

**IN THE UNITED NATIONS COMMITTEE AGAINST TORTURE**  
**IN THE MATTER OF A COMPLAINT PURSUANT TO ARTICLE 22**  
**OF THE UNITED NATIONS CONVENTION AGAINST TORTURE**

**BETWEEN:**

**ELIZABETH COPPIN**

**Complainant**

**- and -**

**IRELAND**

**State Party**

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**REPLY OF THE COMPLAINANT**  
**TO IRELAND'S RESPONSE ON THE QUESTION OF ADMISSIBILITY**

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**I. INTRODUCTION**

1. Elizabeth Coppin was incarcerated, ill-treated and subjected to forced labour in three Irish Magdalene Laundries between 1964 and 1968. She has been campaigning tirelessly for justice ever since.
2. Mrs Coppin has submitted that:
  - a. Ireland has at no point conducted a prompt and impartial investigation into her treatment in the Magdalene Laundries (her complaint under Article 12);
  - b. Ireland has vitiated her right to complain to, and have her case promptly and impartially examined by, its competent authorities (her complaint under Article 13);
  - c. Ireland has failed to provide her with adequate redress (her complaint under Article 14); and
  - d. Ireland has, by its continued denials that violations of human rights occurred in the Magdalene Laundries, affirmed and compounded her suffering, such that

she is experiencing a continuing situation of dignity violation (her complaint under Article 16).

3. Ireland in its Response on the Question of Admissibility (“Ireland’s Response”) has submitted to the Committee that the complaint by Mrs Coppin is inadmissible. Its arguments are, broadly, threefold:
  - a. First, that Mrs Coppin’s complaint is inadmissible *ratione temporis*.
  - b. Second, that Mrs Coppin has not exhausted available domestic remedies.
  - c. Third, that Mrs Coppin “purports to make her complaint on behalf of herself and ‘other survivors’”, and is “not entitled to do so”.
4. In Mrs Coppin’s respectful submission, each of these arguments is baseless, and should be rejected by the Committee. They are addressed in turn below, following a short introduction to the relevant background.

## **II. RELEVANT BACKGROUND**

5. Ireland’s Response purports to set out the background to Mrs Coppin’s complaint at paras 5-18. While many of the facts set out therein are not in dispute, the summary put forward is selective, and care should be taken with relying on the statements set out without more, particularly at this admissibility stage.<sup>1</sup> The Committee is invited to consider Mrs Coppin’s complaint and accompanying witness evidence as necessary for a full explanation of the background.
6. In particular, the Committee may wish to note Ireland’s most recent statements of its position on the Magdalene Laundries, despite the repeated calls it has faced to conduct a proper and impartial investigation of the abuse suffered by the women who were interned in the Magdalene Laundries.<sup>2</sup> The following points are of particular note in relation to Mrs Coppin’s complaint:

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<sup>1</sup> For example, while Ireland’s Response states at para 6 that the Magdalene Laundries were not operated or owned by or on behalf of the State, it fails to mention that the report of the Inter-Departmental Committee, at Tab 77 of Mrs Coppin’s Complaint, did find that there had been significant state involvement in the Magdalene Laundries.

<sup>2</sup> As set out in Ireland’s follow-up report to the Committee, 28 August 2018, UN Doc CAT/C/ IRL/CO/2/Add.1, [Tab 1].

“The McAleese Committee had no remit to investigate or make determinations about allegations of torture or any other criminal offence.”<sup>3</sup>

“No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found. The majority of women did report verbal abuse but not of a nature that would constitute a criminal offence. There is no doubt that the working conditions were harsh and the work was physically demanding. A small number of women did describe instances of physical punishment during their time in the institutions. However, the large majority of women said they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries.”<sup>4</sup>

“While isolated incidents of criminal behaviour cannot be ruled out, 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 Magdalen laundries, the Irish Government does not propose to set up a specific Magdalen inquiry or investigation. It is satisfied that the existing mechanisms for the investigation and, where appropriate, prosecution of criminal offences can address individual complaints of criminal behaviour if any such complaints are made.”<sup>5</sup>

### **III. ADMISSIBILITY RATIONE TEMPORIS**

7. Ireland contends that Mrs Coppin’s complaint is inadmissible *ratione temporis*. On analysis, there are two strands to Ireland’s submissions:

- a. First, that the complaints made by Mrs Coppin relate to matters that occurred prior to the ratification of the Convention and therefore do not fall to be considered by the Committee.<sup>6</sup>
- b. Second, and alternatively, that any alleged continuing violations are (i) interlinked with the substantive breach of the rights occurring prior to the ratification of the Convention,<sup>7</sup> and (ii) cannot be interpreted as an affirmation of previous violations,<sup>8</sup> such that these also do not fall to be considered by the Committee.

#### **A. The complaint does not relate to matters prior to the ratification of the Convention**

8. The first argument made by Ireland is simply wrong as a matter of fact.

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<sup>3</sup> Ireland’s follow up report to the Committee, 2018 [Tab 1] para 14.

<sup>4</sup> Ireland’s follow-up report to the Committee, 28 August 2018 [Tab 1] para 15.

<sup>5</sup> Ireland’s follow up report to the Committee, 2018 [Tab 1] para 18.

<sup>6</sup> See Ireland’s Response, paras 20-26.

<sup>7</sup> See Ireland’s Response, paras 28-30.

<sup>8</sup> Ireland’s Response, para 31.

9. The complaint made by Mrs Coppin does not relate to the period prior to the ratification of the Convention. Rather, Mrs Coppin complains of present, ongoing violations against her (in the form of complaints under Articles 12-14 and 16 of the Convention). None of those claims relate to incidents that happened before 11 April 2002.
10. It is accepted, of course, that the historical background to her current complaint is that Mrs Coppin was committed to Magdalene Laundries and thus suffered either torture or ill-treatment. But her complaints are not (either in form or in substance) in relation to that period. That period simply forms a necessary part of the background to her complaints regarding present ongoing violations.<sup>9</sup> Regrettably, Mrs Coppin cannot complain of those violations to the Committee. She can however complain of Ireland's egregious and continuing failure to abide by the obligations imposed on it by the Convention as regards investigation and redress and non-repetition. Characterisation of the complaint as a contravention of the principle of non-retroactivity in international law is disingenuous and further evidence of the Irish State's determination to ignore and evade its current obligations to surviving victims of historic abuse.
11. As such, Ireland's detailed arguments regarding the principle of non-retroactivity are irrelevant.

B. Continuing violations may be considered by the Committee

12. The second argument made by Ireland is, with respect, unsustainable as a matter of law.
13. The first limb of Ireland's argument is that the complaint is inadmissible *ratione temporis* as the complaint in the present case is "entirely interlinked with a complaint of a substantive breach" which occurred prior to 2002.<sup>10</sup> That argument is based entirely around the jurisprudence of the European Court of Human Rights (the "ECtHR"). This should, in Mrs Coppin's submission, be rejected:
  - a. The simplistic analysis put forward by Ireland (relying solely on *Blečić v Croatia* and *Milojević and others v Serbia*) ignores the line of jurisprudence

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<sup>9</sup> This is apparent from considering the complaint in any detail. In particular, while Ireland refers to section 7 of the complaint as demonstrating that the substance of Mrs Coppin's complaints are in respect of her time in the Magdalene Laundries, it is clear from the applicable headings and from para 7.1.1 in particular that Mrs Coppin makes the relevant arguments only to properly found her arguments in respect of the ongoing violations in respect of Articles 12-14 and 16. See further section 5 of Mrs Coppin's Complaint.

<sup>10</sup> See Ireland's Response, para 30.

pursuant to which the procedural obligations attaching to Articles 2 and 3 are considered to be separate and autonomous duties that are detachable from the substantive violation.<sup>11</sup> There is still a relatively restrictive test of ‘genuine connection’ applied in such matters,<sup>12</sup> but (even on an ECtHR approach), Ireland is wrong to say that for the cases most analogous for this case the approach adopted in *Blečić* is applicable.

- b. It also ignores entirely the fact that this is a case of a continuing violation, and that the Strasbourg Court has had no difficulty in asserting jurisdiction in such cases even where the background to the complaint precedes ratification. In *Zorica Jovanović v. Serbia*, for example, the ECtHR found a violation of Article 8 ECHR in relation to a disappearance which occurred before Serbia’s accession to the Convention in circumstances where there was a continued failure to investigate on the part of the State.<sup>13</sup> A similar approach was adopted by the Inter-American Court of Human Rights in *Gomez Lund et al (“Guerrilha do Araguaia”) v. Brazil*.<sup>14</sup> While these cases concerned enforced disappearance, Ireland’s behaviour in denying the reality of the Magdalene Laundries has a similar character, from, a human dignity perspective, to the initial ill-treatment in its interference with a core aspect of the personality and its exploitation and engendering of powerlessness. Therefore, like enforced disappearance, torture or ill-treatment together with denial of investigation and redress should be understood, in the words of the Working Group on Enforced or Involuntary Disappearances, as ‘a unique and consolidated act, and not a combination of acts[,] [e]ven if some aspects of the violation may have been completed before the entry into force of the relevant national or international instrument’.<sup>15</sup>

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<sup>11</sup> *Šilih v Slovenia* Application No. 71463/01, 9 April 2009, paras 147, 153-163 [Tab 2].

<sup>12</sup> *Janowiec v Russia* Application Nos. 55508/07 and 29520/09, 21 October 2013, paras 145-152 [Tab 3].

<sup>13</sup> *Zorica Jovanović v. Serbia*, Application No 21794/08, ECHR 2013-II [Tab 4]. See also, for example, *Varnava v Turkey* Application Nos. 16064/90-16066/90 and 16068/90-16073/90, 18 September 2009, paras 148 [Tab 5].

<sup>14</sup> *Gomez Lund et al (“Guerrilha do Araguaia”) v. Brazil* IACtHR, Judgment of 24 November 2010 (Preliminary Objections, Merits, Reparations and Costs) Series C No 219 paras 121, 125, 155 [Tab 6].

<sup>15</sup> Working Group on Enforced or Involuntary Disappearances, ‘General Comment on Enforced Disappearance as a Continuous Crime’ in UN Human Rights Council, ‘Report of the Working Group on Enforced or Involuntary Disappearances’ (26 January 2011) UN Doc A/HRC/16/48, para 2 [Tab 7].

- c. Ireland argues that the consideration of Mrs Coppin’s complaint would result in the Committee examining and inquiring into events that arose prior to the date upon which the Convention came into force.<sup>16</sup> This objection is difficult to sustain in circumstances where Ireland has accepted that Mrs Coppin was in the Magdalene Laundries at the relevant time:<sup>17</sup> the underlying facts are not in dispute (only the legal consequences that should flow therefrom).
- d. Ireland’s submission effectively ignores the jurisprudence of United Nations Treaty Bodies on the question of admissibility *ratione temporis*.<sup>18</sup> Ireland treats the complaint as though it were a complaint to the ECtHR, whereas, it is submitted, the arguments made by the complainant in this case in relation to the admissibility of the complaint are wholly in line with the decisions of other Treaty Bodies. In this connection, Mrs Coppin refers in particular to the decision of the Committee on the Elimination of Racial Discrimination in *Durmić v Serbia and Montenegro*<sup>19</sup> and the decision of the Human Rights Committee in *Sankara v Burkina Faso*.<sup>20</sup>
14. Fundamentally, Mrs Coppin is not asking the Committee to consider what happened to her in the Magdalene Laundries. Rather, she is asking that the Committee examine the present effects on her of that historic abuse in light of Ireland’s current obligations under the Convention. The Decision of the Committee in *N.Z. v Kazakhstan* is clear authority for the proposition that the Committee may consider current effects of violations over which it would, for temporal reasons, have no jurisdiction.<sup>21</sup>
15. The relevant legal test is therefore whether the present effects of what Ms Coppin endured constitute today, in and of themselves, a violation of the Convention. If so, there is a continuing violation, which must be interpreted as an affirmation of the ill-treatment which gave rise to the effects in the first place.

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<sup>16</sup> Ireland’s Response, para 30.

<sup>17</sup> See Ireland’s Response, para 15.

<sup>18</sup> This jurisprudence is sidelined in Ireland’s arguments and only “noted” under a single paragraph forming the second limb of its arguments, discussed below.

<sup>19</sup> *Durmić v Serbia and Montenegro* Communication No. 29/2003, 6 March 2006 [Tab 8] para 6.4.

<sup>20</sup> *Sankara v Burkina Faso* Communication No. 1159/2003, 28 March 2006 [Tab 9] paras 6.2-6.3.

<sup>21</sup> *N.Z. v Kazakhstan*, Communication No. 495/2012, 28 November 2014, at Tab 7 of Ireland’s Response.

16. At the stage of admissibility, the question is not the merits of Mrs Coppin’s case, but the existence of relevant allegations. The Committee has expressly confirmed that a failure to investigate and provide redress may be considered even when historic ill-treatment would not be.<sup>22</sup> Here, the relevant effects that Mrs Coppin has alleged have been permitted by the State to continue, and accordingly, they constitute violations of the Convention:
- a. As to her complaint under Article 12, there has been no prompt and impartial investigation. The effects of this lack of investigation continue, and do, under Article 12, constitute an independent violation of the Convention.
  - b. As to her complaint under Article 13, Ireland has failed to ensure that she has the right to complain and have her case examined by the competent authorities – and, rather, has forced her to sign waivers of her rights of action in exchange for receiving *ex gratia* payments. The effects of this violation continue, and do, under Article 13, constitute an independent violation of the Convention.
  - c. As to her complaint under Article 14, while there has been some redress to Mrs Coppin, it is not full redress within the meaning of the Committee’s General Comment No 3. The effects of this lack of redress continue and do, under Article 14, constitute an independent violation of the Convention.
  - d. As to her complaint under Article 16, the State’s recent affirmation of Mrs Coppin’s treatment in the Magdalene Laundries is such as to amount to degrading treatment. This degrading treatment continues and does, under Article 16, constitute an independent violation of the Convention.
17. Even if, as Ireland argues, there is under the Convention a requirement of affirmation, such affirmation is present in Mrs Coppin’s case.
18. In particular, Irish officials continue to repeat publicly that there is no evidence that human rights violations were committed in the Magdalene Laundries. In its Response, Ireland claims, implausibly:

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<sup>22</sup> *N.Z. v Kazakhstan* Communication No. 495/2012, 28 November 2014, para 12.3, at Tab 7 of Ireland’s Response; see also *Gerasimov v Kazakhstan* Communication No. 433/2010, para 11.2, at Tab 52 of Mrs Coppin’s Complaint.

- a. That the Magdalene Laundries were ‘refuges’ where women’s work ‘may have included sewing’; and
  - b. That the Magdalene Laundries were not operated by or on behalf of the State, notwithstanding the acknowledged State involvement in placing girls and women there, including for criminal justice detention; the state laundry contracts which allowed the State to save money because wages were not being paid; and State funding on a ‘per capita’ basis for women and girls who needed care.
19. Ireland’s Response acknowledges that there was ‘no statutory basis’ for placements or confinement, but ignores the fact that the State took no protective measures despite knowing they were places of detention and forced unpaid labour, including of children, and indeed, that Mrs Coppin was in the care of the State when she was first sent to a Magdalene Laundry.
  20. In the circumstances, and having heard Irish officials repeat denials and protestations consistently since 2011, the Committee will appreciate that for Mrs Coppin, the two public apologies, by the Taoiseach in 2013 and the President in 2018, ring hollow. If it will not admit that human rights violations took place, what is the State apologising for?
  21. As to Mrs Coppin’s complaint under Article 12, as set out in detail in section 8.1 of her complaint, Ireland has never conducted an investigation into the Magdalene Laundries. The Inter-Departmental Committee was tasked, and only tasked, with considering whether or not there was State involvement in the Magdalene Laundries. It confirmed that there was.<sup>23</sup>
  22. No investigation has been conducted that satisfies Article 12 (i.e. a prompt, impartial investigation, addressed to the question of the treatment under consideration, thorough, and capable of identifying those responsible). In particular there has been no investigation that *inter alia*: (i) examines the treatment of the women and girls in the

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<sup>23</sup> At Tab 77 of Mrs Coppin’s Complaint: see introduction, para 29. Although occasionally Ireland appears to resile from that conclusion: see, for example, as recently as February 2017, the then-Minister for Justice and Equality stated that “there was no finding in the McAleese Report which indicated that the State had any liability in the matter”: see Mrs Coppin’s Complaint, para 5.4.2. See also statements made in draft memorandums in March 2011, discussed at paras 8.1.19-8.1.22 of Mrs Coppin’s Complaint and more recent statements from officials in the Irish Department of Justice and Equality, as set out at para 8.1.31 of Mrs Coppin’s Complaint.



Magdalene Laundries; (ii) analyses whether such treatment amounts to torture or ill-treatment; (iii) examines responsibility for such treatment both individually and institutionally; (iv) considers possible methods for reparations for such treatment; (v) permits Ireland to ensure that such abuse does not happen in the future; or (vi) is capable of leading to identifying and holding accountable those responsible for such treatment.

23. Ireland's repeated and baseless denials that ill-treatment occurred in the Magdalene Laundries compounds and affirms the suffering of the women and girls abused in them. As set out in its recent follow-up report to the Committee in 2018:<sup>24</sup>

“While isolated incidents of criminal behaviour cannot be ruled out, 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 Magdalen laundries, the Irish Government does not propose to set up a specific Magdalen inquiry or investigation. It is satisfied that the existing mechanisms for the investigation and, where appropriate, prosecution of criminal offences can address individual complaints of criminal behaviour if any such complaints are made.” (emphasis added).

24. As to Mrs Coppin's complaint under Article 13, Ireland has never permitted Mrs Coppin's complaints to be promptly and impartially examined by its competent authorities. Indeed, it has actively sought to prevent Mrs Coppin from being able to exercise her rights in this respect by requiring her to waive her right to a remedy in order to receive limited *ex gratia* payments. Again, this is an affirmation of the State's previous failures under Article 13.
25. As to Mrs Coppin's complaint under Article 14, it is acknowledged that Ireland has made an *ex gratia* payment to Mrs Coppin. This payment, which is the nature of a gift, is insufficient for the reasons Mrs Coppin has set out at section 8.2 of her complaint. If it be the case, as set out explicitly in General Comment 3 para 9, that monetary compensation alone may not be sufficient redress for a victim of torture and ill-treatment, then the payment of such monetary compensation cannot logically operate as a bar to a complaint that there has been insufficient redress. This is an affirmation of the previous failures under Article 14.
26. As to Mrs Coppin's complaint under Article 16, this appears to be entirely ignored by Ireland in its Response. As set out in section 9 of her complaint, Mrs Coppin complains

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<sup>24</sup> Ireland's follow-up report to the CAT, 9 August 2018, CAT/C/IRL/CO/2/Add.1, [Tab 1] para 18.

that the failures by Ireland, together with the impunity enjoyed by those actors involved in her treatment, amounts to a continuing violation under Article 16. This is a standalone allegation that Ireland has by act and implication, continued and affirmed her treatment.

## **II. DOMESTIC REMEDIES**

27. Under Article 22(4)(b) of the Convention, a matter shall not be considered by the Committee unless it has ascertained that:

“The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.”

28. As such it is apparent from Article 22 itself that the requirement is one of substance and not form. A complainant is not required to jump through endless hurdles at a domestic level if that will not have any practical utility.

29. This has been confirmed by the Committee’s jurisprudence. As set out in *Osmani v Republic of Serbia* “having unsuccessfully exhausted one remedy one should not be required...to exhaust alternative legal avenues that would have been directed essentially to the same end and would in any case not have offered better chances of success”.<sup>25</sup> As also explained in *Niyonzima v Burundi*, if the “inaction of the competent authorities has made it unlikely that any remedy that might provide effective relief can be initiated”, there will not have been a failure to exhaust domestic remedies.<sup>26</sup>

### **A. The exhaustion of domestic remedies**

30. Contrary to Ireland’s submissions, Mrs Coppin has indeed exhausted her domestic remedies. No further legal remedies are available to her in Ireland, whether for the ill-treatment she suffered in the Laundries, or for the ill-treatment she suffers now by reason of the State’s failure to investigate her complaints and to provide real and meaningful redress.

31. Ireland expressly pleads that Mrs Coppin is “now precluded from bringing proceedings before the domestic courts”.<sup>27</sup> She has, therefore, no potential redress within the courts

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<sup>25</sup> *Osmani v Republic of Serbia*, Communication No. 261/2005, 25 May 2009, para 7.1 [Tab 10].

<sup>26</sup> *Niyonzima v Burundi*, Communication No. 493/2012, 18 January 2018, para 6.3 [Tab 11].

<sup>27</sup> Ireland’s Response, para 48.

of Ireland. She thus has no remedies with a “reasonable chance of success” or which are likely “to bring effective relief”.<sup>28</sup> She is not obliged to bring a claim which is bound to fail.

32. Ireland’s attempt to get around this straightforward position is misguided. Ireland asserts that Mrs Coppin’s preclusion arises from her “own decisions”, such that having “elected” to take the money she is “estopped” from bringing this complaint.<sup>29</sup> Ireland cites no authority for this surprising proposition, and it should not be accepted for the following reasons:

- a. Ireland cannot rely on domestic law to escape its international obligations. The waiver Mrs Coppin is broad enough to cover any actions Mrs Coppin would bring regarding the State. It cannot, however, as a matter of international law, protect Ireland against her complaint to an international body established by treaty. The assertion at paragraph 42 of Ireland’s Response that Mrs Coppin has been ‘disingenuous’ is further evidence of Ireland’s reflexively defensive attitude to victims of historic abuse and is entirely without foundation.
- b. Mrs Coppin complains that Ireland’s *ex gratia*, so-called ‘redress’ mechanism is itself inconsistent with her rights under Article 13. It cannot therefore be used to prohibit the Committee from examining its compliance with the Convention.
- c. If Ireland’s arguments were accepted, it would permit states to contract out of their obligations under the Convention, dramatically weakening the universal guarantees enshrined in the Convention itself.

33. Moreover, a detailed consideration of what Mrs Coppin has done demonstrates that she has been seeking to have her complaints addressed by the State since the 1990s, only to be frustrated at every turn. In short outline:

- a. She pursued criminal proceedings, writing, in October 1997, a letter to the local Chief Superintendent of An Garda Síochána (the Irish national police force) describing what had happened to her in the Magdalene Laundries. In 1998,

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<sup>28</sup> As required by the Committee’s jurisprudence: see *Guiridi v Spain* Communication No. 212/2002, para 6.3 [Tab 12]; and *Enrique Falcon Rios v Canada*, Communication No. 133.1990, para 6 [Tab 13].

<sup>29</sup> Ireland’s Response, para 48.

Mrs Coppin gave a full statement at Tralee Garda Station. She was never contacted by the police about this complaint, and it appears simply to have been ignored.<sup>30</sup> Ireland's circular objection that she did not complain that there had been no investigation is absurd, and there is, in any event, no domestic mechanism to complain about the effectiveness of a Garda investigation more than 6 months old.

- b. She also pursued civil proceedings. In 1999, she initiated civil proceedings in the Irish High Court against representatives of the Congregations in whose care she had been abused.<sup>31</sup> She did apply to have the State joined to the case.<sup>32</sup> Following the strike-out of her proceedings against the religious congregation and nun responsible, she was advised by Senior Counsel to discontinue the proceedings against all parties because as a matter of Irish law they could not succeed.<sup>33</sup>
- c. She highlighted her treatment in the Magdalene Laundries and her need for redress at every opportunity she could, including:
  - i. By appearing before the Residential Institutions Redress Board in 2005.<sup>34</sup>
  - ii. By detailing her abuse before the Inter-Departmental Committee, and by meeting with Senator McAleese in 2012.<sup>35</sup>
  - iii. By providing a written statement to Mr Justice Quirke regarding her experiences in 2013.<sup>36</sup>
  - iv. By applying for an award under the scheme set up by Ireland to provide compensation in accordance with the broad recommendations of Mr Justice Quirke,<sup>37</sup> and by questioning why

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<sup>30</sup> Mrs Coppin's Statement, paras 49-50.

<sup>31</sup> Mrs Coppin's Statement, para 51.

<sup>32</sup> See Complaint, para 5.1.2.

<sup>33</sup> See Complaint, para 5.1.2.

<sup>34</sup> See Mrs Coppin's Statement, para 54.

<sup>35</sup> See Mrs Coppin's Statement, paras 59-63.

<sup>36</sup> See Mrs Coppin's Statement, para 68.

<sup>37</sup> See Mrs Coppin's Statement, para 69.

this only addressed the length of time she had been in the Magdalene Laundries and not the violations she had suffered.<sup>38</sup>

- v. At that time she also sought advice from the Ombudsman asking how it was possible to assert her human rights save than by taking the relevant award.<sup>39</sup>
- vi. She sent in a statement to the Commission of Investigation into Mother and Baby Homes and Certain Related Matters in April 2018.<sup>40</sup>

d. She also has raised on numerous occasions the need for a proper investigation into the abuse she has suffered as a survivor of the Magdalene Laundries and justice for the violations suffered. Thus, for example:

- i. In 2013, she wrote to the Minister for Justice and Equality stating:<sup>41</sup>

“I need to know urgently, what mechanisms are put in place for any Magdalene Women, as myself, who feels the Question of my Human Rights has not been addressed. What is the Government and your department doing about redressing the Violation of my Human rights when in the Magdalenes? Will you please respond to this question immediately?”

- ii. In 2017, she wrote to the Minister for Children and Youth Affairs stating:<sup>42</sup>

“I am writing to you to request an investigation into the human rights violations that were perpetrated on women and children in all County Homes and Magdalene Laundries...”

34. Furthermore, Ireland’s argument that Mrs Coppin ought to have launched further litigation arguing that her right to an effective remedy and to a prompt and impartial investigation, ignores (a) the domestic legal effect of the waiver Mrs Coppin had to sign to access even the ex gratia payments offered, which could and would have been relied on to defeat any such action; and (b) the fact that there exists in Irish law no cause

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<sup>38</sup> See the summary in Mrs Coppin’s Statement paras 70-74.

<sup>39</sup> Mrs Coppin’s Statement, par 74.

<sup>40</sup> Complaint, para 5.3.4.

<sup>41</sup> See Tab 47 to Mrs Coppin’s Complaint.

<sup>42</sup> See Tab 48 to Mrs Coppin’s Complaint.

of action (for example, in tort) which could effectively and reasonably have been pursued. Although, in theory, there exists the possibility of an action against the State for breach of constitutional rights, there are few examples of its successful employment in practice. Indeed, as a mechanism for the vindication of human rights, it was condemned as ineffective by the ECtHR in *O’Keeffe v. Ireland*, as case which also concerned historic abuse.<sup>43</sup> The objection that it ought to have been exhausted in this case is therefore unsustainable.

35. Finally, it is clear from Ireland’s recent statements to the Committee, and indeed from the State’s Response to this complaint, that it has no intention whatsoever of conducting any investigation into Mrs Coppin’s allegations.

**B. Relationship between admissibility *ratione temporis* and domestic remedies**

36. It is finally necessary to address a false dichotomy set up by Ireland in its Response in arguing that either the facts that give rise to the complaint occurred after 11 May 2002 (such that they are admissible *ratione temporis* but such that there has been no exhaustion of domestic remedies) or they are interlinked (such that there has been an exhaustion of domestic remedies but they are not admissible *ratione temporis*).<sup>44</sup>
37. This is an over-engineered attempt to get around the straightforward position that: (i) Mrs Coppin’s complaint is of continuing violations that have continued after 11 May 2002; and (ii) Mrs Coppin was not able to pursue domestic remedies as she is barred by domestic law (as indeed the State accepts), but that she has done all that she can despite that preclusion. Seeking to draw fine distinctions around the precise nature of the complaints brought by Mrs Coppin is to put form above substance and should not be permitted.

**V. COMPLAINT ON BEHALF OF ‘OTHER SURVIVORS’**

38. At paragraphs 49-52 of Ireland’s Response, Ireland argues that Mrs Coppin’s complaint is a complaint not only on her own behalf but on behalf of “other survivors” and therefore that the “entire complaint is inadmissible”.

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<sup>43</sup> *O’Keeffe v. Ireland*, App No 35810/09, ECHR 2014-I, paras 183-186 [Tab 14].

<sup>44</sup> Ireland’s Response, paras 40 and 41.

39. With respect, there is no basis for this argument. Rule 113(a) of the Rules of Procedure, of which only part is cited in Ireland's Response, provides as follows:

“With a view to reaching a decision on the admissibility of a complaint, the Committee... shall ascertain:

(a) That the individual claims to be a victim of a violation by the State party concerned of the provisions of the Convention. The complaint should be submitted by the individual himself/herself or by his/her relatives or designated representatives, or by others on behalf of an alleged victim when it appears that the victim is unable personally to submit the complaint, and, when appropriate authorisation is submitted to the Committee”

40. Mrs Coppin claims to be a victim of a violation by Ireland of the provisions of Articles 12-14 and 16 of the Convention. She is submitting her complaint herself (with legal representation). As such, her claim plainly satisfies Article 113(a) and Ireland's arguments should be dismissed.

41. Indeed, Ireland does not appear to deny that Mrs Coppin complains to be a victim of a violation of the provisions of the Convention and that she has brought the complaint herself. Ireland's complaint is only in respect of the fact that Mrs Coppin also notes the position of other women who were interned in the Magdalene Laundries. In this connection, it is submitted:

- a. There is an undeniable collective dimension to the right to truth – which is at the heart of the right to a prompt and impartial investigation in Article 12 – albeit that the vindication of this right may require legal action by individuals.<sup>45</sup>
- b. There can be no criticism of Mrs Coppin, nor an admissibility challenge, on the basis that she has noted the objective fact that her situation is shared by many other Irish women.
- c. Insofar as the Committee may make observations in respect of Mrs Coppin's complaint, such comments may be applicable *mutatis mutandis* to the position of other survivors. This is an inevitable fact for victims of systemic human rights violations, and does not make Mrs Coppin's complaint inadmissible.

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<sup>45</sup> A Panepinto ‘The right to the truth in international law: The significance of Strasbourg's contributions’ (2007) 37 (4) *Legal Studies* 739 [Tab 15].

- d. The extent to which any findings of the Committee in Mrs Coppin's case may be applicable to other survivors is a matter for submission in due course and is not relevant to the question of whether or not her case is admissible at this stage.

**Lewis Mooney**  
**Jennifer MacLeod**  
**Maeve O'Rourke**  
**Colin Smith**  
**Michael Lynn SC**  
**31<sup>st</sup> January 2019**