



Report Information from ProQuest

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Table of contents

1. Forced Sterilization in Canada.....	1
Bibliography.....	4

Forced Sterilization in Canada

[ProQuest document link](#)

Abstract (Abstract): [Patti Bregman]: Canadian history started back in the 1920s, so in fact a lot earlier than people thought. When Alberta passed a sterilization act basically what that did is said that if you wanted to get out of an institution you had to be sterilized. And not only didn't you need the consent of the person being sterilized, you didn't need the parental consent. And it wasn't just developmentally disabled, it was people with Huntington's disease, people with epilepsy, people with certain kinds of psychiatric diseases. British Columbia had a similar law that they passed in 1933. Ontario never actually passed a law but what they said is that parents could consent for their children and nobody oversaw to see whether or not they in fact were doing it because it was necessary for medical reason or simply because they wanted to cleanse the population or just for ease because it was much easier than talking about sex.

BREGMAN: I think Leilani Muir who won the case last year I think in Alberta has opened the floodgates to some extent. There are now 700 people who are suing the government of Alberta. The problem is in Ontario it wasn't the government and so it's hard to know who to sue. It was a question of: did they give consent? And often it was the parents who gave consent. If the person isn't capable who's going to sue on their behalf? There isn't an advocate or an independent body out there who really looks after the interests of people.

BREGMAN: It goes back to the concern about pregnancy, the concern about taking care of themselves, and hygiene. And it's easier for people not to have to deal with it. There's a new risk, though, and nobody thought about this when they talked about the birth- control and that's AIDS. If you sterilize somebody because you think then they can be sexually active nobody is teaching people about condom use. So, I think we're still seeing it. It's very hard to find out whether or not it's happening and I'm hoping that with the revelations in Switzerland and Sweden that people in Canada will now start to ask questions again and that the governments will once again go and try and find out whether or not this is in fact happening.

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Full text: HOST: Leslie Jones

GUEST: Patti Bregman, Lawyer, ARCH

JONES: There's a scandal brewing in Switzerland this morning over revelations that doctors forcibly sterilized developmentally disabled patients over a span of 40 years to prevent them from having babies. There are also allegations that the practice is still going on. Critics demanded an investigation but the government said it is up to the 26 cantons in the Swiss federation to make their own decisions.

Canada also has had a record of forced legal sterilizations. In Alberta alone nearly 3,000 people were sterilized over 40 years. Joining us now is Patti Bregman, a lawyer for ARCH, the Advocacy Resource Centre for the Handicapped.

Good morning, Patti.

BREGMAN: Good morning.

JONES: So, the story is that this is still going on in Switzerland. We've had our own history in Alberta, British Columbia, in Ontario. Tell me about the Canadian history.

BREGMAN: Canadian history started back in the 1920s, so in fact a lot earlier than people thought. When Alberta passed a sterilization act basically what that did is said that if you wanted to get out of an institution you had to be sterilized. And not only didn't you need the consent of the person being sterilized, you didn't need the parental consent. And it wasn't just developmentally disabled, it was people with Huntington's disease, people with epilepsy, people with certain kinds of psychiatric diseases. British Columbia had a similar law that they passed in 1933. Ontario never actually passed a law but what they said is that parents could consent for their

children and nobody oversaw to see whether or not they in fact were doing it because it was necessary for medical reason or simply because they wanted to cleanse the population or just for ease because it was much easier than talking about sex.

JONES: What do you mean, just for ease?

BREGMAN: A lot of the parents in institutions took the position that their children couldn't learn about sex and they might get pregnant or when their period came they'd get really upset or in some cases we know that children of developmental disabilities were being abused it prevented the pregnancy if that sexual abuse continued. So, it had nothing to do with the benefits of the person. It was for the benefit of whether it was society -- because they didn't want to pay the costs -- or parents or the institution.

JONES: Wow. Now, this went on for a period of 40 years but I was startled to read that in Ontario in 1976 -- we're not talking that long ago -- there were 686 sterilizations that year alone.

BREGMAN: That's right. It wasn't until 1978 that the provincial government in Ontario actually put a ban on that. And it wasn't until 1986 that the Supreme Court of Canada said that they couldn't consent unless it was medically necessary. So, it's very recent and there are still calls from time to time to make it legal again, to give substitute decisions where it's not the medical necessity.

JONES: We all remember the case of the Alberta woman who challenged this in court a couple of years ago and won. Has this opened the floodgates? Are there many, many people like her out there challenging this?

BREGMAN: I think Leilani Muir who won the case last year I think in Alberta has opened the floodgates to some extent. There are now 700 people who are suing the government of Alberta. The problem is in Ontario it wasn't the government and so it's hard to know who to sue. It was a question of: did they give consent? And often it was the parents who gave consent. If the person isn't capable who's going to sue on their behalf? There isn't an advocate or an independent body out there who really looks after the interests of people.

JONES: So that Ontario victims then really can't seek restitution. Is that what you're saying?

BREGMAN: They could try, but it's very difficult. There are statute of limitation problems which the government of Alberta is now saying, "Twenty-five years, it's too late, you can't do this anymore," and they're trying to dismiss these claims.

JONES: The reports out of Switzerland this morning suggest that this may still be going on to this day.

BREGMAN: It's not surprising. In fact, I've heard suggestions that it's still occurring in Canada --

JONES: In Canada now?

BREGMAN: In Canada. The United States still has states where it's legal.

JONES: But in Canada it is illegal, isn't it?

BREGMAN: It's the courts that said it can't happen and legislation in a number of provinces said it can't but you can do it where there's a medical need. And what the advocates suspect (and I spoke to a number of them yesterday) is that doctors are inventing reasons along with parents.

JONES: Why would they do that?

BREGMAN: It goes back to the concern about pregnancy, the concern about taking care of themselves, and hygiene. And it's easier for people not to have to deal with it. There's a new risk, though, and nobody thought about this when they talked about the birth- control and that's AIDS. If you sterilize somebody because you think then they can be sexually active nobody is teaching people about condom use. So, I think we're still seeing it. It's very hard to find out whether or not it's happening and I'm hoping that with the revelations in Switzerland and Sweden that people in Canada will now start to ask questions again and that the governments will once again go and try and find out whether or not this is in fact happening.

JONES: Do advocates have any proof that this is happening? Are these suspicions?

BREGMAN: We get calls from time to time from parents who call and say, "This doctor just suggested that I should sterilize my child. What can I do to prevent it?" But we don't have any way of going behind that. These are individual decisions. Ontario three years ago had legislation which might have helped in the Advocacy Act.

In 1995 that was repealed and once again parents can basically make decisions for children with virtually no oversight.

JONES: And there's no link that somebody with a developmental handicap would pass that on to her child?

BREGMAN: There's very little evidence of that. Scientific evidence was dismissed quite a while ago but for people who have trouble with this and think maybe it's okay, think about what happens with genetic testing now because the implications for all of us are serious. If you believe that you can sterilize people so they don't pass something on what if you have a gene for breast cancer or for cystic fibrosis? We're all vulnerable to this.

JONES: Thank you so much for joining us, Patti.

BREGMAN: You're welcome.

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