

Remarks by Susanna Cawley and Chris Cawley at the Women's Aid UN Day Opposing Violence against Women Seminar on Femicide and Domestic Violence, Friday 23rd November 2018, Dublin.

Celine was a unique individual.

She was a mother, a daughter, a sister, an aunt, a friend and she was loved dearly, by all of us.

Tragically, when Celine was killed, by her husband, in her own home, in what should have been her safest place, our unique loss, became a shared statistic.

In the manner of her death, she shares so much with the other victims of Femicide in Ireland, an average of 10 every year.

225 much loved mother's, daughters, sisters who have died by Femicide since 1996.

In common with Celine, 69% of those Femicide victims are killed in their own home.

And in common with Celine, 87% of those homicides were carried out by a male partner or a man known to the woman.

This morning, we would like to tell you about our own personal experience, of some aspects of our family's story.

In telling our story, we hope to support the vital work of Women's Aid and to challenge the often misleading and degrading narrative that surrounds many Femicide victims in Ireland.

Our story is of course only a reflection of our own individual lived experience.

Celine was a successful businesswoman and through her endeavour she was in a privileged position to buy a valuable family home.

Susanna and our dad are lawyers and that enabled us to fight for Celine's rights and the rights of her daughter in ways that others might not have been able to.

However, Celine's success and our family's ability to fight for what is right did not shield us from the anguish, the pain and the sadness which we share with other victim's families.

For our family today is about offering our voice in support of the Women's Aid campaign to break the pattern of male violence.

When Celine died, as executors of her Will, we found ourselves entangled in a complex aspect of Irish succession law and we would like to tell you about how significant problems can emerge for the families of Femicide victims with how Irish succession law currently stands.

At the moment, Dail Eireann are debating Jim O'Callaghan's private members bill called; Civil Liberty (Amendment) (prevention of benefits from homicide) Bill 2017. We understand that Minister Flanagan wishes to review some aspects of the proposed legislation.

This bill is informed in part by our experience and we look forward to its passing as a matter of urgency. We do not want any more families to go through what we experienced.

By way of background to what we encountered while trying to administer Celine's estate, I will refer to Section 120 of the Succession Act 1965 which states that.....

"A killer is precluded from inheriting from his or her victim's estate and forfeits any inheritance that he or she would otherwise receive under the victim's will or on intestacy"

The idea held in this legislation is that 'a convicted criminal cannot profit from their crime'.

Unfortunately, this law does not extend to property held jointly and this was the major problem we encountered whilst trying to administer Celine's estate.

Our primary concern was to ensure that Celine's assets passed on to support the care of her daughter which we knew was what Celine intended in her will.

However, the Irish constitution declares that:

'the state will vindicate the property rights of every citizen'.

This means that every Irish citizen has the right to own, transfer and inherit property.

Article 43 of the constitution acknowledges that these rights ought to be regulated by the principle of social justice.

This means that the state may pass laws limiting inheritance rights in the interests of social justice and the common good.

Despite all of that, the actual situation in Ireland is that no law has so far been enacted to deal with how jointly held assets are distributed where one asset holder has been convicted of the homicide of the other joint asset holder.

56% of all perpetrators of Femicide in Ireland are either a husband or partner of the victim and 95% of all family homes in Ireland are held as joint assets.

It is reasonable to assume therefore that in a high proportion of Femicide cases, both the killer and the victim share common ownership of the family home.

It is also reasonable to assume that there is law in Ireland, as there is in other countries, to ensure that a man who is found guilty of the homicide of his wife cannot gain financially from his crime.

However, in Ireland, unlike other countries, men who commit Femicide can gain financially from their crime.

What insights does this give us about the balance of social justice afforded to the perpetrators and to the victims of Femicide in Ireland?

What insights does it give us about how property rights held in the constitution are given priority over principles of social justice and the common good?

In our case, the killer decided that he was entitled to retain full ownership of all the assets which had been owned jointly with Celine including: the family home in Howth and a home they owned in France together, and several other assets.

And the law, or the absence of law in Ireland supports not just the sense of entitlement, but the actual entitlement itself.

The net effect of this in our situation was that although her killer was convicted of homicide and was serving a jail sentence, he had an automatic right personally, to inherit all their joint assets.

Additionally, he had made no financial provisions for their daughter.

Our family felt compelled to challenge this “so called” right to joint assets.

We decided to fight for the principle of social justice and the common good.

Our case was about securing financial security and a future for Celine’s daughter, and we know it is what Celine would have wanted.

And so, started a complex and emotionally draining process which continues today, 10 years after Celine was killed.

We don’t have time this morning to go through the detail of the legal process, however, several headline points will hopefully give you an insight into what occurred:

- We began High Court proceedings in Ireland and in France aimed at securing as much of Celine’s estate as possible in favour of her daughter.
- In response to this her convicted killer instructed lawyers while incarcerated in Wheatfield prison to defend what he saw as his right to retain everything that Celine and he had jointly owned.
- In Ireland the High Court proceedings contesting the joint assets lasted four years and seven months.
- In France the proceedings lasted one year and seven months.
- In Ireland the proceedings required full legal teams on both sides including solicitors and senior and junior counsel.
- The legal costs in Ireland came to €187,000.
- In France the proceedings required one Advocate on each side.
- The legal costs in France came to €16,000.
- In France the principal that you cannot profit from your crime was upheld and 100% of the French home was awarded to the estate.
- In Ireland the outcome was a 50-50 split of the jointly held assets i.e. the 50% considered in Irish law to be Celine’s portion of what they jointly owned was awarded to the estate and therefore to Celine’s daughter.
- The other 50% went to her convicted killer.

Reflecting on this process it seems to us that in France the common good and principles of social justice are upheld.

It seems to us, this is not the case in Ireland.

In her closing remarks of her judgement in our Irish High Court case Judge Mary Laffoy said:

“the issues raised in these proceedings demonstrate that ideally there should be legislation in place which prescribes the destination of co-owned property in the event of the unlawful killing by one of the co-owners by the other co-owner”.

Having come this far we thought it was appropriate to bring the opinion of Judge Laffoy, to the attention of the then Minister for Justice Frances Fitzgerald.

- We wrote to the Minister.
- The Minister asked for direction from her attorney general.
- The attorney general raised the possibility that a constitutional issue arose.
- So, the matter was passed to the Law Reform Commission.
- We wrote to the Law Reform Commission and we were subsequently invited to discuss our experience with them.
- The Law Reform Commission said that they would consider the issues within the context of additional issues that they were already looking at and we heard no more for a while.
- We then received a welcome intervention by Senator Fergal Quinn.
- Aware of the distress our family were experiencing and motivated by his own interest in the common good and principles of social justice he offered to introduce a private members bill in the Senate to amend Section 120 of the Succession Act.
- Senator Quinn’s intervention brought the important issues raised back into focus.
- Subsequently the Law Reform Commission produced their report.
- And currently, proposed legislation which we referred to earlier is before the Dail.
- We urge the implementation of the proposed bill, already a ten-year delay is too much.

Reflecting on this we are left wondering, how is it that private citizens, who are already trying to process the distress and sadness of their sister’s homicide, must take on such an onerous role in trying to get the state to respond to what is so manifestly in the interest of the common good and principles of social justice?

We wonder, how many families of Femicide victims are out there today on their own, with no support, wading through the complexity of resolving family affairs in the years after their loved one has been killed?

We wonder how many femicide victim’s families are out there today trying to get on with their lives in the knowledge that the man who killed their mother, their sister, their daughter is going to walk out of jail some day and settle back into the family home as if nothing had happened in the first place?

The public have a legitimate interest to know about unfolding criminal investigations and criminal trials.

The media play an important role in reporting on this legitimate interest.

The murder investigation into Celine's death and the murder trial attracted a lot of media coverage.

The nature and extent of this media coverage was the subject of commentary by the judge on the opening day of the murder trial.

During the Garda investigation and the criminal trial our family were deeply distressed, desolate with sadness, and very frightened.

Our world had been turned upside down. It was a living nightmare as grim forensic details unfolded before our eyes.

Murder detectives in our home. A bloodstained brick. A covert affair. All reported on in detail by the media.

Most of the journalists we encountered acted with professionalism and integrity.

Being the family under scrutiny is a deeply intrusive experience.

I have described this experience as like living in a goldfish bowl which has been placed in the centre of a crowd packed football stadium like Croke Park.

The media narrative during a criminal investigation and a murder trial is inevitably informed by a piecemeal and incomplete information feed as the investigation and trial unfolds.

This media narrative in turn influences ideas held by the public.

Inevitably the public make assumptions and jump to conclusions that are only part informed.

I identified Celine's body for the investigating Gardai a few hours after she had been beaten over the head repeatedly, with a brick. I know the macabre, bone chilling details of how she died.

It's hard to describe the isolation experienced by a distressed family when there is such a distance between the reality of your own lived experience, and the conclusions drawn by the public who are working from a media narrative.

Reflecting on this experience we would like to offer our support for the important recommendations on media reporting contained in the Women's Aid 2018 Femicide watch report.

The Garda investigation was also deeply intrusive and in equal measure completely necessary as the police murder investigation team went about their professional work of catching a killer.

We placed our trust in the professional integrity of the investigating team.

Our experience of the police investigation was of a team of dedicated professionals who acted with integrity and professional competence.

Above and beyond that they seemed to empathise with the awful experience we were going through and provided us with the protection and support that we so badly needed.

Investigating a murder and taking a killer off the streets is painstaking, detailed and difficult work.

Supporting the victim's family takes human skills of care and compassion.

Reflecting on a most difficult time in our lives, we will be forever grateful to the investigating Gardai for their professional competence, their hard work and the humanity and care they provided us with.

We will also be forever grateful for the care, compassion and love we received from the people in the communities where we live.

In closing, we would like to underline that our story is only a reflection of our own lived experience and the characteristics of our particular situation.

However, what happened to Celine and how it impacted our family is consistent with a common pattern of Femicide in Ireland which is clearly reported on in the 2018 Woman's Aid Femicide watch report.

We urge everyone who is in a position of responsibility to respond to the recommendations made in this report.

Thank you.