

# AMNESTY INTERNATIONAL



## BRIEFING

### MAGDALENE LAUNDRY-TYPE INSTITUTIONS IN NORTHERN IRELAND

**The case for a human rights response by the Northern Ireland Executive**

#### INTRODUCTION

The Irish Government's Report of the Inter-Departmental Committee<sup>1</sup> to establish the facts of State involvement with the Magdalene Laundries, published on 5 February 2013 (hereafter, the McAleese Report), made clear that the women and girls in these laundry institutions experienced a range of serious human rights abuses including inhuman and degrading treatment, arbitrary deprivation of liberty and forced labour.

Publicity around the report prompted a number of women who were in similar institutions in Northern Ireland to approach Amnesty International with their stories. These women feel that their experiences were the same or similar to those found in the Republic of Ireland, yet believe that their situation is being ignored by the Northern Ireland authorities, in contrast to the response, albeit belated, from the Irish Government.

This briefing document forms part of Amnesty International's response to their call for justice and sets out the case for the Northern Ireland Executive to accept and meet its obligations to provide justice for any abuses suffered by women and girls within this jurisdiction.

States are bound to protect the human rights, lives, and physical security of all women and girls under their jurisdiction. States have an obligation to respect, protect and fulfil the right of victims of human rights violations to an effective remedy. This obligation includes three elements:

- Truth: establishing the facts about violations of human rights that occurred in the past;
- Justice: investigating past violations and, if enough admissible evidence is gathered, prosecuting the suspected perpetrators;
- Reparation: providing full and effective reparation to the victims and their families, in its five forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

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<sup>1</sup> Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries, Ireland, February 5<sup>th</sup> 2013.

Amnesty International urges the Northern Ireland Executive to institute a thorough and effective investigation into allegations of abuse suffered within these institutions, which would not otherwise be covered by the Historic Institutional Abuse Inquiry now under way.

It is a matter for the Executive to consider if this is best achieved via a new inquiry mechanism or by amending the Terms of Reference of the Historic Institutional Abuse Inquiry to adequately encompass allegations of abuse experienced by those aged 18 years or older, within this range of institutions.

Should abuse be confirmed, Amnesty International would urge the Northern Ireland Executive to provide the women and girls who were ill-treated in these laundries with an apology and redress. Many, though not all, are old or unwell and they have already waited a long time for their experiences to be acknowledged and for their right to justice and reparation to be vindicated.

## **STATE RESPONSIBILITY**

A State has a responsibility not just to respect human rights - i.e. ensure that it or its agents do not violate individuals' human rights - but also to protect individuals from human rights abuses by private individuals and organisations, and ensure access to appropriate and effective remedies for persons whose rights have been so abused.

The principle of "due diligence" provides that where the State's authorities knew or ought to have known of likely or actual violations of human rights, and failed to take appropriate steps to prevent the violations and/or investigate and punish the perpetrator(s), then the State bears responsibility for the violation. So even where these Magdalene Laundries would be viewed as non-state actors, the State is responsible for violations committed by those institutions not only where the State has been directly complicit – e.g. in any arbitrary detention and forced labour inflicted on the women and girls - but also where the institution in question was exercising a public function, and/or where the State had failed to exercise due diligence in the prevention or investigation of likely or actual human rights violations of which the State had knowledge or ought to have had knowledge, and/or in any other circumstances as prescribed by domestic law or international human rights treaties to which the United Kingdom is a party.

When viewed in this light, it is clear that the Northern Ireland Executive is responsible for any abuses experienced by women and girls in such institutions within the jurisdiction.

## STATE INVOLVEMENT

The McAleese Report in the Republic of Ireland reveals how intertwined the State and institutions were in how the women were placed, detained and treated in the laundries.

Due to insufficient research to date, it is currently not possible to detail the degree of State involvement in Northern Ireland. However, a UK Home Office document from 1905<sup>2</sup> shows that the State authorities conducted inspections of a number of the Northern Ireland laundries under the Factory and Workshop Act, and in doing so, it would appear, took no action to expose and address forced and unpaid labour, or evident ill-treatment of those detained there.

Public records show that the RUC referred girls and women to such institutions, not necessarily on the basis of any criminal conviction, but rather on an informal basis, thus making the State directly complicit in the arbitrary detention of at least these women and girls. By way of example, one writer has noted the case of a 23 year-old unmarried mother of two being referred by the police to the Belfast Midnight Mission in May 1938.<sup>3</sup>

Article 9 of the International Covenant on Civil and Political Rights stipulates that the right to liberty and security of person can only be limited “on such grounds and in accordance with such procedure as are established by law”. This protection is echoed in Article 5 of the European Convention of Human Rights (ECHR). Under international law, the State has a responsibility to prohibit and protect individuals from arbitrary detention by non-state actors. Yet contrary to these treaties, reports received by Amnesty International from victims suggest that women and girls were detained without proper court authorisation or review. It is clear that the women and girls - even those not referred or transferred on criminal convictions - were de facto detained in these institutions.

Human rights law and standards stipulate that even those detained lawfully retain all their human rights, except for any restrictions that are a direct result of the detention. International human rights standards accept that States may wish to privatise the delivery of services related to the fulfilment of specific human rights, but that they must guarantee all components of those rights, regardless of the delivery option. As the European Court of Human Rights emphasized in *Storck v Germany* “The State cannot completely absolve itself from its responsibility by delegating its obligations in this sphere to private bodies or individuals.”<sup>4</sup>

The UN Special Rapporteur on violence against women has also noted, specifically with regard to violence against women, that the state “can not delegate its obligation

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<sup>2</sup> *List of religious and charitable institutions where laundries are carried on*, UK Home Office, September 1905

<sup>3</sup> Diane Urquhart, chapter – “Marriage, Fertility and Breaking the Moral Code”; *Ulster Since 1600: Politics, Economy, and Society*, Liam Kennedy, Philip Ollerenshaw, Oxford University Press, 2012.

<sup>4</sup> *Storck v Germany* no. 61603/00[2005] ECHR

to exercise due diligence, even in situations where certain functions are being performed by another state or by a non-state actor". Human rights law further recognizes that girls are at particular risk of human rights violations and therefore need additional support and protection.

While these women and girls were effectively in detention, the allegations made to Amnesty International, as well as experience in similar institutions in the Republic of Ireland, suggests some evidence of the human rights abuses they experienced. They were forced to work without remuneration, had a rule of silence and prayer imposed on them, and were deprived of their identity through imposition of 'house names' and numbers. Their right to private correspondence was interfered with, many complained of a lack of food and heat, and they were denied adequate rest and leisure opportunity and suffered some physical and emotional ill-treatment.

Amnesty International urges that the government's next steps toward providing redress and reparation must proceed on an honest analysis of its obligations under international human rights law.

## **STANDARDS OF THE DAY**

The McAleese Report asserts that "[i]t would however be unfair to judge these cases or the people concerned by applying today's standards and societal norms" and that many of the "case-studies" it recounts demonstrate "the widespread acceptance of practices that would be repugnant to us today".

Amnesty International would like to take this opportunity to remind the Northern Ireland authorities that during the period in which the alleged abuses of these women and girls unfolded - the McAleese Report covers the period 1922 onwards - and which concerns Amnesty International with respect to Northern Ireland at this time, the international human rights framework of law also emerged. We understand that the last laundries closed in the late 1970s and early 1980s, and many complaints relate to a time when many of the core UN human rights treaties, such as the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of Discrimination Against Women, were in existence and some ratified by the UK.

Regarding complaints related to periods pre-dating these Conventions, not only was the Universal Declaration of Human Rights adopted in 1948 so that States were aware of the internationally agreed norms expected of them in that instrument, but many norms such as the prohibition of torture or inhuman or degrading treatment were considered binding on all States as customary law and peremptory norms. While many international human rights standards applicable today may not have been legally binding at the time of some of the abuses occurring, many describe analogous standards of acceptable conduct at the time of the abuses. In this regard, various declarations and soft law recommendations in place at the time, although not binding, demonstrate an awareness of international best practice and a moral obligation upon the State to abide by their provisions.

The ECHR was in force by 1950 and ratified by the UK in 1951, and contains specific prohibitions on many of the abuses alleged to have been committed in the laundries in Northern Ireland, including inhuman and degrading treatment, arbitrary detention and forced labour. Other international standards outside the human rights law framework can also be of assistance in determining the degree to which the State was aware that certain practices were repugnant to international law. For instance, the Irish government's Special Rapporteur on Child Protection stated in 2011 in his fifth annual report: "The detention and use of women and girls as workers without pay would amount to 'forced labour' under the 1930 Forced Labour Convention of the International Labour Organisation" which the UK ratified in 1931."

Amnesty International therefore encourages the Northern Ireland authorities to ensure that international human rights law is properly applied to the treatment of women and girls in these institutions.

## **INDEPENDENT AND COMPREHENSIVE INVESTIGATIONS**

International human rights law demands that independent, comprehensive investigations are undertaken where grave and systemic human rights violations are suspected.

Victims of human rights abuses have a right to an effective remedy and reparation, which includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The right to a remedy also includes the right to equal and effective access to justice, and the right of victims to know the truth about the violations suffered. It is important that the precise nature of the abuses committed, and the identity of the perpetrators, be investigated and exposed so that justice can be done. The general availability to any individual of the criminal and civil law is not an effective substitute for the State's obligations in this regard.

The call for an independent and comprehensive investigation into the human rights abuses experienced in the Magdalene Laundries in the Republic of Ireland was made in 2011 by the UN Committee Against Torture. In its concluding observations on Ireland's first report under the UN Convention against Torture, the Committee against Torture recommended that Ireland "institute prompt, independent, and thorough investigations into all allegations of torture, and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries".<sup>5</sup>

Given the similarity of the allegations from women in Northern Ireland, Amnesty International urges the Northern Ireland Executive to ensure that an independent

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<sup>5</sup> UN Committee Against Torture (CAT), Consideration of reports submitted by States parties under article 19 of the Convention - Ireland, 17 June 2011

investigation is established to identify the human rights violations experienced by women and girls in these institutions, and allow for the prosecution of perpetrators.

An extension of the Historic Institutional Abuse Inquiry to adequately encompass allegations of abuse experienced by those aged 18 years or older, within this range of institutions, through amendment of its Terms of Reference and enabling legislation may be one way of achieving this.

## **APOLOGY AND REPARATION**

The obligation to make reparations is well recognised under international law. Reparation is the term for the concrete measures that should be taken to address the suffering of the survivors and victims and to help them rebuild their lives. The aim of reparation measures is to “as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.” Of course, in situations where victims suffer serious harm or when family members are killed, it is impossible to fully restore them to the situation which existed before the violation occurred. Nevertheless, the obligation is to ensure that as much as possible is done to address the suffering of the victims remains.

Amnesty International notes that the report of the Special Rapporteur on violence against women on the right to reparation identifies situations where systemic violations of women’s rights have taken place, through crimes of violence and discriminatory practice which should be subject to reparation.<sup>6</sup>

Amnesty International considers that the Magdalene Laundries may best be considered in this light given the allegations of arbitrary detention, torture and other ill-treatment and forced labour. In her report, the Special Rapporteur drew attention to the rights of survivors of such systemic violations to reparation – including restitution (including of confiscated wages, lost social benefits and other property) rehabilitation, compensation, satisfaction (including apology and dignified memorials) and guarantees of non-repetition. Amnesty International considers that the right of survivors of the Magdalene Laundries in Northern Ireland to reparation may best be judged against these standards once the facts have been established.

## **HISTORICAL INSTITUTIONAL ABUSE INQUIRY IN NORTHERN IRELAND**

The Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013, establishing an inquiry with statutory powers to investigate historic cases of child abuse in residential institutions in the period 1922-1995 in Northern Ireland, became law on the 19th January 2013.

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<sup>6</sup> UN Doc A/HRC/14/22, 23 April 2010, paragraphs 67-71

The terms of reference of the inquiry were previously set out in a statement to the Assembly made by the First Minister and deputy First Minister on 31<sup>st</sup> May 2012 and amended on 18th October 2012. The relevant section indicates that:

*“The NI Executive’s Inquiry and Investigation into historical institutional abuse will examine if there were systemic failings by institutions or the state in their duties towards those children in their care between the years of 1922-1995.*

*For the purposes of this Inquiry “child” means any person under 18 years of age;...”*

Thus women aged 18 or over are, by definition, excluded from the scope of the Inquiry. However, the legislation indicates that these terms of reference may be amended by the First Minister and deputy First Minister.<sup>7</sup>

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<sup>7</sup> “1.(3) The First Minister and deputy First Minister acting jointly may at any time amend the terms of reference of the inquiry by order after consulting the chairperson if a draft of the order has been laid before, and approved by resolution of, the Assembly.” - Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013

## APPENDIX 1: LIST OF MAGDALENE LAUNDRIES AND SIMILAR INSTITUTIONS IN NORTHERN IRELAND

The following is not intended to be a definitive list of asylums. The information on some asylums / laundries is under-researched and currently sparse and some details may be inaccurate. Drawn from a number of sources, but primarily extracted from Maria Luddy, "Prostitution and Irish Society 1800-1940", Cambridge University Press, at 78-82.

Institution	Address	Denomination	Founded	Closed
Ulster Female Penitentiary (later known as Edgar Home, 1892)	Belfast	Presbyterian	1820/22	1926
Ulster Female Penitentiary	Derry / Londonderry city		1829	Still operational in 1901
Ulster Magdalen Asylum	Donegall Pass, Belfast	Church of Ireland	1842/49	1916
Magdalen Asylum	Ormeau Road, Belfast	Roman Catholic - Good Shepherd Sisters from 1867	1840s?	Laundry closed 1977.
Belfast Midnight Mission	Malone Place, Belfast		c.1862	Closed – unknown. Recorded as recipient of legacy in 1934.
Derry Women's Penitentiary	Hawkins St, Derry / Londonderry city		1862	Closed – unknown. Recorded as operational in 1905
Rosevale Home	Lisburn	Church of Ireland	1862	Closed c. 1917
Marian Vale Home for Mothers and Babies	Armagh Road, Newry	Roman Catholic - Good Shepherd Sisters		1980s?
Magdalen Laundry	Derry / Londonderry city	Roman Catholic - Good Shepherd Sisters		1960s?
Sisters of Mercy	Strabane	Roman Catholic - Sisters of Mercy	1911	Closed – unknown.



Convent		Convent		External laundry until 1928, in-house laundry, unknown later date.
St Louis Convent	Middletown, Co Armagh	Roman Catholic		Closed – unknown. Recorded as operational in 1905
Prison Gate Mission for Women	Tudor Lodge, Belfast	Belfast Ladies' Temperance Association (at least originally)		Closed – unknown. Recorded as operational in 1905 and recipient of legacies, 1924 and 1937

## APPENDIX 2: CASE STUDIES<sup>8</sup>

### 1. Mary

In late 1979, Mary then aged 17 and unmarried, became pregnant. Her family forced her to enter the Marian Vale Home for Mothers and Babies, to have her baby.

She spent approximately one year there, during which time she turned 18, and reports having her life controlled, suffering ill-treatment and being forced to work – without pay – in the laundry right up until the time of her child's birth, in 1980.

Upon the birth, she was permitted by the nurse to hold her new-born son on just one occasion before he was seized and taken away by a nun from the Good Shepherd Sisters Convent and given to a family for adoption, without the consent of his mother, Mary.

Many years later Mary saw the adoption papers for her son and says that her signature, granting consent for the adoption, had been forged on the form. Mary was not to see her son again until he was an adult. Her life has been deeply affected by her experience.

### 2. Joan

In 1951, Joan was born in Marian Vale Home for Mothers and Babies, Newry and was taken off her mother by the nuns and placed in Nazareth House children's home, Ormeau Road, Belfast.

There she suffered regular physical beatings and other abuse at the hands of the nuns charged with the duty of care towards the children.

Identified as a 'problem child', aged approximately 15 or 16 Joan was transferred across the road to the Magdalene Laundry operated by the Good Shepherd Sisters. There she lived, working without pay in the laundry and for a family in the area, until her exit in 1971, aged 20. Her life has been deeply affected by her experience.

### 3. Sarah

In 1962, when she was 21 years old and unmarried, Sarah became pregnant. Thrown out of the family home, she felt she had nowhere else to turn but to the Marian Vale Home for Mothers and Babies, Newry.

There, she experienced mental and physical abuse, including slapping by the nuns, and was forced to do laundry and scrub floors, right up to hours before

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<sup>8</sup> As told to Amnesty International or publicly recorded. Pseudonyms have been used to protect privacy.

the birth of her child, who was subsequently given away by the nuns for adoption without Sarah's consent. Despite attempts to track down her son, she was unable to do so.

She was reunited with her son 46 years later in 2010. Her life has been deeply affected by her experience.

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