members of the Advisory Board to share concerns. Early meetings would assist and speed up investigations and gathering of information, as valuable information would be shared regarding the existence of records and other evidence. We suggest that the Advisory Board could be made up of three or four children born out of wedlock, natural mothers, including at least one next-of-kin, advocates, Human Rights specialists, academics (historians/social work specialists), a psychologist, a representative of the religious orders, and a journalist.

### ***Final Report***

The report might be comprised of six modules, each setting out the evidence considered and including findings of fact, conclusions regarding human rights violations and final recommendations to the State to take further appropriate action to ensure justice and reparation:

#### **i. Infant mortality rates**

##### **Key issues and questions:**

- In so far as can be determined, what were the relevant mortality rates for children born out of wedlock who spent time in one of these institutions? Were there differences between institutions?
- How were these deaths reported and investigated at the time?
- How did the State react to reports of such deaths?
- Was there accurate reporting of deaths?
- How does this death rate compare to that of children born within marriage?
- If there were heightened illness rates and mortality rates for children born in the institutions, what were the causes?
- If there were avoidable causes of heightened illness rates and high mortality rates, were there persons, institutions, and/or bodies (non-governmental and/or governmental) who are culpable?

- What were the management / structural / financial circumstances surrounding the deaths, within the institutions and within the State apparatus?
- What if any violations of Constitutional, European and/or international human rights occurred and/or are continuing and who is responsible?

## ii. Adoption practices

### Key issues and questions:

- Was there discrimination and prejudice against adopted people and others born out of wedlock?
- Was informed consent obtained from all women and girls who gave their children up for adoption?
- Were women and girls offered alternatives to adoption?
- Did natural mothers sign contracts or letters requiring or requesting confidentiality?
- What supports were in place for natural mothers after the adoption of their children?
- What follow-ups took place after the child was adopted?
- Did the Adoption Authority (then the Adoption Board) adequately oversee adoption practices?
  - What was the regulation framework of adoption agencies?
  - How was the suitability of adoptive parents ascertained?
  - Was the Adoption Authority aware of illegal adoptions and, if so, how did they respond?
  - Did the Adoption Board ensure the registration of births of all children who were to be adopted?
- **US Adoptions**
  - What was the involvement of the Department of External Affairs (now Foreign Affairs) in facilitating these adoptions?
  - How many Irish passports were issued for Irish children leaving the country for adoption?
  - What was the nature of any and all agreements between the hierarchy of the Irish Catholic Church (and/or representatives thereof), the Irish State, the US Embassy in Dublin, and the US National Conference for Catholic Charities in arranging for and enabling these adoptions?
  - What was the nature of any and all agreements between agencies of the Irish State and the religious orders and county managers facilitating adoptions of Irish children abroad?
  - What actions did the State take to ensure each child leaving Ireland for adoption overseas was legally adopted in other jurisdictions?
  - What actions did the State take to prohibit trading of Irish children on the international adoption black market?
- What steps did the State take to oversee the Adoption Board?
- What steps did the State take to ensure the legality of adoptions?
- Non-registration of births – what steps did the State take to ensure that every child’s birth was registered?
- Why was St. Rita’s Nursing Home allowed to continue in operation after Mary Keating’s conviction for falsifying birth certificates?

- How did Irish legislation on adoption compare to the UK and the US?
- Did any individuals or institutions benefit financially from the adoption of children?
- What if any violations of Constitutional, European and/or international human rights occurred and/or are continuing and who is responsible?

### **iii. Vaccine trials and medical experimentation**

#### **Key issues and questions:**

- What institutions engaged in vaccine trials and medical experimentation? Was informed consent obtained from the mothers of these infants?
- What was the nature of the trials and experiments and who carried them out?
- Under whose authority did the trials take place?
- Did the institutions benefit financially from the trials?
- Were the trials lawfully and ethically conducted?
- What effect did the trials have on the infants concerned?
- Was the health of the infants monitored afterwards?
- Were the adoptive parents informed that their adopted child was involved in such trials?
- If there were medical trials that were unlawfully conducted or which led to harm, are there persons, institutions, corporations, bodies (non-governmental and governmental) who are culpable?
- What if any violations of Constitutional, European and/or international human rights occurred and/or are continuing and who is responsible?

### **iv. Forced labour and incarceration of unmarried girls and women who gave birth to babies or were seen to be ‘at risk’ of becoming mothers**

#### **Key issues and questions:**

- Under what circumstances did women and girls find themselves incarcerated in Mother and Baby homes and other institutions including Magdalene Laundries?
- What was the political, administrative and financial relationship between central government, local government and religious authorities in the committal of unmarried mothers into religious and local authority institutions?
- Who decided on the women’s length of stay in these institutions?
- What was the relationship between the different institutions; how were women transferred across the institutional network?
- Did the women and girls enter voluntarily?
- If some women and girls entered voluntarily, did their detention become involuntary and in what circumstances?
- What were the circumstances surrounding the requirement to remain for two to three years in the home or pay a bill to leave immediately?
- If a woman or girl wished to leave but could not pay the required sum could she leave anyway?
- Who was financially responsible for the maintenance of these women in institutions?
- Were the women and girls forced to work and what were the circumstances?
- Were the women and girls paid for their work?

- Did the institutions rely and/or benefit financially from the forced labour of these women and girls?
- What were the circumstances surrounding women and girls who were transferred from Magdalene Laundries to give birth and then transferred back to the Magdalene Laundry after the birth of the child?
- What if any Constitutional, European and/or international human rights violations occurred and/or are continuing and who is responsible?

**v. Conditions in the institutions, including neglect, denial of adequate medical care and cruel punishment of unmarried mothers and their infants and children**

**Key issues and questions:**

- Was adequate medical care afforded to women and girls who gave birth in these institutions?
- Was adequate medical care given to the infants in the institutions?
- Were the women and girls and their children subjected to neglect?
- What if any physical, emotional and/or sexual abuses took place in these institutions?
- What were conditions like?
- Did the State adequately oversee and regulate these institutions?
- Were women and girls allowed to spend time with their children?
- In institutions where natural mothers were not present, what efforts were made to ensure the psychological wellbeing of the children?
- Were family members allowed to visit?
- In the case of institutions such as Temple Hill, where natural mothers paid for their children to stay there, to what extent did the institutions benefit financially from this arrangement?
- What was the disciplinary regime in these institutions and did systematic abuse of women occur?
- What was the maternal mortality of institutionalised unmarried mothers, and was it higher than the rate for the general population?
- Were institutionalised unmarried mothers denied adequate medical treatment?
- What was the official government attitude to the conditions of institutionalised women?
- What was the system of official government inspection?
- Why did the Department of Local Government and Public Health, and later the Department of Health, fail to adequately supervise these institutions?
- What if any violations of Constitutional, European and/or international human rights occurred and/or are continuing and who is responsible?

**vi. Burials of unmarried mothers and their children and other women who remained in recarceral institutions.**

**Key issues and questions:**

- Were children born in Mother and Baby Homes baptised? Are there records of these baptisms? And, in cases where children were baptised but subsequently died, were they buried in recognised cemeteries (i.e., on sanctified ground)?
- How many children were buried in non-sanctified ground?
- Were there funeral masses for children who died in institutional settings?



- Were there funeral masses for mothers who died in, or shortly after, childbirth in institutional settings?
- What was the series of events that led to the High Park exhumations and cremations?
- How many women died in Magdalene Laundries after 1922. How many of these women were buried by the religious orders operating the institution? How many of these women were returned to their families for burial? Where are they buried?
- Are there appropriate and accurate memorial headstones at the burial sites for mothers, babies and Magdalene women throughout the country?
- What if any violations of Constitutional, European and/or international human rights occurred and/or are continuing, and who is responsible?

**vii. Recommendations**

- Recommendations could include:
  - A public acknowledgement of the abuses suffered
  - A State apology
  - A redress scheme
  - A transitional justice component, including an educational curriculum on the treatment of vulnerable women and children in Irish society
  - Criminal / civil proceedings to ensure accountability of perpetrators

***Commissions of Investigation Act 2004***

We are concerned that certain provisions of the Commissions of Investigation Act 2004 are not appropriate for this inquiry:

- Section 19: Statements, admissions and documents given to the Commission in the course of its investigation are not admissible as evidence against a person in any criminal or other proceedings;
- Section 39: Blanket restriction on the section 4, Data Protection Act 1988, right of access to data where that data has been provided to the Commission in the course of its investigation;
- Section 40: Blanket restriction on the application of the Freedom of Information Acts 1997 to 2003 regarding records of the Commission's investigation other than general administration records.

### **SECTION THREE:**

#### **The Commission of Investigation should implement Human Rights-compliant procedures**

#### **Women's Human Rights Alliance, JFM Research, Adoption Rights Alliance & Bethany Children born out of wedlock, natural mothers Group:**

To comply with European and international human rights law, the investigation should:

- (a) be carried out by an independent Commission, the members of which shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. **JFMR, WHRA, ARA and Bethany Children born out of wedlock, natural mothers Group call for an independent international expert to form part of the Commission, given the international dimensions of adoptions from mother and baby homes.**<sup>ii</sup>
- (b) have the power and obligation to obtain all information necessary to the inquiry, in order to make findings of fact regarding alleged human rights abuses;<sup>iii</sup>
- (c) have at its disposal all the necessary budgetary and technical resources for effective investigation;<sup>iv</sup>
- (d) have the authority to issue summonses to witnesses, including any officials allegedly involved, and to demand the production of evidence;<sup>v</sup>
- (e) be conducted with reasonable expedition;<sup>vi</sup>
- (f) have a sufficient element of public scrutiny to secure accountability in practice as well as in theory;<sup>vii</sup>
- (g) involve children born out of wedlock, natural mothers, next-of-kin and representative groups in the procedure such that they are informed of and have access to any hearing and all information relevant to the investigation, and that they have the opportunity to provide evidence and comment on the evidence being examined;<sup>viii</sup>
- (h) Issue a public notice inviting the submission of relevant information and written statements, and providing instructions to persons willing to testify.<sup>ix</sup> Notice should be disseminated in a manner designed to reach children born out of wedlock, natural mothers and next-of-kin, including in rural and international locations and those without access to internet;
- (i) Issue conclusions, findings of fact and recommendations based on its findings at the end of its investigation.<sup>x</sup>

### **SECTION FOUR:**

#### **Reasons why the Commission of Investigation should extend to Magdalene Laundries**<sup>xi</sup>

#### **1. The Commission will need the Magdalene records to discover the facts about women who had children in mother and baby homes.**

- Researchers had assumed that no babies were born in Magdalene Institutions but we know now from oral testimony that babies were born and nursed at the Magdalene Institution, Sean McDermott St.
- The McAleese Committee destroyed all copies and returned all records received from the religious orders responsible for running the Magdalene Laundries as a result of its lack of statutory powers to compel evidence.<sup>xii</sup> Therefore these records are not currently in the State's possession.

- There was significant traffic of women between mother and baby homes and Magdalene Laundries. JFM's *Principal Submission* to the McAleese Inquiry, based on limited research in State archives, identified 26 cases of children in the Tuam Baby Home between 1953 and 1958 whose mothers were listed as "in the Magdalen", and an additional 25 women between 1951 and 1968 transferred from Sean Ross Abbey to institutions operated by the "Good Shepherd" nuns.<sup>xiii</sup> In addition, it was State policy in 1933 that unmarried mothers who had given birth a second time would be transferred to a Magdalene Laundry.<sup>xiv</sup>
- Magdalene Laundries were a part of an institutional network which included mother and baby homes and county homes. Central government officials frequently called on local authorities to transfer women in county homes to Magdalene Laundries and Mother and Baby Homes.<sup>xv</sup> These institutions were effectively different branches of an integrated and inter-related system, and it would be illogical not to examine them all together in the inquiry.

## **2. The McAleese Committee failed unjustifiably to analyse existing records to determine the identities and fates of women transferred to Magdalene Laundries from mother and baby homes**

- Prof James Smith, of JFM Research, informed the McAleese Committee in February 2012 of the existence of bi-annual reports from Department of Health archives with information for children in the Tuam Baby Home for whom the "Whereabouts of Parents" is recorded as "Mother in the Magdalen Home" and/or "Mother in the Galway Magdalen Home."
- Prof Smith encouraged the Committee to "request a review" of all such local authority bi-annual reports and to establish "the fate of these particular mothers" and determine "how long they remained" in the Laundry? He asked about the children involved: "what befell" them, whether "they were adopted," and "did they survive"?
- In late 2012 JFM Research produced for the McAleese Committee a spreadsheet detailing 24 children whose mothers had, according to the Tuam records, been transferred to a Magdalene Laundry between 1953 and 1958.<sup>xvi</sup> The spreadsheet redacted the children's full names but included the file numbers so that the Committee to do its own follow-up research and retrieve the children's (and mothers') identities.
- The McAleese Committee failed to analyse the original records from Tuam. It also failed to discover whether similar records from other institutions exist.
- The McAleese report stated:

*181. Information was also identified in the annual returns of the Tuam Home to the Department of Health. The information recorded in those cases differs, as it is focused primarily on the children in the home. Nonetheless, between 1950 and 1965, the returns calculating the number of and providing information on children in Tuam identified that the mothers of 24 of these children were in a Magdalen Laundry ("Mother in Magdalen Home").*

...

*The files in question identify the women and children by initials only, with the result that the Committee was unable to track these cases in the records of the Religious Congregations to determine what subsequently became of the women in question. (pg. 498-9)*

- At a minimum, the Committee failed to survey the bi-annual returns for other local authorities. It had access to the original archival documents, on which the child's name is given. Using the child's name or register number (also listed on the bi-annual returns), the

Committee might then have searched the AIRR (Access to Institutional and Related Records) Index, which lists information for all children in the system. If that proved futile, it might have cross-referenced the names against the Tuam “Registration of Births Memorandum Book,” which lists the mother’s name, home address and date of birth. Was this deposited with Galway Co. Council when the institution closed in 1961? Is it now in the possession of the HSE?

- The above failures deny families in Ireland today the right to know their identity and the fate of the next of kin.
- The McAleese Report points out that the HSE was “unable to provide the names or further details ...before the publication date of this Report” and consequently “it was not possible for the Committee to track these cases in the records of the Religious Congregations or to determine what became of these women after their admission to a Magdalen Laundry” (496). The proposed Commission of Investigation provides the occasion to complete these tasks.
- In examining local authority records, the McAleese Report relied on County and City Managers offices (442) to conduct searches, rather than professionally trained historians with expertise in archival research. In turn, a number of local authorities, including the Kerry County Council, reported that there was no relevant material in the archives. This approach was flawed and recent historical research on the Kerry Board of Health and Public Assistance has identified material relating to Magdalene Laundries.<sup>xvii</sup>

### **3. Justice for Magdalenes Research was prevented by a specific Diocesan Archive from providing highly relevant documentation to the McAleese Committee**

- As set out in public Principal Submission to the McAleese Committee, Justice for Magdalenes Research alerted the McAleese Committee to the existence of highly pertinent documentation relating to abuse in one of the Magdalene Laundries in a specific Diocesan Archive.<sup>xviii</sup> The Archive refused permission to Prof James Smith to share this documentation, or analyses thereof, with the McAleese Committee and the documentation did not appear in the McAleese Committee’s report, although JFM Research understood the Committee to have visited the Archive.
- This issue is linked to Issue 2 above. Had the McAleese Committee identified the names of mothers who were transferred from the Tuam mother and baby home, the Committee might also have asked that specific Diocesan Archive to search its holdings for information on these “mothers.” These women were transferred from the Archdiocese of Tuam into that specific Diocese, and the McAleese Report identifies the Bishop of that Diocese as local ordinary taking an active interest in the operation of the specific Magdalene Laundry.
- The specific Diocesan Archive is continuing to refuse permission for Prof Smith to publish any information from that Archive. JFM Research encourages the proposed Commission of Investigation to compel all available evidence from all Diocesan Archives in which either a Magdalene Laundry or a Mother and Baby Home operated.

### **4. The McAleese Committee did not investigate individual complaints of abuse in the Magdalene Laundries**

- The McAleese Committee did not have the mandate to investigate abuse in the Magdalene Laundries; it was established to inquire into state involvement with the institutions only. Therefore it did not issue a public invitation for evidence or complaints, and it did not

investigate or make findings as to the existence of human rights abuse including forced labour, servitude or arbitrary detention. Justice for Magdalenes Research submitted 793 pages of survivor testimony to the McAleese Committee, none of which appeared in the Committee's Report.

- The Irish Human Rights and Equality Commission (Designate) has raised the continuing failure to investigate the abuse in Magdalene Laundries with the UN Human Rights Committee, which will examine Ireland in Geneva this July. On 10<sup>th</sup> June 2014, the IHREC (Designate) issued a press release stating:

*“The McAleese Inquiry into the Magdalen Laundries was non-statutory and although the Taoiseach’s apology and promise of an ex gratia compensation system are welcome, they do not correspond to human rights remedies. A prompt, thorough and independent inquiry with the powers to establish the truth and lead to timely remedies for victims is still outstanding.”<sup>xix</sup>*

- The UN Committee against Torture has repeatedly called on the government to investigate fully and independently the extent of abuse which occurred in the Magdalene Laundries.<sup>xx</sup>
- Amnesty International Ireland has called for the inclusion of the Magdalene Laundries in the proposed Commission of Investigation. Its most recent press release on the issue states:

*“The 2013 interdepartmental review is a model of how not to carry out effective investigations into past human rights abuses...In addition, the government has used that review to downplay the human rights abuses in the Magdalene Laundries. The government must approach this new Commission of Investigation process with greater integrity. Most particularly, the government must also, once and for all, deal with the countless allegations of arbitrary detention, forced labour and ill-treatment of women in the Magdalene Laundries.”<sup>xxi</sup>*

## **5. All religious orders responsible for the Magdalene Laundries have refused to apologise or provide compensation**

- This is despite the former Minister for Justice, Alan Shatter TD, having written to the religious orders four times to request a contribution to the Magdalene Laundries Restorative Justice Scheme. At its most recent sittings with the UN Committee against Torture and the UN Committee on the Rights of the Child, the Holy See has claimed that the religious orders involved in the running of the Magdalene Laundries have contributed compensation in the hundreds of millions to women who spent time in Magdalene Laundries.

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<sup>i</sup> See also Amnesty International Ireland, 10 June 2014: <http://amnesty.ie/news/amnesty-international-welcomes-commission-investigation-mother-and-baby-homes>

<sup>ii</sup> Judgment of the European Court of Human Rights in *Paul and Audrey Edwards v United Kingdom* (App. No. 46477/99, 14 March 2002); also Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly Resolution

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55/89 of 4 December 2000, Office of the United Nations High Commissioner for Human Rights, Principle 5(a) (hereinafter “UN Principles”), <http://www2.ohchr.org/english/law/investigation.htm>

<sup>iii</sup> *Edwards v UK*; UN Principles, Principle 3(a)

<sup>iv</sup> UN Principles, Principle 3(a)

<sup>v</sup> *Ibid*

<sup>vi</sup> *Edwards v UK*

<sup>vii</sup> *Ibid*

<sup>viii</sup> *Edwards v UK*; Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Office of the United Nations High Commissioner for Human Rights (2004) (hereinafter “Istanbul Protocol”), para 116 <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

<sup>ix</sup> Istanbul Protocol, para 114

<sup>x</sup> Istanbul Protocol, para 118

<sup>xi</sup> (Supported by Women’s Human Rights Alliance, Adoption Rights Alliance and Bethany Children born out of wedlock, natural mothers Group)

<sup>xii</sup> See the following excerpt from the McAleese Committee Interim Report (<http://www.justice.ie/en/JELR/Appendix%201.pdf/Files/Appendix%201.pdf>)

“35. This archive will not include data disclosed to the Committee by the Religious Orders, which includes personal and sensitive personal data. All such records will be destroyed and/or returned to the relevant Religious Order upon conclusion of the Committee’s work and publication of its Report. This is necessary in light of sensitive personal data contained in those records; and the legal obligations of the Orders in their role as data controllers.”

<sup>xiii</sup> See Justice for Magdalenes’ public, redacted Principal Submission to the McAleese Committee, pgs. 68-74, esp. 71-2: ([http://www.magdalenaundries.com/State\\_Involvement\\_in\\_the\\_Magdalene\\_Laundries\\_public.pdf](http://www.magdalenaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf))

<sup>xiv</sup> In 1933, the Department of Local Government and Public Health Annual Report stated that, “[w]ith regard to the ... intractable problem presented by unmarried mothers of more than one child, the Sisters-in-Charge of the Magdalene Asylums in Dublin and elsewhere throughout the country are willing to co-operate with the local authorities by admitting them into their institutions. Many of these women appear to be feeble-minded and need supervision and guardianship. The Magdalene Asylum offers the only special provision at present for this class.” See Saorstát Éireann, Department of Local Government and Public Health Annual Report (1932-33), p.129

<sup>xv</sup> For example see, 21 July 1931, Department of Local Government & Public Health to the Kerry Board of Health (Kerry County Archives: K.B.H/A/14, Minute Book, July 1931-Dec. 1931), in Sean Lucey, *The End of the Irish Poor Law?* (Forthcoming, Manchester University Press, 2014).

<sup>xv</sup> For example see, 21 July 1931, Department of Local Government & Public Health to the Kerry Board of Health (Kerry County Archives: K.B.H/A/14, Minute Book, July 1931-Dec. 1931), in Sean Lucey, *The End of the Irish Poor Law?* (Forthcoming, Manchester University Press, 2014).

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<sup>xvi</sup> [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>xvii</sup> See footnote xv.

<sup>xviii</sup> See Justice for Magdalenes' public, redacted Principal Submission to the McAleese Committee: ([http://www.magdalenelaundries.com/State\\_Involvement\\_in\\_the\\_Magdalene\\_Laundries\\_public.pdf](http://www.magdalenelaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf))  
“Finally, Dr James Smith has obtained highly relevant documentary evidence from a provincial Diocesan Archive related to the operation of a local Magdalene Laundry. He has brought the existence of this material to the attention of the Chairman of this Committee, who JFM understands has visited the relevant archive. For legal reasons, Dr Smith is not currently in a position to “refer to, quote from, or reproduce” documents from that archive.

He would be more than willing to share the relevant material with the Committee and make submissions relating to it, if the Committee can obtain permission from the relevant Diocese. Indeed, JFM cannot think of any legitimate reason why the Diocese should refuse permission for JFM to discuss this material in confidence with the Committee.

This is particularly the case given that Archbishop Diarmuid Martin recently called for “research-based investigation” into issues such as the Magdalene Laundries and offered full and open access to the Dublin Diocesan Archives – see the JFM press release of 25th July 2012 [9/272/2734-2735].”

<sup>xix</sup> <http://www.ihrc.ie/newsevents/press/2014/06/10/ihrec-statutory-inquiry-into-mother-and-baby-homes/>

<sup>xx</sup> See latest letter from UN Committee against Torture to Ireland, dated 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)

<sup>xxi</sup> <http://www.amnesty.org/en/news/ireland-mother-and-baby-homes-investigation-robust-comprehensive-2014-06-19>

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