



Briefing for TDs and Senators

Thursday 23rd November 2017

AV Room, Leinster House

Ireland has built up a system of maternity care premised on involuntary medical intervention. Women in labour are given a limited amount of time in which to have their baby in a system enforcing turnover of three births per labour ward bed in the 24-hour period. Since nature cannot be expected to oblige such a regime, medical intervention is required to achieve it, regardless of a woman's right to self-determination.

Uniformity and predictability in birth involves highly invasive procedures such as rupturing the water surrounding the baby in the womb with an instrument resembling a crochet hook. This procedure induces or accelerates labour. The effect of rupturing the waters is intensified by administering an intravenous infusion containing oxytocin, a synthetic hormone. Oxytocin causes the womb to contract more frequently and severely than nature intended, thereby heightening the woman's pain. This system of intervention, known as the "active management" of women in labour, was developed in Dublin in the 1960s and subsequently exported the world over.

Active management is based on the doctrine of assumed consent. Blanket "consent" forms are still in common use today in Ireland's maternity care. The graph used to plot women's progress in labour against the clock makes provision for labour lasting no longer than 8 hours. Staffing is structured on the basis of this high turnover in the labour ward, with midwives being rostered accordingly.

The active management of women in labour underpins the structure and functioning of maternity care in Ireland. In turn, the structure and functioning of maternity care depends on active management. No provision is made in the manual on active management for women to refuse these interventions. If women's rights to bodily integrity, self-determination and autonomy were respected in labour and birth, the entire system of centralised birth would soon collapse.

A further aspect of the organisation of maternity care in recent years has been the systematic closure of smaller maternity units. In 1975, there were 105 facilities in the country where women could give birth; today there are 19. Almost all women (99.2%) give birth in hospital under obstetric-led care. The more maternity services are centralised into larger units, the greater the need for through-put to avert a labour ward bottle-neck, and the more remote the possibility that informed consent is offered to the individual woman by hospital staff. Further centralisation is planned in Ireland in the coming years.

The introduction of Article 40.3.3 of the Irish Constitution (the Eighth Amendment) in 1983 intensified non-consensual medical intervention in childbirth which by then had become routine

under active management. The influence of the Eighth Amendment can be seen in two ways. Firstly, the Health Service Executive (HSE) National Consent Policy, and the National Maternity Strategy 2016-2026, both cast doubts on women's rights during pregnancy to self-determination and bodily integrity. As such, pregnant women are the only group of mental capacity whose rights are systematically undermined in the institutional health care setting. Secondly, legal action centred on breaches of fundamental rights has been taken by women against the HSE, and *visa versa*.

In recognition of the critical need for a human rights framework for high-quality maternity care, guidelines produced jointly in 2015 by the International Federation of Gynaecology and Obstetrics, International Confederation of Midwives, International Paediatric Association and the World Health Organization, affirmed women's right in childbirth "to be treated with dignity and respect" calling for their protection from "unnecessary interventions, practices, and procedures that are not evidence-based."¹

In its concluding observations of Ireland's periodic review earlier this year, the UN Women's Committee (CEDAW) called for the abandonment of Ireland's highly medicalised system of maternity care that fails to meet international human rights standards.² Sharing the concerns of CEDAW, the Commissioner for Human Rights of the Council of Europe noted the "common practice by hospitals of invoking the Eighth Amendment - with threat of, or actual, court order - to force women to comply with medical decision-making about their care and treatment [in childbirth] with which they do not agree",³ adding that he strongly hoped the Eighth Amendment would soon be removed for progress towards maternity care that is respectful of women's human rights.⁴ And finally, the UN Committee Against Torture has also expressed concern about the non-compliance of Ireland's system of maternity care with human rights standards. At its examination in July this year, the government was asked to state whether existing policies in maternity care reinforce women's right to consent to or decline medical treatment. No response was given.

The 8th Amendment denies the fundamental rights of women in the labour ward to dignity, bodily integrity and self-determination. If our maternity services are to respect and protect women's human rights in childbirth, the 8th Amendment must be fully repealed as a necessary first step."

Philomena Canning, Chairperson

¹ International Federation of Gynaecology and Obstetrics; International Confederation of Midwives; White Ribbon Alliance; International Paediatric Association; World Health Organization. 'Mother-baby friendly birthing facilities'. *International Journal of Gynecology and Obstetrics*. 128 (2015) 95-99

² United Nations. 'Concluding observations on the combined sixth and seventh periodic reports on Ireland'. CEDAW/C/IRL/CO/6-7. Paras 44 & 45. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en

³ Council of Europe. 'Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 22 to 25 November 2016'. Strasbourg, 29 March 2017; para 80. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2968549&SecMode=1&DocId=2399932&Usage=2>

⁴ *Ibid*, para 93 and 94.