



Obituary of Philomena Canning, September 1959 – March 2019

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[AIMS Journal, 2019, Vol 31, No 1](#)

By Marie O'Connor



Philomena Canning was a fearless advocate of the human rights of mothers in maternity care and of midwives in clinical practice. I first met her around 1997. She was a vibrant, passionate being, utterly committed to the project in hand.

Philomena strove tirelessly to transform Ireland's maternity care system, designed, as she saw it, to protect the private wealth—and public power—of consultant obstetricians, while denying midwives their status in European law as autonomous practitioners.^{1,2} One of the earliest of the many international midwifery conferences we attended was on out of hospital births in Aachen, Germany, in 2000. That congress unanimously adopted the Aachen Declaration on Midwifery for All³. It called for midwifery to be reintegrated into primary health, for women to be offered continuity of care from a midwife of their choice in a setting of their preference, and for midwives to be given legal and financial parity of esteem with doctors as providers of maternity care.

Her Donegal roots may have contributed to Philomena's independence of mind. The third of nine children, she was born at home on 12 September 1959, in Glenvar, a Gaeltacht area in the beautiful,

remote Fanad peninsula of County Donegal, in the far north-west of Ireland. Midwives had their title protected in law—a protection they were later to lose—and Philomena grew up hearing young Glenvar women talk with respect about their district midwives.

She trained as a nurse and midwife at the Whittington Hospital in London, later moving to Saudi Arabia to work, and thence to Sydney, Australia. Her experience of hospital midwifery there was not a happy one, and she successfully applied to run a health centre in Alice Springs for aboriginal women. There she spent four and a half years, helping women to give birth at home. Before she left, she was presented with a highly intricate, almost pointilliste, painting depicting birth, a fitting tribute to a revered midwife. Her experience in Alice Springs was to prove seminal.

On her return to Ireland she completed a master's degree in public health at Trinity College. However, the lure of clinical practice proved too strong, and Philomena entered the fraught field of independent midwifery in 1998 at a time when several other home birth midwives had effectively been forced out of practice.

Several of her clients took legal action in 2000 to compel the State to provide them with home birth services or reimburse the cost of private midwifery services⁴. The High Court refused the application for reimbursement on the basis that maternity services had to be provided by a medical practitioner, and that midwives were not medical practitioners. The central question, the State's legal responsibility to provide a domiciliary service, remained to be determined. Philomena's clients took action again⁵. Ending the statutory entitlement to a home birth service that had existed for half a century, the High Court held that the State had no legal obligation to provide home birth services and this decision was upheld by the Supreme Court. Costs were awarded against her clients.

In 2002, we co-founded the National Birth Alliance, campaigning for home birth services, setting up a web site, Maternity Matters, and making submissions to various bodies. The Competition Authority, for example, acknowledged that veterinary nurses were restricted in their practice by veterinary surgeons, but refused to accept that midwives were even more constrained⁶. The withdrawal by the National Maternity Hospital of antenatal testing for the clients of independent midwives in 2003 sparked a new campaign: Philomena entered the fray with boundless energy and characteristic élan.

Philomena dreamed of opening an independent birth centre and prepared methodically for the venture. One month after rejecting her proposal, on 12 September 2014 (her birthday), the HSE summarily withdrew her indemnity, alleging risk in two births, despite being unable to identify any adverse outcomes. Her case became a cause celebre, supported by the Home Birth Association and AIMS Ireland, led by Krysia Lynch, who set up a group that included former clients to mobilise support. Philomena, who had some 29 clients at the time, applied to the High Court to have her insurance reinstated; the HSE countered with a conditional offer, which she rejected. She appealed to the Supreme Court: Expert reports, including one commissioned by the HSE, exonerated her practice. Ahead of the hearing in February 2015 the HSE offered to restore her indemnity pending a 'systems review' of the two cases and subsequently proposed to settle her case. Philomena refused, believing she had been blamed for a

serious safety incident that the authorities had sought to conceal. She wanted the truth to emerge in open court. Sadly, ill health would eventually force her to settle.

A gifted midwife who lived for her work, she enjoyed a rich life outside it. Her siblings looked up to her and Philomena invariably took the lead in dealing with important family matters. She loved travel, clothes, food, theatre, music, and adored golf, although time did not permit her to play much.

A strong sense of feminism impelled her irrepressible activism. She inspired a younger generation of home birth mothers and midwives, relished public debate and was a frequent guest lecturer. In 2016, she co-founded Midwives for Choice with Ciara Considine, a former client, ahead of the referendum on the Eighth Amendment to the constitution, which gave the fetus equal rights with its mother. In Philomena's view the amendment had become a weapon that was used routinely against women to coerce them into unwanted medical procedures.

Philomena was persuaded by me to take part in the hearing of CEDAW, the UN Women's Committee in Geneva in February 2017 which examined, among others, Ireland's human rights record. She argued that 'active management' is premised on the denial of women's human rights, viz., self-determination, bodily integrity and personal autonomy. In its quasi-judicial concluding observations, CEDAW expressed concern at Ireland's reported policy 'of having 3 births per 24 hours for every bed in maternity wards', and called on the State to respect the natural birth process⁷. Philomena was particularly proud of this achievement.

She became ill in February 2018 and was subsequently diagnosed with ovarian cancer. An indomitable spirit, she showed a steely determination to carry on, speaking at the inaugural conference on human rights in childbirth in Dublin in April⁸ while undergoing treatment. Her final public appearance was in September 2018, when she spoke about the need to ensure that the new maternity hospital planned for Dublin would be publicly owned, not gifted, as planned, to a religious congregation. The Campaign Against Church Ownership of Women's Healthcare was to be her last.

Philomena is survived by her siblings, Mairead, Mary, Noel, James, Anne-Colette, Malachy and Oonagh.

Marie O'Connor

Chairperson

Survivors of Symphysiotomy

References:

¹) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications. *Official Journal of the European Union*, 2005, L 255:22–142 Available on line at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF>

2) The 2005 Directive combined and amended the original 1980 Directives:

Council Directive 80/154/EEC of 21 January 1980 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in midwifery and including measures to facilitate the effective exercise of the right of establishment and freedom to provide services. *Official Journal of the European Union*, 1980, L 033:1–7 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31980L0154:EN:HTML>); Council Directive 80/155/EEC of 21 January 1980 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action relating to the taking up and pursuit of the activities of midwives. *Official Journal of the European Union*, 1980, L 033:8–12 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31980L0155:EN:HTML>)

3) The Aachen Declaration on Midwifery for All. Available on line at:

www.collegeofmidwives.org/collegeofmidwives.org/Aachen%20Declaration%20000a.htm

See also:

www.collegeofmidwives.org/collegeofmidwives.org/safety_issues01/Aachen_progress01a.htm

4) Tarrade and Ors v Northern Area Health Board [2000/184 JR]. Unreported, 15th May 2002.

5) O'Brien and Ors v South Western Area Health Board [IESC] and [2003] 7 ICLMO 34.

6) See: http://homepage.tinet.ie/~maternitymatters/maternity_boys_beat_girls.htm

7) www.cedaw.org/ Committee on the Elimination of Discrimination Against Women 2017, Concluding observations on the combined sixth and seventh periodic reports of Ireland. [CEDAW/C/IRL/6-7](http://www.cedaw.org/C/IRL/6-7). 9 March 2017, 12-13 para 44-45. Available on line:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fIRL%2fCO%2f6-7&Lang=en.

8) Human Rights in Childbirth Conference 2017 Mansion House Dublin. Co-organised by MacGeehin Toale Solicitors and Midwives for Choice. See:

<https://www.facebook.com/midwives4choice/videos/2091891417702326/?q=midwives%20for%20choice>