Chapter 9
Sterilization of Women: Legal and Ethical Dilemmas

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ABSTRACT

This chapter explores the international practices and policies regarding women sterilization and the legal and ethical dilemmas they pose. As is analyzed, women, in many places of the world, frequently rely on access to sterilization procedures in order to control their fertility at will. However, this is not always the case. Often, women are forced to undergo permanent and irreversible sterilization, without being aware of it or without their informed consent. As is illustrated in this chapter, despite the condemnation of such practices by the United Nations (UN), cases of coerced sterilization are recorded all around the globe, especially targeting women with mental disabilities, the poor or socially stigmatized, and those perceived as “unworthy” of reproduction. This chapter underlines the grave violations of human rights caused by involuntary sterilization and the relevant case law of the European Court of Human Rights regarding the protection of women in danger.

DOI: 10.4018/978-1-4666-8153-8.ch009
STERILIZATION AS A STATE POLICY FOR TACKLING POVERTY AND CONTROLLING THE SIZE AND ‘QUALITY’ OF POPULATION

Policies of forced sterilization against poor women can be found in the traditions of many countries of the world, including the Western countries. For example, in the United States of America, as early as the first decades of the 20th century, there were supporters of eugenic practices who worked for creating a strong gene pool. Given the limited scientific understanding of the genes at that time, this essentially led in the establishment of highly discriminatory public policies against people with “unwanted” features, such as alcoholics, persons who suffered from depression, pregnant women outside marriage and people in poverty who were recipients of welfare benefits. These people were often determined as persons with “mental weakness”, a critically ambiguous term, with no clinically meaningful diagnosis to support it. Accordingly, many poor, coloured or white women were sterilized even at the stage of infancy without their consent or the consent of their guardians.

In the state of North Carolina, in the 1960’s the policy of sterilization reached its peak. During that period the expenditure of the social welfare programs had increased explosively and North Caroline became the only state in the U.S. where social workers had the right to indicate “candidates” for sterilization while the ‘Board of Eugenics’ rarely rejected any of the proposed cases, with 95% acceptance rate. This social policy in fact gathered legitimacy to such an extent that doctors were able to practice sterilization purely based on their judgment. Elaine Riddick is an example of such victims. Elaine was coming from a poor colored family who received social assistance and she was raped at the age of 14 years (1968) that got her pregnant. She was then directed at the state hospital to give birth to her son, where she was marked as “feebleminded” by the hospital’s social worker that resulted to her sterilization. The consent for this procedure was given by the victim’s illiterate grandmother, who was ‘explained’ that this process was beneficial for the young girl and signed by marking an “X” in the signature field (Hutchison, 2011).

Despite the rise of international protection of human rights, racist treatment of the poor subsidized by social welfare still exists in the 21st century, in the most heinous form, that is the abuse of physical integrity. In 2009, a U.S. citizen, Tessa Savick who received social assistance from a benefit program, filed a lawsuit against the hospital where she was sterilized without her consent during a caesarean section. Many community members rallied to support the doctors who performed the surgery, calling the victim “a waste of social space, worthy of sterilization” (Diaz-Duran,