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## Legalised non-consensual sterilisation – eugenics put into practice before 1945, and the aftermath. Part 1: USA, Japan, Canada and Mexico

Jean-Jacques Amy<sup>a</sup> and Sam Rowlands<sup>b</sup>

<sup>a</sup>Faculty of Medicine & Pharmacy, Vrije Universiteit Brussel, Brussels, Belgium; <sup>b</sup>Faculty of Health & Social Sciences, Bournemouth University, Bournemouth, UK

### ABSTRACT

In the late 19th century, eugenics, a pseudo-scientific doctrine based on an erroneous interpretation of the laws of heredity, swept across the industrialised world. Academics and other influential figures who promoted it convinced political stakeholders to enact laws authorising the sterilisation of people seen as ‘social misfits’. The earliest sterilisation Act was enforced in Indiana, in 1907; most states in the USA followed suit and so did several countries, with dissimilar political regimes. The end of the Second World War saw the suspension of Nazi legislation in Germany, including that regulating coerced sterilisation. The year 1945 should have been the endpoint of these inhuman practices but, in the early post-war period, the existing sterilisation Acts were suspended solely in Germany and Austria. Only much later did certain countries concerned – not Japan so far – officially acknowledge the human rights violations committed, issue apologies and develop reparation schemes for the victims’ benefit.

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### Background

Everyone has a fundamental right to control whether and when to have children. No authority is entitled to dictate contraceptive decisions to others. This view rests on values of access to information, competence, privacy, personal autonomy, freedom from discrimination, health and bodily integrity. ‘Non-consensual (or forced, or compulsory) sterilisation’ means that a person is sterilised without having given valid consent. This includes ‘emotionally coerced sterilisation’, in which health personnel or social workers pressure a patient into consenting to being sterilised.

The reasons for imposing sterilisation differed, but those subjected to compulsory sterilisation were consistently vulnerable and powerless. Ethnic minorities, indigenous people, immigrants, those living in poverty, ‘gypsies’, prisoners, sex workers, individuals regarded as behaving ‘immorally’ (especially unmarried mothers), substance users and welfare recipients were designated as ‘social misfits’. Another group targeted consisted of women having an induced abortion, being about to deliver or postpartum. Others still were stigmatised because of physical disabilities, deformities, perceived weaknesses of character or differences of race, nation or religion [1].

Forced sterilisation violates bodily integrity and deprives individuals of their fertility. It is a gendered issue, with women being targeted far more than men, especially in more recent years [2]. Deprivation of the possibility of motherhood, in itself, is stigmatising [3].

### Eugenics

In 1883, the term ‘eugenics’ was coined by the Brit Francis Galton [4]. It referred to a notion that already prevailed in

Ancient Greece, which claimed that mankind can shape the characteristics of its descendants through selective breeding. ‘Positive eugenics’ encourages the most capable within the community to procreate, whereas ‘negative eugenics’ aims at reducing (e.g., by means of sterilisation, a ban on marriage, euthanasia and limiting immigration) the offspring of those considered unfit. Based on the new science of Mendelian genetics, eugenic concerns rose in Europe and North America during the later 19th and early 20th centuries. In the USA, the movement was led by Malthusians and White, Native Americans, who considered that they were entitled to greater rights and privileges.

In some countries, eugenics was actively discussed by enthusiasts but rejected by politicians. Britain, in the early 20th century, led the world in eugenic thinking. Pro-sterilisation groups launched parliamentary campaigns and, in 1934, the Brock Report recommended the legalisation of sterilisation for, among others, people whose family history gave ‘reasonable ground for believing that they [might] transmit mental disorder or deficit’. This would have included 3.5 million people [5]. The main reason why no sterilisation law was passed was the opposition of the Labour Party which considered the measures contemplated to be directed against the working class [6]. In Poland, psychiatrists promoted eugenics in the interwar period; however, eugenics was not taken up by politicians and, after the Nazi atrocities, Polish psychiatrists never returned to it [7].

### From theory to intervention

Programmes intended to prevent procreation among subjects considered to be carriers of defective genetic traits were implemented in the first half of the 20th century – in accordance with an ill-conceived and unachievable aim of

creating a biologically perfect society [8]. Sterilisation came to be regarded as a means of arresting the 'proliferation of undesirable human stock'. In France, eugenics elicited considerable interest, but was hardly put into practice, possibly because of a fear of depopulation exceeding that of 'breeding' individuals then seen as socially undesirable. In Sweden, eugenics was promoted by academics of diverse disciplines, whose lobbying targeted political stakeholders and public opinion, resulting in the creation of a eugenics institute. The scientists had close connections with German colleagues who would later partake in the development of Nazi biopolitics [9].

Non-consensual sterilisation – predominantly of women – has also been resorted to for reducing population growth, with incentives or coercive measures being employed to secure 'agreement'. Other motives for sterilising under duress included sex discrimination, limiting the spread of HIV [10] and reducing the size of minority ethnic groups. In some countries, in violation of the Yogyakarta Principles [11], transgender (and, often, intersex) people must undergo sterilisation before receiving gender-affirmative treatment and gaining legal recognition of their chosen gender [12]. The Rome Statute Explanatory Memorandum [13] stipulates that widespread forced sterilisation is a crime against humanity which falls under the jurisdiction of the International Criminal Court.

Predominantly during the first half of the 20th century, but even to this day, authoritarian patterns of thought and transgressions of basic human rights were standard practices in many more countries than solely those under fascist rule. In 1995, for instance, a 'Law on Maternal and Infant Health Care' (initially known as 'China's Draft Eugenics Law') was enforced in China; it required that couples pass medical tests before marriage to rule out certain traits and illnesses. Sterilisation might be ordered before permission to marry was granted [14].

Eugenic laws were no prerequisite for involuntary sterilisation. In Argentina, there was strong support amongst the medical and legal professions, and the practice was widespread in mental institutions. Mental institutions elsewhere carried out involuntary sterilisation too. Sterilisation laws have not always resulted in greater numbers of sterilisations; in the Swiss canton of Vaud there were fewer after passage of such a law.

Some abuses were countered by legal action – at times successful. Certain courts ordered that damages be paid. Later, there were moves to right historic injustices by means of recognition, acknowledgement, apologies and/or financial redress [3]. Reparations for sterilisations done before 1945 were generally made much later; some after 1997. Austria is an exception: victims of forced sterilisation, after the annexation of that country by Nazi Germany in 1938, could receive compensation under the Victims' Pension Law enacted in 1947 [15].

### ***Castration of sexual 'delinquents'***

Like Kansas in the USA had done in 1855, several European countries – between 1929 and 1977 – passed legislation authorising bilateral orchidectomy (removal of the testicles) of male sex offenders (e.g., rapists and paedophiles) and homosexuals [16]. These countries (listed chronologically)

were Denmark, Germany, Norway, Finland, Estonia, Iceland, Latvia, Sweden and Czechoslovakia (after 1992: the Czech Republic). Although no such legislation was enacted in Switzerland, the Netherlands, and Greenland, orchidectomy was used for treatment of male sex offenders [17].

In the early 20th century, castration was endorsed by the eugenics movement and was performed on male sex offenders in the USA. Knowledge of Nazi experimentation with castration and sterilisation eventually caused the public to reject these procedures as a means of modifying criminal behaviour. Yet, still to this day, eight states allow orchidectomy.

Surgical castration of men reduces sexual drive, but does not completely suppress erections in response to erotic stimuli. As the effects of orchidectomy – except for sterility – can be reversed by administration of testosterone, it is no foolproof means of preventing recidivism [18].

### ***An equivocal issue?***

A century ago, highly effective and long-acting reversible contraceptive methods were lacking, the science of genetics was in its infancy, and ethics pertaining to reproduction and women's rights differed greatly from the currently unquestioned procreative autonomy. Some who advocated eugenics were possibly motivated by real social concerns. We were reminded that 'Given our current understanding of the importance of individual autonomy and our appreciation of the genetic and environmental complexity underlying such characteristics as intelligence, it is easy to dismiss compulsory eugenic sterilization as a moral and scientific failure'. We now know that 'if a genetic trait is rare and recessive, most abnormal genes will persist [among] phenotypically normal carriers' who cannot be reached by a targeted sterilisation project [19].

Contemporary authors often do not write about eugenics with a sufficiently open mind and may not consider evidence that does not support their line of thought. There is a tendency to amalgamate eugenics and Third Reich policies. Tännsjö stressed the impropriety of simplistic judgements of past events [20].

### ***Ethics***

In principle, as already stressed, political authorities and health personnel should not meddle with a person's reproductive decisions. Yet, the legal right to procreate is not unlimited; circumstances may dictate the imposition of restrictions. The difficulty for decision-makers lies in defining the lawful and ethically acceptable means which may be used to impose limitations to this right.

Some questioned whether eugenic indications are consistently objectionable, sterilisation of the intellectually disabled invariably morally reprehensible, and third-party intervention equivalent to intolerable coercion [21]. According to Marie-Hélène Parizeau, sterilisation allows those with a mild to moderate intellectual disability (ID) to experience bonds of affection and to have gratifying sexual relationships – and possibly, for some of those with a lesser deficit, a long-term and stable relationship with a partner – without having to bear offspring for whom they cannot care. She considered that the decision process concerning

an involuntary and non-therapeutic sterilisation must take into account the well-being of the person with ID, that of the child that might be borne, and the equitable sharing of resources. What should stand out, she said, is a utilitarian argumentation that carefully compares advantages and drawbacks. Succinctly, two ethical issues confront decision-makers. Firstly, they must decide whether sterilisation will benefit the person concerned or, on the contrary, only the family and society. Secondly, the quality of the consent given for the procedure will depend on the emphasis placed on and the understanding of the latter's irreversibility [22]. Over the last decades, our thinking about sterilisation of people with ID has drastically changed. There is now less emphasis on what may be best for society and for the children who might later be conceived, and more on the individual involved. The long-term sequelae of the procedure are recognised. International treaties limit sterilisation abuses and courts abide by more exacting regulations when ruling on applications for sterilisation. Consequently, subjects with ID are better protected. Nowadays, sterilisation is rarely considered the right decision in a particular case. Non-consensual sterilisation of the intellectually disabled should be resorted to only when it is *the sole* course of action left open.

A booklet issued by the World Health Organization and other international bodies [23] shows that forced sterilisation is still a current issue. The report lists guidelines about an individual's autonomy in decision-making, non-discrimination, accountability, and access to remedies.

### Public policy initiatives

Compelling socio-economic circumstances may pressurise policy makers to introduce measures aimed at reducing fertility. Many – if not all – societies have occasionally taken steps to limit procreation in their midst, whether by controlling age at marriage, specifying the number of wives a man can have, encouraging prolonged breastfeeding, or tacitly permitting abortion when it is legally restricted. The policy context has ranged from non-interference to a totally coercive approach [24]. Actually, total fertility rates have dropped in most countries, regardless of public policy initiatives. China and India have vigorously pursued population policies. Maurice King was out of step when he claimed that 'China's one-child policy saved 200-400 million people and was the only rational solution to [the] grain problem [caused by] its rapidly increasing population'. He added that 'ecological constraints do not, alas, respect human rights' [25]. Such measures should not include coerced abortion or sterilisation. Policies of forced sterilisation 'lead to the violation of numerous human rights' and must be proscribed [26]. The Chinese one-child policy has distorted the population structure, with many elderly people dependent on fewer young people.

### Method

This article is about the first three countries which introduced laws allowing involuntary sterilisation (the USA, Japan and Canada) – and the state of Veracruz, in Mexico, which did so some time later. The nine European countries which followed suit before the Second World War are dealt

with in a separate article [27]. In 1945, the Third Reich was defeated and policies respectful of human rights were reinstated in Germany and Austria. Surprisingly, in the ten other countries where forced sterilisation was legal *and* being practised, no changes occurred in this respect in the first years after the war ended. The limited publicity given to Nazi abuses and atrocities had not raised consciousness to the need for a universal repeal of laws authorising or ordering the compulsory sterilisation of certain people. To report on the continuum of events, we therefore followed the evolution in all 13 countries up to the present time. It is sometimes difficult to disentangle voluntary from involuntary sterilisations, but in general those performed before 1945 were involuntary and done on the grounds of punishment or eugenics.

We have not gathered all evidence on record about non-consensual sterilisation. This paper and its sequel [27] are unprejudiced historical overviews of data we came across in our literature search. We read all relevant literature in English, French and Dutch which we could access, and a few papers in German: books, articles in medical journals and journals related to other disciplines, articles in the lay press, grey literature – including theses and news items accessed via reliable internet sources. We used – as far as possible – sources referring to original documents, but have not ourselves examined such documents. Statute and case law examples are mentioned, but legal citation is not included. Countries are addressed in chronological order, as practices in one of these influenced policies in others, involved later. In essence – when ignoring Japan and Mexico – the sequence starts in North America, crosses to Europe and ends in Scandinavia and a Baltic country. These distinct phases are the first three of five suggested by Weindling – the fourth being related to population policies and the fifth to targeting of ethnic minorities [28]. In the following sections, we report on the data we collated for four of the countries which implemented eugenic legislation before 1945.

### United States of America

The USA was the first country to introduce programmes of compulsory sterilisation. These were initially practised as a criminal punishment rather than as a eugenic measure. In 1855, the Kansas Territorial Legislature legalised the castration of black or mulatto people convicted of rape, attempted rape or kidnapping of a white woman [5]. Harry Sharp performed vasectomies on 465 inmates at the Indiana State Reformatory in Jeffersonville between 1899 and 1907.

American eugenicists claimed that the state had the right and the obligation to control procreation among those likely to bear children who would need support. Beginning in Indiana in 1907, US states passed laws that allowed or required the involuntary sterilisation of prisoners who were 'habitual criminals' and institutionalised people with ID and other mental and physical conditions [29,30]. Within ten years, 17 US states passed sterilisation laws; these relied on the eugenic argument that ID and mental illness were genetically transmitted and that society would be better off if individuals affected did not reproduce. Many laws stipulated that each case should be vetted by a Board of Examiners; individuals concerned had no-one

representing their interests, and the Boards had immense power.

Such programmes were endorsed by high-ranking personalities and authoritative scientific journals and newspapers. For instance, Margaret Sanger (1879–1966), the leading figure in fertility control and later founder of Planned Parenthood, held consistently strong eugenic views [31]. Between 1930 and 1936, the *New England Journal of Medicine* (NEJM) and the *Journal of the American Medical Association* together published nine editorials on eugenic sterilisation. In 1934, in response to Nazi Germany's compulsory law, the editors of the NEJM wrote that 'Germany is perhaps the most progressive nation in restricting fecundity among the unfit'. The motivations behind German and American policies showed unquestionable similarities [19].

By 1925, 33 states had enacted eugenic laws. Between 1907 and 1927, most were declared unconstitutional, and therefore withdrawn or amended [5]. Other court decisions upheld the prerogative for a state to restrict a person's freedom to procreate. Ironically, the sterilisation rate began to rise during the very period when the courts were rejecting the first round of sterilisation statutes (1917–1918). Between 1907 and 1921, there were 3233 sterilisations in the USA: 1853 on men and 1380 on women. The commonest reason for sterilisation was insanity (2700) followed by 'feeble-mindedness' (400) and criminality (130) [29]. After Virginia's *Buck v. Bell* case went to the US Supreme Court in 1927, non-consensual sterilisations could be done more freely. By approving the sterilisation of Carrie Buck by a majority of 8 - 1, the Court upheld the constitutionality of forced sterilisation of the feeble-minded. In the Court's notorious decision, Justice Oliver Wendell Holmes, Jr., concluded that 'society can prevent those who are manifestly unfit from continuing their kind. [...] Three generations of imbeciles are enough'. Dr Bell sterilised Carrie Buck when she was aged 20 years. The Court's ruling in *Buck v. Bell* would later be seen to have been ill-founded, even considering the climate of the day [5]. A posthumous apology to Carrie was made by the State Governor in 2002 [32].

In 1929, the American Association for the Study of the Feeble-Minded strongly supported the 'judicious' use of sterilisation. Throughout the 1930s, more than 2000 institutionalised people were being sterilised in the USA annually [29]. By 1933, California had compulsorily sterilised more people than all other US states combined. In the early years of the Californian law, sterilisations performed in institutions for the mentally ill exceeded those done in institutions for the feeble-minded; by the late 1930s, this pattern had reversed. Among inmates forcibly sterilised in public mental institutions, poor and minority residents accounted for a greater proportion than in the general population. Foreign-born inmates were overrepresented in California, and black inmates in Virginia [19].

*Skinner v. Oklahoma* was a landmark case. In 1942, the US Supreme Court struck down an Oklahoma law that permitted certain thrice-convicted criminals to be sterilised. The Court held that such statutes violated constitutional protections against cruel and unusual punishment [33], and that '[t]he power to sterilise may have subtle, far-reaching and devastating effects. In evil or reckless hands, it can cause races or types which are inimical to the dominant group to wither and disappear'. During the remaining war years, there were only half as many eugenic sterilisations annually as

during the 1930s [29]. A nadir was reached in 1944 with 1183 sterilisations. In 1944, 30 states with sterilisation laws had reported a total of more than 40,000 eugenic sterilisations: 20,600 for insanity and 20,453 for ID [19]. Until forced sterilisations ended altogether, 31 states had done over 65,000 sterilisations [34], more than 60,000 of them between 1930 and 1960, and over half in California.

Several state court decisions endorsed the statutes as indispensable in the public interest. There existed, seemingly, a general agreement that the state, by virtue of the power vested in it, had the authority to order that certain people be sterilised for the public good. It was stated or implied in these opinions that no right to bear children was transgressed by these statutes and, in one case, that the state did not need to establish that the children the woman might bear – if she were not sterilised – would inherit her intellectual deficit. However, in the absence of any enabling statute, the state could not order sterilisation. In certain cases (e.g., *Holmes v. Powers* 1969 and *Frazier v. Levi* 1969), it was argued that, as the person concerned lacked legal capacity to consent even if she wished to be sterilised, the operation might not be allowable at all. Eventually, during the 1960s, the number of decisions approving compulsory sterilisation dropped markedly. In an Ohio trial court decision, the judge who, in the absence of any statute, had ordered that a woman be sterilised despite her refusal, was found personally liable for damages [33].

In 1968, 27 states still had compulsory sterilisation statutes; eight of these repealed or changed their statutes between 1968 and 1973. The more recent application of eugenic legislation was punitive or economically motivated as in the case of women with illegitimate children supported by welfare payments [35,36]. Some states still had punitive clauses in their sterilisation laws well into the 1970s. Under these powers, sex offenders and others convicted of criminal offences could legitimately be sterilised. While other countries now desist from humiliating prisoners, the USA continues to find this practice acceptable, as demonstrated recently in California.

The judgment rendered in 1980 by Washington State's Supreme Court (in *Re Hayes* 1980) likely served as a model for other jurisdictions. The following requirements were listed for the performance of the sterilisation of a person with ID [37]:

1. the individual is presently incapable of making his or her own decision about sterilisation, and unlikely to develop sufficiently to do so in the foreseeable future;
2. he or she is physically capable of procreating;
3. he or she is likely to engage in sexual activity at present or in the near future under circumstances likely to result in pregnancy;
4. the subject's disability renders him or her permanently incapable of caring for a child, even with reasonable assistance; and
5. there must be no alternatives to sterilisation (e.g., less drastic contraceptive methods).

#### **Particulars of certain states**

The first Californian sterilisation law of 1909 applied to all prison inmates. Prisoners convicted twice for any sexual

offence and those convicted three times for any offence where evidence was presented of the individual being a 'sexual or moral pervert' were candidates for sterilisation, even if serving a life sentence. The 1913 amendment to the law extended the net to life prisoners who exhibited moral or sexual depravity in prison; this was interpreted to include masturbation or homosexual acts. California carried out 20,108 sterilisations up to 1964, with about as many men as women. Mexican Americans represented 7–8% of those sterilised. Probably, more individuals with ID were sterilised in the Sonoma State Home than in any other institution in the world up to 1942 [34]. In 2013, the Center for Investigative Reporting disclosed that almost 150 female inmates in Californian prisons had been illegally sterilised between 2006 and 2010. The procedures were often discussed with women during childbirth, or other medical interventions, when they were most vulnerable. Federal law prohibits the use of federal funds for sterilisation of incarcerated women; California state funds are available for that purpose, but special approval is required for the operation. In the cases reported in 2013, the legal procedures were ignored [38].

North Carolina (NC) passed its first eugenic sterilisation law in 1919 – under which, apparently, no sterilisations were done – and a new one in 1929, which the NC Supreme Court ruled unconstitutional in 1933. The 1929 law was amended, and a five-member Eugenics Board created which could authorise sterilisations on the grounds of mental illness, ID or epilepsy. Initially, most sterilisations were done on inmates of state institutions; the programme expanded well beyond these institutions starting in 1937. That year, NC introduced the first US state-sponsored family planning (FP) programme which led to more state-sponsored sterilisations per capita than in any other state. The law was the only one in the USA to permit welfare officials to petition for sterilisation of their clients. The sterilisation programme was expanded in the 1950s and 1960s when most US states had halted theirs. The NC Eugenics Board was finally dissolved in 1974. From 1929 until 1974, about 7600 women, men and children considered 'unfit' had been sterilised, mostly without their consent. Willis Lynch was sterilised in 1948 at the age of 14 while a resident at a NC Juvenile detention facility [39]. One-third of sterilisations was done on women aged under 18, even on girls as young as nine years. Poor women who applied for voluntary sterilisation received the help they needed, but many were coerced into sterilisation; there is evidence of bias against African-Americans and people receiving public assistance [40,41].

In Virginia, it is thought that 7325 citizens were sterilised under this state's 'Eugenical Sterilization Act' 1924 [34]. Sterilisation became more frequent after the final judgment in the *Buck v. Bell* case was given in 1927.

Between 1923 and 1981, Oregon sterilised 2648 people by castration, tubal ligation, hysterectomy or vasectomy. Those concerned were mentally ill, residents of reform schools, epileptics, criminals, homosexuals and girls considered promiscuous [42]. The distinguishing feature of Oregon's sterilisations compared to other states was its virulent targeting of 'sexual deviants and perverts'. This included women at the margins of society, rapists and child molesters, but also homosexual men. Homosexual scandals in Portland incited widespread outrage about

homosexuality, and the latter – categorised as a mental illness in the USA until the 1960s – was included under the charge of eugenics proponents. This led to a greater use of castration in Oregon as opposed to vasectomy; rather than just intending to prevent the spread of unfavourable traits, authorities wanted to 'unsex' the individuals concerned. On 2 December 2002, Oregon's governor, John Kitzhaber, publicly apologised to Oregonians who were forcibly sterilised while in the care of the state [43].

### **Background of individuals subjected to compulsory sterilisation**

#### ***Sterilisation of inmates of public mental institutions***

As already mentioned, inmates sterilised in Virginia were disproportionately black, and those sterilised in California, disproportionately foreign-born [19].

#### ***Sterilisation of convicts***

Many states enacted statutes providing for sterilisation of convicted criminals. Several of these made no distinction between types of crimes and made it applicable to anyone convicted of a felony (e.g., *Davis v. Walton* 1929). Some only applied it to habitual criminals. The US Supreme Court, in *Skinner v. Oklahoma*, declared these statutes unconstitutional for violating constitutional protections against cruel and unusual punishment and guarantees of equal protection of the laws [33].

#### ***Sterilisation on ethnic grounds***

Thousands of Puerto Rican, African-American, Chicano and Native American women were sterilised in the USA, in the 1970s – often without their full knowledge of the surgical procedure performed on them or its associated physical and psychological sequelae.

A 1965 survey of Puerto Rican residents revealed that one-third of all women who had children, aged 20–49 years, in that population group, had been sterilised [44]. The incidence of sterilisation among women of childbearing age in Puerto Rico in the 1960s was more than ten times that among women living in the USA. From 1898, when the USA governed Puerto Rico, concerns were aired that overpopulation of the island would worsen social and economic conditions. Hence, public policies were brought in to control the rapid population growth. Law 116, enacted in 1937, institutionalised the population control programme.

In 1970, 43% of the women sterilised in federally financed FP programmes in the USA were African-Americans, although they represented only one-third of the patient population [45]. On 14 June 1973, two Black sisters, Mary Alice Relf (aged 12 years) and Minnie Lee (aged 14 years), were sterilised in Montgomery, Alabama. Their illiterate mother was receiving welfare benefits and had signed an X for her name on medical forms that she thought gave doctors 'permission to administer shots to prevent pregnancy'. This case brought about a backlash from women's civil rights groups and led to the creation of several anti-sterilisation organisations [46].

To prevent forced sterilisation in New York City Municipal Hospitals, various organisations joined efforts as the Advisory Committee on Sterilization of the Health and

Hospitals Corporation. After having struggled for a year with the Heads of Obstetrics departments of the Municipal Hospitals, guidelines were adopted which demanded: 1) informed consent in the language spoken or read by the person; 2) counselling to include information as to alternatives; 3) an interdiction of consent at time of delivery, abortion or any other time of stress, or overt or veiled pressures on welfare patients; and 4) a 30-day waiting period between consent and procedure [45].

Native American women, because of cultural and societal characteristics distinct from those of other minorities and their small numbers, were especially at risk. About 40% (60,000–70,000) of all Native American women alive at that time, and 10% of Native American men underwent sterilisation during the 1970s [47]. The General Accounting Office study revealed that, between 1973 and 1976, 3406 Native American women had been sterilised in Indian Health Service facilities in New Mexico, Arizona, Oklahoma and South Dakota – an extremely high number given the small size of the population group concerned. Regulations about informed consent were blatantly transgressed. To force the woman to consent, ‘the most persuasive and coercive technique’ consisted in threatening her with losing her children to social welfare agencies in case of refusal [46].

### **FP programmes and poverty**

FP programmes that serve poor women do not always operate in their best interests. In the USA, female sterilisation was federally financed for the poor from 1971 onwards and, at one time, often recommended for birth control in that population group affected by cutbacks in all other public services, especially those on welfare [48,49]. Sterilisation of women, under the threat of – for instance – withdrawal of welfare benefits, still occurred in the late 1980s, in the USA [50].

### **Accountability for past eugenic policies**

The State Governors of Virginia, Oregon and N.C., in 2002, and those of South Carolina and California, in 2003, apologised for past practices. These apologies were accepted as accountability for past eugenic policies and measures. So far, only in N.C. (2013) and Virginia (2015) was redress in the form of financial compensation offered [3]. N.C. has a US\$10 million fund for payments but, to qualify, individuals must have lodged an application with the State Eugenics Board (later amended to include county authorisation). In 2014, 220 individuals received US\$20,000 each.

### **Japan**

The Leprosy Prevention laws of 1907, 1931 and 1953 permitted the segregation of lepers in sanatoria where they were commonly compulsorily sterilised. The National Eugenic Law of 1940 allowed forced sterilisation for ‘inherited mental disease’. In the first year, there were 94 such procedures [51]. They were done on criminals and people with perceived genetic disorders such as colour blindness, haemophilia, ichthyosis, epilepsy and mental illness. It is thought that 454 people were sterilised between 1941 and 1945, under the auspices of this law. This is a

small number for a country with 72 million inhabitants at the time.

In contrast, the Eugenic Protection Law (EPL), passed in 1948, intended ‘to prevent birth of “inferior” offspring and to protect the life and health of the woman’. EPL allowed the sterilisation of – and termination of pregnancy in – people with mental or physical handicaps or certain hereditary diseases without their consent, provided approval of committees appointed by local governments was obtained. Relevant medical conditions included schizophrenia, manic-depressive psychosis, epilepsy, erotomania, genetic predisposition to commit criminal acts, Huntington’s disease, muscular dystrophy, albinism, colour blindness, deafness and haemophilia. Article 12 (added in 1952) permitted a physician to apply for sterilisation of a person with ‘psychosis or mental deficiency’ that was neither hereditary nor mentioned in the list, provided the parent or guardian consented.

In 1953, the Ministry of Health and Welfare issued a guideline stating that ‘a eugenic operation could be carried out against the patient’s own will’ when the commission judged it necessary. ‘It [was] permissible to restrain the patient’s body, to administer an anaesthetic, or to deceive the patient’. Under these provisions legalised coerced sterilisation became common practice. Inmates of psychiatric hospitals and institutions for people with ID were particularly targeted; fewer sterilisations were done on people with physical ailments. In women, tubal occlusion procedures were performed but hysterectomies were done as well, which was explicitly forbidden by EPL.

The law reflected the government’s concerns about overpopulation and a supposed ‘deterioration’ of the quality of children being born. It led to the compulsory sterilisation of 11,356 women and 5164 men between 1949 and 1994 [52,53]. There were cases in all 47 prefectures. The highest number of operations was in Hokkaido ( $n=2593$ ), with Miyagi Prefecture coming in second ( $n=1406$ ), and the lowest number in Okinawa. In the territory of the Miyagi Prefecture, 859 people (62% of whom were women) were sterilised under the law during the fiscal years 1963–1981, most commonly (>80%) on grounds of ID; 52% of them were under the age of 20, with the youngest being two 9-year-old girls and a 10-year-old boy [54]. In 1957, the Ministry of Health and Welfare urged the administrations of all prefectures to conduct more eugenic sterilisations during that fiscal year in order to prevent that ‘funds allocated for such procedures be reduced’ [sic!] [55].

Over that entire period, victims and lawyers protested to the government but gained little public attention. In 1996, the eugenic provisions of EPL were repealed. The ‘Maternal Protection Law’ now in force allows only voluntary sterilisation and abortion. In 1997, a Health and Welfare Ministry official refused to issue an apology and to provide compensation to victims of these practices since ‘the sterilisations were legal under existing law and’, he asserted, ‘were not coercive. [...] The Government [therefore] did not intend to further investigate the [issue]’ [52,53]. In 2016, the United Nations’ Committee on the Elimination of Discrimination against Women advised the Japanese government to provide legal support and reparations to disabled people who were forcibly sterilised, and to prosecute perpetrators [56]. In the continuing absence of any such measures, two women and one man, victims of compulsory

sterilisations at a young age on grounds of ID, sued the government in January and February 2018, one of whom claimed for an amount of 11 m yen (€81,000). Several other people are contemplating filing lawsuits [57,58].

## Canada

In the early 20th century, women's suffrage and temperance groups played prominent roles in the eugenics movement in Canada. Their lobbying was particularly effective in Alberta, where their representatives frequently spoke of the increasing rate at which the 'mentally deficient' were procreating, the consequences of 'bad genes', and the certainty they professed that sterilisation was the only solution to the problem. In 1921, the Canadian National Committee for Mental Hygiene recommended sterilisation of those with mental defect or disorder. Catholic Canadian provinces did not introduce eugenic sterilisation laws.

## Alberta

The Sexual Sterilization Act, passed in 1928 after considerable pressure from Farmers' associations [59], empowered an 'Alberta Eugenics Board' to decide on the sterilisation of individuals. The 1937 amendment allowed sterilisations without consent of people considered 'mentally defective' and, in 1942, syphilis, epilepsy, alcoholism, prostitution and sexual promiscuity were added (the last three by custom only). Until the Act was repealed in 1972, the Board approved 4725 of 4800 cases brought before it, put off a decision on the rest, and never said 'No'. Of the 2822 subjects sterilised, 58% were women, 55% were recorded as being mentally defective or deficient; 12% were under 15 years of age, 27% aged 15–19 years, and 17% aged 20–24 years. Indigenous peoples and Métis as well as young, poor and unmarried women were disproportionately represented. On average the Board spent only 13 min considering each case. Procedures peaked in the 1950s and 1960s [47,59,60].

The Alberta Eugenics Board escaped every control. Its approach was unaffected by the revulsion caused by the mass sterilisations carried out in Nazi Germany and the dismissal of eugenic ideas by scientists. With the support of the conservative-populist government in power, coerced sterilisation was sustained in Alberta far longer than in other parts of North America [61].

## British Columbia

British Columbia's (BC) Sexual Sterilization Act, enacted in 1933, empowered a Eugenics Board (comprising a judge, a psychiatrist and a social worker) to authorise the sterilisation of any institutionalised person considered capable of passing on supposedly inheritable, undesirable social characteristics (e.g., criminality, prostitution, alcoholism and addiction). The procedure could be performed without the subject's consent and knowledge. Some 330 people were sterilised under the mandate of this Act [60,61]. Case histories of 57 women and seven men sterilised between 1935 and 1943, more of them with ID than mental illness, were presented by the Essondale Provincial Mental Hospital [62]. The basis for the sterilisation was 'promiscuous behaviour'

in 35 women and one man. One woman died during the surgery. According to the report's author, the Act was unduly restrictive with too many safeguards for the patients resulting in excessive delays. From limited short-term follow-up of some of the cases, sterilisation was considered a 'success' in most instances; many individuals were living in the community. After repeal of the law, in 1973, some sterilisations continued until 1986, when the Supreme Court of Canada ruled unanimously that Eve, a 24-year-old woman with ID, could not be sterilised without her consent.

## Forced sterilisation of indigenous peoples

Karen Stote contended that the coerced sterilisation of First Nations peoples, done at 14 different federally operated Indian Hospitals across Canada, fits with the broader goals of Indian policy – to gain control over indigenous lands and resources and reduce the numbers of those to whom the federal government has commitments – and hence is tantamount to genocide [63].

## Mexico

In the Mexican State of Veracruz, governor Adalberto Tejeda launched eugenic measures in 1932, with the aid of Rockefeller Foundation funding, which legalised the sterilisation of those with mental illness and ID [64]. This was the only eugenic sterilisation law in Latin America at the time. It is not known whether sterilisations were done.

## Discussion

From the late 19th century until the second half of the 20th century, eugenics, a current of thought based on an erroneous interpretation of the mechanisms of transmission of certain ailments and deviant behaviours swept over the industrialised world. One of its applications consisted of the sterilisation of people considered unfit to procreate. In 13 countries, the national or regional governments passed laws before 1945 authorising or requiring the sterilisation of various groups, with or without consent of the individuals concerned. In each of those countries except for the State of Veracruz, in Mexico, the law was applied, with more women than men being submitted to these practices. During the first half of the 20th century, there were striking similarities between sterilisation policies of – supposedly democratic – countries such as the USA and Canada, and those implemented by the authoritarian regimes in Japan and Nazi Germany. It is even more disconcerting that after the end of the Second World War sterilisation laws remained in force for several decades more.

Semi-autonomous regions in three countries, now among the richest in the world, saw fit to introduce laws allowing involuntary sterilisation. Health professionals and social workers were complicit in eugenic and racist policies, although they were not considered so at the time. Vulnerable groups, including children, were targeted for sterilisation. Many residents of large institutions fell prey to this abuse. Reparations for victims have been slow in coming, often only after victims have gone public with their stories. Over time, apologies and compensation came in North America. Only very recently has there been any sign

of victims going public in Japan and suing the government.

## Disclosure statement

The authors report no conflicts of interest. The authors alone are responsible for the content and writing of this paper.

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