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COERCIVE STERILISATION: ITS EUGENICAL
UNDERPINNINGS AND CURRENT MANIFESTATION

by

DEBORAH J. LEWIS, B.A.

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Master of Arts

Department of Law

Carleton University

Ottawa, Ontario

April 24, 1995

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Coercive Sterilisation: Its Eugenic Underpinnings and Current Manifestation

submitted by **Deborah Lewis, B.A. (Hons) Carleton University**
in partial fulfilment of the requirements for
the degree of Master of Arts

Thesis Supervisor

Chair, Department of Law

Carleton University
May 23, 1995

ABSTRACT

This thesis is the culmination of my desire to investigate the practice of coercive sterilisation. In an historical investigation, I discover eugenical theory as the rationale behind this practice; thus a component of this thesis discusses the origins of eugenics, and its continuing existence.

An investigation of eugenics, the early birth control movement and compulsory sterilisation legislation provide the framework necessary to recognise that it is disabled women, poor women and women of colour who are targeted in the practice of coercive sterilisation. The manner and context in which the drug Norplant is employed against these same groups of women suggest that Norplant has become a new form of coercive sterilisation.

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INTRODUCTION

Where to start is the problem, because nothing begins when it begins and nothing's over when it's over, and everything needs a preface; a preface, a postscript, a chart of simultaneous events. History is a constant she tells her students. Any point of entry is possible and all choices are arbitrary. Still there are definitive moments, moments we use as references, because they break our sense of continuity, they change the direction of time. We can look at these events and we can say that after them things were never the same again. They provide beginnings for us, and endings too.¹

Beginnings and endings. Will the forthcoming discussion of coercive sterilisation serve as a reopening of wounds, as disbelief gathers in the mind of the reader? Will it serve as a partial ending to the suffering countless women have endured as the reader accepts that such a practice is still occurring? It is up to the reader how s/he interprets the information and what s/he takes away from the work. In this instance, I would like the reader to know that this thought cloth² I have woven is meant to be an opening of avenues for women who have been silenced and an ending of the myth that coercive sterilisation does not exist in our Canadian community.

Coercive sterilisation³ is a reproductive rights abuse, which has been perpetrated against women -- particularly disabled women, poor women, Aboriginal women and women of colour. Coercive sterilisation refers to two particular instances in which sterilisation takes place. In one instance, an individual who cannot legally give informed consent, due to mental incapacity or age, is sterilised⁴. In the other instance, an individual who is legally capable of giving consent, is deceived, compelled or coerced into being

sterilised. When deception is used, an individual may be sterilised during another operation or told that the procedure is for a medical condition other than sterilisation.⁵ Alternatively, the individual may be told that the procedure is reversible or the process may not have been explained in language which the patient understands.⁶

When coercion is an operating factor, the individual may be pressured into having the operation as a term of parole or discharge from an institution.⁷ In addition, the individual may be threatened with the withdrawal of some vital services, such as social benefits, or with the loss of employment.⁸ Finally, an individual may feel compelled to "opt" for sterilisation as a form of birth control because no other method of contraception is available.⁹

There are several themes which run through all of these examples of coercive sterilisation. The "choice" of deciding whether to undergo the procedure is effectively taken away from the woman in question. The woman is unable to maintain control over her reproductive capabilities as health care providers, the State and judges decide she should be sterilised. In each of the above examples, she is forced into the procedure. Force in this sense is not only of the physical nature. The woman's life situation (i.e. poverty, problems with the legal system) may push her to make the "choice" to be sterilised, whereas if she faced different conditions, she may not have had to "opt" for such an extreme method of fertility control. The women who find themselves in such situations -- poor, disabled or of colour -- are not fully informed. This lack of information prevents them from making an informed decision and they are thus unable to freely choose to undergo this process. Although the practice of coercive sterilisation,

both in its manifestation and implementation, has changed through history, its negative impact, the women it is aimed at and the confined contexts in which it occurs remain the same.

I approach the issue of coercive sterilisation from the perspective of a black, female, able bodied, heterosexual, middle class, twenty-five year old, graduate student writing a thesis in the hopes of completing the requirements necessary to earn myself a Master's degree.

Why did I choose this topic? Depending on my level of productivity, the day of the week, or my mood, the response is wide ranging. Encompassing this wide variety of responses was my anger and dismay that coercive sterilisation was practiced upon any individual. I then later found out that it has been practiced, disproportionately, upon women¹⁰ particularly disabled women, poor women and women of colour. These emotions sparked my curiosity as I desired to ascertain the reasons such a practice came to exist in the United States, Canada and Britain for a number of years. Once I heard that this practice still occurs in Canada, I was hooked. I wanted and needed to know more.

As I progressed in my research, I found very little information to support my belief that coercive sterilisation was still being practiced in Canada.¹¹ The sources I found would not, generally, be considered, in an academic setting, as "reliable". These sources consist of a footnote,¹² a flyer from a grassroots activist group,¹³ a draft copy of a report from a local women's group¹⁴ and word of mouth.¹⁵

This conundrum I find myself in -- the strong likelihood that these sources will be considered "unscholarly" and my belief that these sources must be recognised -- is very

much in keeping with the silencing these women have faced in their lives. The sources to which I am referring state unequivocally that some disabled women, Aboriginal women, poor women and women of colour have been coercively sterilised. This is significant because these women have historically been oppressed and silenced. To ignore the assertions made in these documents is to continue to oppress these women.

The remainder of this chapter will discuss why certain knowledges/truths are considered to be insignificant which results in silencing certain women. This chapter will also discuss research methodology, feminism's exclusive nature and the contents of this thesis.

RESEARCH METHODOLOGY

When we engage in research we involve ourselves in a process in which we construct meaning. Because the social world is multifaceted (ie. the same situations or experience, is able to give us many different kinds of knowledge), when we "do research" we involve ourselves in a process of revealing "possible knowledges". What knowledge we are able to produce is directly related to our vantage point, to where we stand in the world. Our interaction with the social world is affected by such variables as gender, race, class, sexuality, age, physical ability etc. This does not mean that facts about the social world do not exist, but that what we see and how we go about constructing meaning is a matter of interpretation.¹⁶

This statement by Kirby and McKenna, made in the context of their discussion of research and methodology, suggests that there are a wide variety of "possible knowledges", all of which are socially constructed. Since we are all individuals who are

mediated by our race, gender, class, ability and sexual orientation, we each have a different interpretation of our social world. These divergent experiences and interactions form the basis of our knowledges.¹⁷

Ideally, there should be a variety of recognised knowledges which represent the perspectives of the wide spectrum of people who exist in society; but there is not. This is particularly obvious when one looks at the area of law and legal research. Stefanic and Delgado assert, in their discussion of the mechanisms which help to maintain a sameness in legal scholarship, that very little variation exists on what is the common theme of law:

Although a few legal innovators have managed to escape these constraints an impartial observer casting an eye over the landscape of the law would conclude that most of our stories are very similar variations on a theme of incremental reform carried out within the bounds of dominant Western tradition.¹⁸

From Kirby's and McKenna's work, it is obvious that a wide variety of different perspectives exists simply because we are different beings. Yet, according to Stefanic and Delgado, this difference does not translate itself into law and by way of extension into legal research. Thus, we have a sameness in our writings and research.

There is one explanation for this phenomena that is concerned with research tools and methods of inquiry.¹⁹ As researchers, we adopt particular methods to uncover the information we believe to be vital. We usually use tools deemed by the status quo as appropriate for generating knowledge.²⁰

In my own work, I believe that I have used a combination of traditional and non-traditional research tools. I have used very traditional sources, such as books, which have been heavily referenced by other authors, thus solidifying their legitimacy. I have used

journal articles, found in well established journals, newspaper articles and reported cases. These sources are considered to be authoritative and reputable. To base my research on such sources suggests that my research would be good research. But, my research is not based solely on these sources.

I have relied upon the draft copy of a fact sheet from a woman's group, a footnote, a booklet from an activist group and word of mouth. Thus, my research is an amalgamation of traditional and non-traditional sources. As much as I have wanted to break free of the confines of traditional research sources, they were necessary for background and historical reasons. These sources helped me to understand the theory and beliefs behind coercive sterilisation of the past and present, while allowing me to place it within its historically specific contexts. As well, these sources will give my work some degree of legitimacy. I know that I will be taken somewhat seriously if these sources are incorporated.

In relation to methodology and my own research, I carry a strong fear that my research will be considered invalid because my claim that coercive sterilisation exists is based on non-traditional sources, often considered unreliable.

What is it that makes these sources potentially invalid and others valid? This has occurred due to an inherent bias in researching and in society. This bias is the recognition of one group's theories and perspectives as knowledge to the complete disregard of other perspectives and theories. Since traditional methods of unearthing information are, generally, considered to be a legitimate way of performing research and non-traditional methods are generally looked upon as inferior, traditional research methods

have been well developed and non-traditional methods underdeveloped. This may mean that information which can only be uncovered using non-traditional sources will remain unresearched and undocumented.²¹ This is the present state of affairs in relation to coercive sterilisation. There are some verbal assertions²² that such practices exist, but there is a paucity of sources which document or even support this claim.

The non-traditional sources I have utilised, are vital to my research on a practical and ideological level. On a practical level, if I did not have these sources it would be extremely difficult for me to make the claim that coercive sterilisation is still in existence. On an ideological level, I am trying to break the mold of the status quo as Stefanic and Delgado assert " [s]tepping outside the framework is like abandoning a well-known and well-mapped coast for the uncharted sea. We never realize that we cannot embark on certain types of journeys armed only with conventional maps."²³ I am trying to take a different route by basing my claim that coercive sterilisation exists on non-traditional sources.

In choosing my method, I have made a political choice. I have chosen a particular way of viewing and arranging the world.²⁴ I have decided that the voices of those who have been traditionally marginalised and silenced will inform and serve as the basis for my claim that coercive sterilisation still exists. I will be viewing the world from a non-traditional perspective and I will be unlocking areas which had been previously barred.

My research is positioned in my belief in the need for change. The tools which I am using carry the assumption that the world is unjust. I truly believe that the world is unjust, as coercive sterilisation is happening and there is very little information about it.

One could say there is a very little information on present day coercive sterilisation because it is not occurring on a grand scale. This is a possibility. However, I believe that we need to address why it is we -- as feminists -- have the luxury of not knowing or recognising it. Maybe it is happening. Maybe it is not. Why do we not know? Are we not interested?

What I am trying to do with my research is to tip the scales, by using non-traditional sources to support my claim. I am trying to let these other voices, as filtered as they may be, come up to the surface.

Methodology is political and tied to issues of power and legitimacy. Methodology is intricately intertwined with power, as certain forms of knowledge -- which are generated by a specific method -- serve as a source of power. For example, scientific and legal knowledges are powerful as they can be used to disqualify and invalidate other forms of knowledge. The power of scientific method is demonstrated as other forms of knowledge are accorded less value.²⁵

As Carol Smart asserts: "Defining a field of knowledge as science is to claim that it speaks a truth which can be favourably compared to political truths and untruths which epitomize non-scientific discourse."²⁶ Law, as another field of knowledge, by having "...its own method, its own testing ground, its own specialized language and system of results... sets itself apart from other discourses in the same way that science does."²⁷

Knowledge production and construction in our society are a function of power. Individuals in positions of power can choose which information is printed, what research is funded, what books are published and thus what knowledge is legitimised.²⁸ This

power can be a tool to maintain the present state of inequality.

Knowledge and its production have been arranged in a fashion that prevents many individuals from taking part as subjects -- telling their own stories -- or knowledge generators -- creating their own view of the world and having it accepted.²⁹

Traditionally, those who do research in universities have been white, middle class, able bodied, men and more recently women.³⁰ The kinds of data and facts these individuals gather are dependent on the kinds of questions they believe are important and the manner in which the questions are asked. If there are only a few groups doing research, then only a few stories will be told.

Only certain groups can put their ideas in a public forum, due to their either being dismissed as not being "research" or not even considered for publication. Information and knowledge are constructed through the interpretations of one group. This interpretation is then translated to the rest of society as truth.³¹

Kirby and McKenna state:

When one of the goals of the research enterprise is to challenge the monopoly certain groups have established on the production of knowledge, the need for methodology that encompasses and supports this challenge is clear.³²

Not only do I wish my research to challenge the status quo, I also desire that it be empowering.³³

FEMINISM

Gender is an important factor in the issue of coercive sterilisation as it is disproportionately women, rather than men, who are sterilised. All reproductive issues

involving women should be a concern as the position women hold in society directly influences fertility control practices.³⁴

Deciding whether to have a child, and then when and how, contains different issues for women than for men. These issues vary depending on a woman's age, class, race, sexual orientation, ability, and culture. Control of fertility is an area of conflict, compromise and struggle between men and women. Reproductive abuse is a feminist issue. However, as important as gender is in this discussion, we must look beyond it to other factors, such as race, class and ability, which impact upon the lives of women.

Feminism's racist, classist and ableist history in the birth control movement,³⁵ and feminism's sole focus on gender, in the construction of its theories, explain why present coercive sterilisation of women in Canada has not been included under the banner of reproductive freedom.

Historically, the feminist movement has centred its theories exclusively on a gender analysis and has thus viewed "women" as a monolithic entity. Traditional feminist theory asks us to overlook what makes us different as women. The result is a denial of the experiences which inform our lives. This practice is questioned by Elizabeth Spelman as she asks, using the analogy of pebbles, "...if I am interested in knowing about all pebbles, how can I disregard those features of each pebble that may distinguish it from others?"³⁶ Traditionally, feminism's focus on women has really been concerned with one type of woman -- the white, middle class, woman of Western industrialised countries. The experiences of this one group have been extrapolated to all women and differences from this group have been treated as if they were not so.

Traditional feminist rhetoric has looked at women, solely in terms of gender, unmediated by class, race, sexual orientation and ability. This practice serves to deny who we are and the experiences which we have. This tendency has also led to the growth of racism, classism, heterosexism and ableism in the feminist movement.³⁷ This exclusionary focus in feminism is particularly evident if one looks at traditional mainstream feminist rhetoric of access to abortion.

Access to abortion should be every woman's right. Being able to control one's reproductive capabilities is a precursor to gaining and making use of social and political equality. Yet, the singular focus on abortion by feminists, has overshadowed the reality that women of colour, poor women and disabled women do not have control over their reproductive capacities. One particular abuse which precludes this control is coercive sterilisation.

Feminists argue for the right to abortion from the premise that women need this right to be autonomous individuals in control of their reproductive destiny. The issue of coercive sterilisation is covered by that same premise. Coercive sterilisation limits an individual's reproductive independence.³⁸

I am not making the argument that feminists have never recognised coercive sterilisation as a reproductive rights abuse.³⁹ However, due to feminism's racist, classist and ableist history and its exclusive focus on gender, this issue has not been dealt with in the necessary depth and seriousness.

Cries for reproductive freedom and rights originate from the middle class, white, able bodied, woman's perspective, thus preventing other groups from uniting with the

feminist movement. Coercive sterilisation is occurring, but due to feminism's focus and history, it is not equally recognised as a barrier to reproductive freedom.

When I began this project, I was solely interested in investigating the coercive sterilisation of women of colour. Nevertheless, as I progressed, I realised that it was not only women of colour who were being sterilised, but poor women and disabled women. Coercive sterilisation is a complex issue which affects women due to their class, race and ability positions. Feminism may not have an intricate enough framework to deal with issues that affect women on a multitude of levels.

One of the barriers to the integration of an anti-racist, anti-ableist, and anti-classist theory in feminism is the belief in the superiority of sexism over racism, classism and ableism.⁴⁰ Since feminism locates the oppression which women suffer in a system of patriarchy, other forms of oppression are not readily recognised.⁴¹

When white, middle class, able bodied women attempt to address the issues of racism, ableism and classism, they solely investigate the lives of women of colour, poor women and disabled women. The result is that feminists do not see racism, classism and ableism⁴² as issues which affect their lives. Addressing these issues is transformed into helping women of colour, poor women and disabled women work on their problems. However, racism, classism and ableism are not only the problem of women of colour, poor women and disabled women.

Since gender is not experienced or describable independent of ability, race and class, these issues are significant to feminism. Being able to exclude them from the feminist agenda is a function of the privilege white, middle class, able bodied women have.

In other ways, the "reproductive rights" rhetoric does not translate equally for all women. According to Farida Akhter, the common definition of reproductive rights is "...that women should make decisions about and have control over their bodies and reproductive behaviour."⁴³ Yet, not all women understand this term in a similar manner. The large difference is between women living in developing countries and women living in industrialised countries with differing cultures, histories and economies.⁴⁴ One particular passage from Akhter's work strongly emphasizes this difference. She states:

Women in the West began to talk about reproductive rights in various international raising the question of accessibility conferences since the mid-eighties. Interestingly, they are to contraceptives and their right to choose. Now if the women of Bangladesh are already inundated with contraceptives, why this demand? Why is there so much campaigning for it? Women in the West are making a demand for the right to choose while women in Bangladesh, for example, are offered a choice between the pill (almost always a brand of high dose) IUD (copper T), injectables (Depo-Provera and Net-en), implants (Norplant), or forced sterilisation.⁴⁵

The narrow way in which reproductive rights are defined precludes them from being a unifying demand for women in all parts of the world, yet they are presented as such.⁴⁶ The issues of community, and of looking after all women no matter how varied or how remote from us their interests appear, come to the fore when we as feminists do not recognise how the problems in our country have been transposed to "third world" countries. Thus, one of the major demands for those of us who are interested in the equality of women is to construct a unifying theory which joins national and international issues with local issues.⁴⁷ Both birth control and coercive sterilisation are issues which appear to transcend boundaries.

We exist in a universe crammed with paradoxes and complexities and where "...close inspection turns unities into multiplicities, clarities into ambiguities, univocal simplicities into polyvocal complexities."⁴⁸ This is apparent as we realize that the term "woman" "...becomes fragmented, multiple, and contradictory both across groups and within individuals."⁴⁹ As feminists we must

...function as the quantum physics of postmodernism. Feminism's long standing tendencies toward self-reflexivity provide some experience of both rendering problematic and provisional our most firmly held assumption and, nevertheless, acting in the world, taking a stand. Women's simultaneous experiences of positions of both privilege and marginality is the material ground for the development of practices of self-interrogation and critique.⁵⁰

This thesis aims to pick up where feminism left off and include the women who have been coercively sterilised in the discussion of reproductive freedom.

In Chapter One of my thesis I provide a brief history of eugenics in Canada, Britain and the United States.⁵¹ Eugenics has traditionally been a conscious/unconscious rationale for sterilising "unfit"⁵² women against their will. By looking at the history of eugenics, the reader can understand the context in which eugenical theory can flourish.

Historically, women of colour, poor women and disabled women have been sterilised against their will, because proponents of eugenics felt that reproduction by these groups of women would lead to a moral and intellectual decline in society. Sterilisation was proposed and enforced to prevent these women from having children who would be as unproductive, unintelligent and as morally bankrupt as their mothers were considered to be.

Coercive sterilisation of non-disabled, middle class, white women did not occur.

Eugenically minded individuals believed able-bodied, middle class, white women were the ideal group to ensure the future strength of the nation by having children. Thus, the rights of these women to have children have been protected. Today, society still does not value the rights of women of colour, poor women and disabled women -- coercive sterilisation still occurs.

Chapter One's historical investigation will provide the foundation for my argument that eugenical theory is still involved in the reproductive abuses currently practiced upon poor women, disabled women and women of colour. I will situate eugenics to show that it is not the "objective" science that it was claimed to be by its proponents, but a philosophy dependent on its context, social conditions and the participation of certain individuals. I will briefly profile the background of some of the key figures involved in the eugenics movement to demonstrate how their world view shaped this "objective" science.

I felt that it was necessary to look at the larger issue of birth control since coercive sterilisation is subsumed under this issue. This is the subject of Chapter Two. Coercive sterilisation is a method of controlling birth and we need to explore why this method was foisted upon disabled women, poor women and women of colour.

I will investigate the different groups who pushed for birth control, focussing particularly on the feminist movement and eugenicists. I assert that the racist, classist and ableist practices of early feminists in favour of birth control account for and develop our understanding of why feminism does not speak to the concerns of all women in the area of reproductive choice. As part of the discussion, I believe that inclusivity⁵³ in feminism

is a positive aspiration which is possible⁵⁴ and necessary.

To conclude this discussion, I will explore the need for us as feminists to look to "third world" countries. Several eugenical arguments and unsafe methods of birth control are being exported to our sisters and mothers abroad. We must address how we have come to have a hand in the oppression of other individuals.

In Chapter Three, I will look at one of the primary mechanisms which eugenicists used to carry out their aims -- coercive sterilisation. In this chapter, I will explore the category of the "feble-minded", arguments in favour of compulsory sterilisation, who has had to endure these practices and legislation surrounding compulsory sterilisation.

Chapter Four will address present acts of coercive sterilisation and the drug Norplant, redefined in our present context as a new form of coercive sterilisation.

At the moment of crisis I realize that, because my hands are bound, I can not adjust my glasses, and therefore must tilt my head awkwardly in order to locate and focus on a blue hill. It is while I am distracted by this maneuver that I notice there is a blue hill rising above and just behind the women and their naked-bottomed little girls, who now stand in rows fifty feet in front of me. In front of them kneels my little band of intent faces. Mbatl is unfurling a banner, quickly, before the soldiers can stop her (most of them illiterate, and so their response is slow). All of them---Adam, Olivia, Benny, Pierre, Raye, Mbatl---hold it firmly and stretch it wide. RESISTANCE IS THE SECRET OF JOY! it says in huge block letters.⁵⁵

It is my desire that this thesis serve as an exercise of resistance to the status quo. The way in which the story of coercive sterilisation has been told (or not told)

has been a part of the story itself. These women's tales were not told because we viewed their knowledge as unimportant. Resistance in the form of this thesis is necessary so other stories can be told, other "truths" unearthed and other knowledges recognised.⁵⁶

ENDNOTES

¹ Margaret Atwood, The Robber Bride (Toronto: McClelland and Stewart, 1993) at 4.

² Sandra Kirby and Kate McKenna refer to a thought cloth as "...a web of information that has a particular texture, density and colour reflecting the unique perspective of its creator." Sandra Kirby and Kate McKenna, Experience Research Social Change: Methods from the Margins (Toronto: Garmond Press, 1989) at 36.

³ There are several techniques of sterilisation. Traditionally, sterilisation is considered to be an operation such as a hysterectomy, tubal ligation/salpingectomy or laproscopic sterilisation. Tubal ligation and hysterectomy, generally, require the use of general anesthesia, along with the opening of the abdomen. Laproscopic sterilisation entails major surgical incisions and usually requires local anesthesia.

Vasectomy, male sterilisation, is an easier procedure which takes approximately twenty minutes. The tube connecting the testes with the urinary canal, the vas deferens, is cut and tied. This prevents the sperm from going into the urinary canal. Law Reform Commission of Canada, Sterilization: Implications for Mentally Retarded and Mentally Ill Persons (Ottawa: Law Reform Commission of Canada, 1979) at 2.

⁴ Robert Blank, Fertility Control: New Techniques, New Policy Issues (New York: Greenwood Press, 1991), p. 57.

⁵ Murray v. McMurchy, [1949] 1 W.W.R. 989 (B.C.S.C.) at 992.

⁶ This occurred in the 1970's American Marigold case where a number of Mexican women were sterilised and the doctors did not explain the procedure in a clear manner. Many women believed that since they were having their tubes "tied", it was a reversible procedure that would involve untying their tubes. Discussed in Stephen Trombley, The Right to Reproduce: A History of Coercive Sterilization (London: Weidenfeld and Nicholson, 1988) at 194.

⁷ This was the case with the Alberta Sexual Sterilization Act. Most of the women who were institutionalised, under this act, were not released from custody unless they were sterilised. Discussed in Bernard Dickens, "Eugenic Recognition in Canadian Law" (1975) 13 Osgoode Hall Law Journ. 546 at 561-562.

⁸ An example of this was the 1991 American case of United Automobile Workers v. Johnson Controls Inc. In this case, Johnson Controls, a company which manufactured batteries, prevented all women, under seventy years of age -- aside from those who could demonstrate medical proof of sterility -- from working in jobs with a specific level of exposure to lead. Women of childbearing age were also prevented from entering jobs

which could lead to higher lead jobs.

The Supreme Court ruled that Title VII of the Civil Rights Act of 1964 prevented the company from barring women of childbearing capacity from particular jobs, even if the company's aim was to prevent harm to unborn fetuses. The company's policy resulted in the company not hiring women for production jobs. If the policy had been upheld, women would have to choose between their fertility and their jobs. The ruling granted women access to a hazardous workplace. Discussed in Charlotte Rutherford, "Reproductive Freedoms and African American Women" (1992) 4 Yale Jour. Law and Fem. 255 at 276.

⁹ This is evident in the United States with the 1977 passage of the Hyde Amendment in Congress, which removed federal funding of abortion. This caused many state legislatures to do the same. According to Angela Davis, "Black, Puerto Rican, Chicano and Native American Indian women, together with their impoverished white sisters, were thus effectively divested of the right to legal abortions." Because sterilisation, funded by the then Department of Health, Education and Welfare was free, these women were forced to opt for infertility. Discussed in Angela Davis, "Racism, Birth Control, and Reproductive Rights" in Marlene Gerber Fried ed. From Abortion to Reproductive Freedom: Transforming a Movement (Boston: South End Press, 1990), p.17.

¹⁰ It appears that women are more vulnerable to coercive sterilisation than men. This is likely because women, in general, are sterilised more than men. Worldwide, female sterilisation is the most widely used form of birth control. Approximately 140 million married couples use female sterilisation, while 40 million use vasectomy as a means of family planning. For instance, in India female sterilisation is used by 22% of couples in comparison to 16% of couples who use vasectomy. In Latin America, where female sterilisation is incredibly high, vasectomy is rare.

The predominance of female sterilisation over vasectomy is interesting considering vasectomies are less expensive, carry minimal risks of complications and are not as difficult to perform as female sterilisation. Bodil Ekman Ehn and Jerker Liljestrand, "Experience of Legal Sterilisation in Scandinavia " (1993) 48 Contraception 157 at 163-165.

¹¹ My belief in the existence of coercive sterilisation originated from a comment made by Diana Majury while I was attending one of her lectures. Diana stated that she believed coercive sterilisation is still in existence.

¹² Manitoba Law Reform Commission, Report on Sterilization and Legal Competence Report #76 (Manitoba: Manitoba Law Reform Commission, 1992).

¹³ National Aboriginal Network on Disability, Voices in the Wilderness: Aboriginal Women and Disabilities (Cornwall: National Aboriginal Network on Disability, 1992)

¹⁴ Women's Health Interaction, Fact Sheet (Draft July, 1994).

¹⁵ In conversations with Diana Majury, Professor of Law at Carleton University, and with Joanne Lowell, Representative of the National Action Committee on the Status of Women in Yellowknife.

¹⁶ Kirby and McKenna, *supra*, note 2 at 25.

¹⁷ Kirby and McKenna, *ibid.* at 26.

¹⁸ Richard Delgado and Jean Stefaniec, "Why Do We Tell the Same Stories?: Law Reform, Critical Librarianship, and the Triple Helix Dilemma" (1989) 42 *Stanford Law Rev.* 207 at 208.

¹⁹ Sandra Kirby and Kate McKenna define method as the manner in which we collect and analyse information. They believe that, "...methods are value laden; they contain implicit assumptions about the world. Different research methods are in fact different ways of classifying people and organizing the world." Kirby and McKenna, *supra*, note 33 at 63.

²⁰ Kirby and McKenna, *ibid.* at 63.

²¹ Kirby and McKenna, *ibid.* at 63.

²² *Supra*, note 15.

²³ Delgado and Stefaniec, *supra*, note 18 at 222.

²⁴ I am a black woman, so I am relegated to the margins in this society. Who I am informs everything about this research process. Being pushed to the margins forced me to adopt marginal tools. Thus, my ways of knowing are bound by my perspective. Patti Lather, Getting Smart, Feminist Research and Pedagogy With/in the Postmodern (New York: Routledge, 1991) at 2.

²⁵ Carol Smart, Feminism and the Power of Law (London: Routledge, 1989) at 9.

²⁶ Smart, *ibid.* at 9.

²⁷ Smart, *ibid.* at 9.

²⁸ Kirby and McKenna, *supra*, note 2 at 23.

²⁹ Kirby and McKenna, *ibid.* at 95.

³⁰ In this instance, I am referring to professors for it is usually their work which is published. There is a small change in this area, with different groups entering academia, but this change is slow and incremental.

³¹ Kirby and McKenna, *supra*, note 2 at 15.

³² Kirby and McKenna, *ibid.* at 65.

³³ Patti Lather uses the term empowerment to refer to "...analyzing ideas about the causes of powerlessness, recognizing systemic oppressive forces and acting both individually and collectively to change the conditions of our lives. It is important to note that, in such a view, empowerment is a process one undertakes for oneself; it is not something done "to" or "for" someone: "'The heart of the idea of empowerment involves people coming into a sense of their own power, a new relationship with their own contexts.'" Thus I am recognising my power through my ability to change the social landscape (in a small way) with my research. Lather, *supra*, note 24 at 4.

³⁴ Rosalind P. Petchesky, Abortion and Women's Choice: The State, Sexuality and Reproductive Freedom (Boston: Beacon Press, 1990) at 25.

³⁵ This theme will be picked up in Chapter Three.

³⁶ Elizabeth Spelman, Inessential Woman (Boston: Beacon Press, 1988) at 163.

³⁷ Although I mention heterosexism, it will not be included in my discussion. My choice of the "isms" which I focus on, is the same thing I am criticising feminism for. Why have I not I looked at the others? I have a few responses. To look at them all would be to trivialise them all, for I do not believe that I could deal with them in the depth of discussion which they require. My second response is that classism, racism and ableism were the predominant themes which surfaced in my research. My reasons are something I need to investigate further. Are they good enough?

³⁸ I understand that my analysis is susceptible to the criticism of being partial in the same way in which feminism is. I recognise and admit that this paper does not attempt to discuss all the reproductive abuses which are practised upon women. Coercive sterilisation is but one in a vast sea of wrongs. My ability to turn my back on certain issues, if I so choose, needs to be addressed. Unfortunately, that discussion is beyond the scope of this thesis.

³⁹ For a feminist discussion of sterilisation abuse see Adele Clarke, "Subtle Forms of Sterilization Abuse: A Reproductive Rights Analysis" in C. R. Arditti, R.D. Klein and S. Minder eds., Test Tube Women: What Future for Motherhood (London: Pandora Press, 1989). Also see Betsy Hartmann, Reproductive Rights and Wrongs: The Global Politics of Population Control and Contraceptive Choice (New York: Harper and Row, 1987).

⁴⁰ Davia Stasiulis, "Rainbow Feminism: Perspectives on Minority Women in Canada" (1987) 16 Resources for Fem. Res. 5.

⁴¹ Jenny Bourne, "Towards an Anti-Racist Feminism" (1983) 15 Race and Class 1 at 2.

⁴² I am not attempting to conflate these distinct forms of oppression, nor am I asserting that they are identical, but I do feel my claims about the feminist movement are applicable to racism, classism and ableism.

⁴³ Farida Akhter, "The Eugenic and Racist Premises of Reproductive Rights and Population Control" (1992) 5 Issues in Reproductive and Genetic Engineering 1.

⁴⁴ Akhter, *ibid.* at 1.

⁴⁵ Akhter, *ibid.* at 2.

⁴⁶ Akhter, *ibid.* at 2

⁴⁷ Ann Gillian, "Women's Equality and National Liberation" in Chandra Talpade Mohanty, ed., Third World Women and the Politics of Feminism (Bloomington: Indiana University Press, 1991) at 215.

⁴⁸ Lather, *supra*, note 24 at xvi.

⁴⁹ Lather, *ibid.* at xvi.

⁵⁰ Lather, *ibid.* at 29.

⁵¹ My reference to the American and British contexts throughout this thesis is not to suggest the situations are the same. However, our histories are linked and a number of American and British ideas have made their way into Canada. The American and British contexts allow for a broader understanding of the issues involved.

⁵² I will be using the terms "feeble-minded", "defective" and "unfit" throughout this thesis, as this was the language which was employed during the time period under investigation.

⁵³ I recognise that the notion inclusive underlines the power that feminists have. The ability to include certain women in their circle suggests feminists' power to exclude. The language of inclusion reveals who has power. As Elizabeth Spelman asserts "Welcoming someone into one's home doesn't represent an attempt to undermine privilege; it expresses it." Spelman, *supra*, note 36, at 163.

⁵⁴ As difficult as it is, I do believe it is possible. As Holmes and Hoskins assert, "Often when facing moral dilemmas, many women reason in this way, if a problem seems to be solvable only by ranking values hierarchically and regarding some as less important, we may refuse to choose. Instead, we continue to reframe the problem until a question can be asked whose answer will incorporate all the pertinent "values". We must continue to develop theories which speak to the lives of all women. Betty B. Hoskins and Helen B. Holmes "Technology and Femicide" in Rita Arditti, Renate Duelli Klein and Shelley Minden, eds., Test Tube Women, What Future for Motherhood (London: Pandora Press, 1984) at 281.

⁵⁵ Alice Walker, Possessing the Secret of Joy (New York: Pocket Star Book, 1992) at 281.

⁵⁶ As I say this, I do not want the reader to be left with the idea that what is to follow is a compilation of disclosures by women who have been coercively sterilised. I had thought about placing an ad in the paper, asking women who had experienced such a travesty to come forward and tell their stories. However, I feel that such a practice is exploitative. I would be requesting that these women divest themselves of their most personal experiences so that my thesis could be taken seriously. If a woman is to tell such a personal story, it should not be due to the insistence of the researcher, but from her own desire to tell her tale. I should not have to exploit women who have gone through the process, for this practice to be recognised.

CHAPTER ONE -- A HISTORY OF EUGENICS

Beethoven was deaf, Homer blind and Caesar epileptic;
clearly they would have been sacrificed by the eugenicists.¹

The word eugenic derives from the Greek, meaning wellborn.² Eugenical theory originated from the Darwinian philosophy of evolution which asserted that the biological progression of all species on earth was a result of the process of natural selection. According to the theory of natural selection, nature worked in such a fashion that "fit" species survived whatever hardships they encountered and those species which proved themselves to be "unfit"³ were eliminated.

Darwinists believed human beings, in opposition to nature, worked against the process of natural selection as doctors worked to save lives and social programs were implemented to aid the needy. Thus, those who were weak and not fit to live in society, continued to live and bear offspring who were "unfit", and "damaging" to the human race.⁴

Sir Francis Galton, born 1822, coined the term eugenics in 1883.⁵ Eugenicists believed they could improve the "race"⁶ when they "discovered" what they believed to be the root cause of the majority of social problems. This discovery was that ailments, diseases and defects were passed on from parent to child. By implementing a program of positive⁷ and negative eugenics⁸, eugenicists claimed that they could improve the race's quality as they removed physical and mental imperfections.⁹ In principle, eugenicists aspired to make use of genetic theory and practices to better humankind. In reality, they

victimized beleaguered groups of already marginalised individuals, based on faulty and biased premises.

This chapter will investigate the eugenics movements in Canada, the United States and Britain, from the late 1800's to the 1940's, by focusing on the prominent individuals involved in the movement. I will explore, briefly, the backgrounds of these individuals to demonstrate that their biases and prejudices found their way into this "objective" science. Since scientists are not always cognizant of their private/public motivations for their research, we must situate scientific "objectivity" in the personal views and background of the scientist.¹⁰ As a part of the discussion, I will contextualise eugenics to demonstrate that it, like any other science,¹¹ was reliant upon its social conditions and the participation of particular individuals. This historical investigation supports my contention that eugenical theory is involved when reproductive abuses are practiced upon poor women, disabled women and women of colour.

THE CONSTRUCTION OF EUGENICS AS A SCIENCE

Science is largely a social activity immersed in the values of the society in which it operates. It commands considerable authority due to its claim to universality, objectivity and neutrality. Eugenics is only one of numerous examples in the history of the natural sciences where social and political issues become "scientized".¹² Once an issue becomes scientized, it can assert an apolitical existence as it is believed to be based on neutral knowledge. The political conclusions drawn from these issues carry a great deal of authority, simply because they are believed to be founded on objective and neutral

knowledge.¹³

Eugenics, conceived of as a science, generated techniques and perceptions that moulded societal interpretations and led to the development of social and political strategies.¹⁴ Since science is never unequivocal in its message, the significance of this discipline for social policy was accessible to a variety of interpretations.¹⁵ However, eugenicists asserted that intelligence was inheritable and those who were "unfit" were ruining the nation. Eugenical ideas were developed within a specific societal context and reflected the society in which they existed, as they in turn affected the society in which they were generated.¹⁶ Eugenical theory put forth a new and seductive image of health and wellness as a function of heredity and race,¹⁷ as it provided a paradigm for "...cultural prescriptions and medical-moral investigation." ¹⁸

The race and class bias of eugenicists is apparent as those individuals who possessed the same qualities as eugenicists -- those who existed in the middle classes -- were considered to be ideal candidates for improving the race. The qualities which facilitated entrance into the domain of schools, professional training and universities were considered to be ideal. This intelligence was believed to be inherited.¹⁹ As Leys Stephen asserts:

Groups self-identified as dominant marked off other groups as inferior, through a language that asserted differences and created boundaries. These differences were presupposed to be fixed and natural (e.g. biological) and to limit each individual member to a fundamental "type". As a movement derived from ideas about biological heredity, eugenics provided a new set of conceptions and political principles with which to express and constitute differences within the social body.²⁰

Eugenicists' policies and practices rewarded those who closely resembled the eugenicists. This movement's desire to better society through scientific means was laden with classism, elitism and racism. The biases and prejudices which resulted from eugenical theory and policy were due to preconceived convictions about society before any scientific investigation actually took place.²¹ These biases played themselves out consistently in Canada, Britain and the United States.

BRITAIN

Francis Galton gained public attention through his claim that intellectual abilities were transferred from parents to children. Although Galton was never able to produce a reliable measurement of intelligence,²² he believed that with the improvement of tools for the measurement of intelligence, it would be possible to demonstrate the primary role inheritance played.²³ The issue of inheritance was of importance to Galton for it served to reinforce his middle class world view.²⁴

Galton's program of eugenics made the professional classes the foundation of a hereditarian movement, formulated to lead to the establishment of a system which reinforced the existing privilege of the middle class.²⁵ The attributes that Galton and his disciples extolled were found among the scientific, medical, legal, academic, political, military, and literary professions. The achievements of entrepreneurs, merchants, industrialists and bankers, were not deemed to be as important as those of the expanding professional middle class. As Soloway states:

Without denying that the economic inventiveness, skill, energy, and courage of such people had played a vital role

in Britain's rise to power, eugenicists from Galton on believed that preservation and extension of that power in a new era depended upon the intelligence, skill, imagination and efficiency of educated, professional people very much like themselves.²⁶

Eugenics was a self-serving ideology which catered to the interests of the professional middle class who desired a louder voice in the development of a future where they would have a larger role, equal to their alleged ability.²⁷ Middle class groups were attracted to the eugenics movement because it claimed to provide a scientific explanation, and a moral justification, for class divisions. Class divisions were characterised by many eugenicists as a result of biological evolution, replicated in the animal and plant worlds.²⁸

Francis Galton was succeeded in his eugenical theory by Karl Pearson. Pearson, himself an athletic individual, associated an individual's "fitness" with his/her.²⁹ physical and mental ability and presupposed that "fitness" emanated from the middle class, in particular the professional class.³⁰

Pearson³¹ felt that the British nation was failing to breed intelligence.³² Pearson went so far as to state privately to Galton that "...charities for the children of the "incapables" were a "...national curse and not a blessing."³³ He also felt that such practices as cost free medical advice, an eight hour work day, a minimum wage and the decrease in infant mortality had inspired an increase in the number of those who were unemployable, "degenerate" and physically and mentally weak. According to Pearson, natural selection had been replaced by "reproductive selection" which tilted the scales in favour of those who were "...the most fertile, not the most fit."³⁴ The assertion that the poor are a burden to the middle class has transcended time; it is still used today as a

justification for the practice of coercive sterilisation.

With Galton's death in January 1911, University College was endowed with forty-five thousand pounds. This was a substantial sum which allowed for fifteen hundred pounds a year to be set aside for the development of a Galton Eugenics Professorship. In keeping with Galton's wishes, the post was granted to Karl Pearson. Pearson was also given the position of head of a new Department of Applied Statistics, which contained the Galton and Biometric Laboratories.³⁵

This new department of Pearson's was to become the core of the English school of statistics, pure and applied, with a major portion of the department's energies going into eugenic studies.³⁶ The significance of Pearson's department was that, in addition to producing a merger between social statistical science and prejudiced expectations of heredity in the early twentieth century, it was "...the sole British establishment for eugenic research, the principal source of authoritative eugenic science, [and] the scientific benchmark of all eugenic discussion in England."³⁷

In conjunction with the key players in the eugenics movement, social conditions contributed to the production and the success of eugenics as a science. For instance, several studies asserted that since the 1870's, the upper and middle classes of Britain had been reducing their family size in opposition to the lower classes. This finding caused social commentators to make the prediction that the British nation faced "race suicide"³⁸ and national degeneration.³⁹

This fear of "race suicide" was magnified by the increasing political concerns in the country. The crisis of the Boer War, from 1898 to 1907, the persistent poor state of

health and physical ability of the working class, -- this was revealed by recruiting programs and a 1904 Interdepartmental Committee on Physical Deterioration -- made eugenical premises plausible in the eyes of the public. In this time of anxious re-evaluations of Britain's social policies, the eugenics movement began to grow.⁴⁰

UNITED STATES

Due to Charles Davenport, one of the major players in the American eugenics movement, the eugenics movement began to flourish in the United States. Davenport studied engineering in preparatory school and gained mathematical skills which was considered uncommon for a biologist. While he was an instructor teaching zoology at Harvard during the eighteen-nineties, he became familiar with Karl Pearson's work on the mathematical theory of evolution. Davenport maintained, in a powerful book on morphology, that there was a need to infuse biology with the exact methods of the physical sciences. He wrote and lectured on variation and inheritance and quickly became known as an essential explorer in biometry.⁴¹

In accordance with Galton and Pearson, Davenport felt that the ideal human stock, that is the individuals best suited to reproduce, resided in the middle class, particularly intellectuals and scientists.⁴² To deal with the threat to the country posed by those considered to be "unfit", Davenport thought it was necessary to prevent those who were genetically "defective" from reproducing by state enforced sterilisation.⁴³

Davenport objected to government support of individuals considered epileptic, mentally challenged, insane and physically disabled, in addition to prisoners and

impoverished people. He calculated the cost of this support to be approximately one-hundred million dollars a year. Davenport's policy of negative eugenics plainly expressed in hereditarian language, the white Protestant aversion to incoming immigrants and the conservative hostility toward welfare and taxes.⁴⁴

We must recognize Davenport's bias so we can understand how it shaped the theory of eugenics. In Davenport's discussion of the original skin color of *Homo Sapiens* it is obvious that he manipulated data due to his racial bias. Davenport wrote in a private letter:

That there is no doubt that the ancestors of all of us had a black skin. The white skin is highly abnormal and, no doubt, a relatively recent acquisition. The evidence for this is that all of the primates have a dark skin. I suppose the political consequences of the statement of a truth are the last things in the mind of a scientific writer.⁴⁵

In an article on "The Skin Colours of the Races of Mankind", written shortly after this letter, Davenport ceased to speculate "...on whether the black or the white skin was a later evolutionary mutation, and which of the two was more advanced."⁴⁶ On the surface, the article may appear to be innocuous and non-racist, yet since Davenport believed that white skin was "... a later mutation and therefor inferior...",⁴⁷ he consciously presented a biased and inaccurate account in his article.

This is simply one example of how an individual's bias can be translated into science. Davenport, purposely misconstrued the data he had uncovered. One can only speculate that he did this as the data did not conform to his world view. His misreporting of his data on skin colour is not surprising as he believed "feeble-mindedness" to be associated with blacks who were a menace to American society.⁴⁸ Davenport let his

worldview colour the way in which he performed science. He misreported what he believed to be the original skin colour due to his negative views on blacks. The worldview and biases of Davenport were effectively cloaked under the mantle of science.

Davenport, who had a demonstrated ability as an organiser, supported several genetic and eugenic causes between 1900 and 1935. In 1904, he persuaded the Carnegie Institution of Washington Foundation to set up a laboratory designated to investigate the experimental study of evolution.⁴⁹ Davenport also had a hand in the founding of the Eugenics Record Office. This organization scrutinized the records of prisons, hospitals, almshouses and institutions for people who were mentally deficient, deaf, blind and insane, as well as their relatives. The work from this organisation provided "authoritative" material to the American eugenics movement which was gaining widening support after the turn of the century and having a significant impact on education, immigration and the "feeble-minded."

Davenport's paternalism and discriminatory attitudes were evident in his management of the Eugenics Records Office. The women in the Eugenics Record Office were employed as field workers on a temporary basis for a maximum period of three years. Davenport desired that they would marry and did not want the Eugenics Record Office to be responsible for their neglecting what he believed to be their most important social duty -- motherhood.⁵⁰

Based on the existence of these two institutions, Charles Davenport and the eugenics movement were able to gain scientific respectability and garner political support for their hereditarian theories.⁵¹ Meanwhile, these eugenical ideas were being transmitted

to the public in other fashions. For instance, in the 1914's, American and British newspapers printed articles dealing with eugenics and a growing number of articles dealing with the same subject appeared in popular magazines. In addition, there was seldom a year which would pass where there would not be books dealing with eugenics, authored by scientists such as Pearson, Davenport or their colleagues.⁵² The theories of one group were presented to society as an objective truth through newspaper articles and popular magazines. This medium helped to popularize and disseminate eugenical theory.

Eugenics was able to establish an international stronghold with the existence of close connections between American and British eugenicists. There existed transatlantic publication of their works; they elected each other to their societies; and they maintained close personal contact.⁵³

American eugenicists came from a wide variety of professions such as clergymen, doctors, scientists, professors and educators. Financing for a large part of the movement came from well-known business men, bankers and philanthropists. These individuals were attracted to the movement due to their self-identification as "fit" individuals and their designation of the lower classes as "unfit". This group believed the essence of the American population was threatened by the increasing arrival of Southerners and East European immigrants and by the movement of blacks throughout the country.⁵⁴ Due to emancipation and increased immigration, people of a variety of differing cultures and ethnic backgrounds were coming to the United States. A large portion of them were in the lower classes. This is particularly true for blacks who could not own property and had a great deal of difficulty amassing wealth as they were barred from the domains of

the white, middle class. When the middle class looked down upon the lower class, they despised individuals who were mediated not only by class, but by culture, ethnicity and religion.

It appears that neither the literature of eugenics nor the climate of social Darwinism were sufficient to create the eugenics movement. Evidently, social changes were necessary for the inception and maintenance of this movement. With industrialisation, the expansion of big business, the growth of cities and slums, immigration and the extensive migrations within the United States, and a blatant distrust of democracy, the scene was set for eugenical theory to flourish.⁵⁵

CANADA

One of the sources of eugenical ideas in Canada was McGill University.⁵⁶ McGill University served as an important mechanism for transporting ideas about heredity into Canada, from England, largely through its success in recruiting several British hereditarians throughout the inter war years. The other source was the West. With little acceptance of eugenical ideas among French Canadians, it became apparent that the western provinces -- with their large immigrant presence -- were more hospitable towards hereditarian ideas.⁵⁷

The medical profession⁵⁸ was the most vocal defender of Canadian eugenics. In the early 1880's, Canadian doctors held a low status in relation to other professionals. The working class did not want or could not afford the service of a doctor. The middle class appeared to have more faith in their own home remedies than to trust the work or

ability of a doctor, who in most instances may have been their social inferior. However, with the discovery of germ theory at the end of the nineteenth century, doctors were given all the evidence they needed to support their belief that they were the only ones qualified to state with any certainty the true causes of disease. With this discovery, the doctor patient/relationship had shifted, by the nineteenth century, with doctors having a monopoly on providing "medical services". The spread of hereditary⁵⁹ concepts helped to strengthen the position of the so-called experts of social control⁶⁰ -- doctors, social workers and psychiatrists.

The spread of eugenical theory was occurring when it was believed that the Anglo-Saxon fertility rate was declining in relation to French Canadians, the immigrants who were invading the country⁶¹, and those considered to be subnormal. This fear was heightened by the number of losses suffered in World War I. It was believed that all the best young Canadians were being lost at war while those who were "unfit" were populating the country.

Some of these eugenicists were progressive reformers, as they dealt, publicly, with issues of sex education, intelligence testing, special education, social welfare, immigration, birth control and venereal diseases.⁶² Most of these issues were provocative for this period, as they had not previously been publicly discussed. However, it must be recognised, that in dealing with these issues, the social reformists were interested in exerting social control in these areas.

A brief discussion of sexual education will bring out this point. In the early twentieth century there were two major reasons for concern with sex education. On the

one hand, many Canadian families wanted to reduce the size of their family due to industrialisation, urbanisation and the new conception of motherhood.⁶³ On the other hand, individuals wanted to protect themselves from venereal diseases. The majority of Canadians did not know that most venereal diseases are sexually transmitted. This fear of venereal disease was exaggerated as a threat to the nation of Canada. Eugenicists connected venereal disease with prostitution, "feeble-mindedness" and immigrants, as opposed to bacteria, therefore their remedies were social rather than medical. Rather than having an open discussion on the causes and cures of venereal disease, societal fear allowed eugenicists a means of social control as they attacked those whom they felt would be potential carriers.

Social hygienists often stated that those individuals who were "feeble-minded" would become the prostitutes of the future, and thus spread venereal diseases. If the disease being discussed was Syphilis, this would cause a generation to become "feeble-minded". To eradicate this unpleasant cycle, it was asserted that the reproduction of the "feeble-minded" should be halted to prevent the spread of venereal disease.

Social hygienists wanted to use the fear and ignorance on the part of the public as a means to control the public. Very little was mentioned about the discovery of Salvarsan made by Paul Ehrlich in 1909. Salvarsan was known to be an effective treatment against venereal disease. These eugenicists wanted to control the behaviour of the public by not giving them further opportunity to violate "appropriate" standards of behavior. Venereal diseases were looked upon as an indication of larger corruption. The traditional arguments of restraint were being made, but disguised in the language of

heredity.⁶⁴

THE DECLINE OF EUGENICAL THEORY

During the first years of World War II, several forces led to the decline of eugenical theory. These forces manifested themselves in French Canadian Catholic opposition,⁶⁵ the increasing intolerance of geneticists to eugenicists and in the evolving social climate which was less receptive to hereditarian ideas.

The social and economic climate which had helped to support and develop eugenic theory, helped to discredit it. The apex of the eugenics movement was in the empty and barren depression years. During this time, a number of classes embraced the idea that it was not the fault of the system that society was in such dire straits, but the fault of the poor. With the onslaught of World War II, the unemployed men who had been considered the scourge of society were now celebrated. The government now promised citizens, who were expected to fight at wartime, certain services during times of peace.

As genetic theory became more elaborate in Canada, Britain and the United States, it was less able to support the plan of eugenicists. After the atrocities of the Holocaust were made public to the international community, eugenical theory was brought into disrepute. Many believed that eugenics was nothing more than a pseudo science, which was very quickly being distinguished from genetics. However, applying the term pseudoscience to eugenics pushed aside the contribution several notable scientists made to its development and deters us from investigating science's political nature, its biases and its prejudices.

Eugenics was not the theory of a group of extremists; numerous prominent medical doctors, activists and scientists supported it as an acceptable development of the discipline of heredity.⁶⁶ This is evident as several of the members of the Eugenics Society were eminent biologists, scientists and geneticists.

Eugenics was eventually brought into disrepute in each country as the social climate and conditions became intolerant of such theories. Yet, as McLaren asserts, it was not simply a triumph of good science over prejudice. There was not a complete divergence in view between the eugenicists and geneticists. Throughout the 1930's and 1940's, several prominent geneticists continued to support several eugenical policies, such as population control in a variety of "third world" countries.

THE CONTINUING THREADS OF EUGENICAL THEORY

Despite their decline in popularity, it appears that eugenical theories have not completely disappeared from our social landscape. Kelves asserts that a number of "... Galtonian premises have continued to figure in social discourse -- notably in the claims of those arguing for a racial basis of intelligence, in certain tenants of human sociobiology, and in some proposals for human genetic engineering."⁶⁷ For example, in 1989 at the University of Western Ontario, psychology professor, Philip Rushton, claimed that there were different levels of intelligence among different races. These ideas were "...only marginally more sophisticated than those advanced by the eugenicists of the 1930's." ⁶⁸

With the discovery of chromosome mapping in the 1970's, it was understood that

more than fifty disorders were caused by genetic accidents. With tests such as amniocentesis, doctors can test for "defects" and thus allow the mother the option of having an abortion. This "advance" has increased the potential of avoiding the difficulty of raising a physically/mentally challenged child. However, there is also an inherent disadvantage in such a technology. It is possible that this pursuit of the "ideal" child may be accomplished at the devaluation of the physically or mentally challenged individual, with the eugenical overtones of the past. We must ask ourselves whether the individuals who are giving genetic counselling are not practicing a form of eugenics as they effectively decide who is or is not to reproduce.⁶⁹

The theories and concerns which gave rise to eugenics are still with us, sometimes in much the same forms. The middle class bias and paternalism, which were evident in the eugenics movement, are present today and are part of the rationale for coercively sterilising poor women, disabled women and women of colour. According to this view, those from the middle class know what is in the best interest of the poor. The middle class believe they can impose a standard upon the poor, without taking into consideration their views on the issue. Part of the reason for this belief is the eugenical idea that the poor are a burden due to their careless and reckless reproductive behaviour. Such a view devalues the rights of those who do not fall into the charmed circle of the middle class.

The early targets of eugenical theory (poor women, women of colour and disabled women) are the same targets today. As I hear about these women being coercively sterilised, I believe it stems from early eugenical theory which, in a somewhat less overt form, is still used as the justification for these practices.

ENDNOTES

¹ Angus McLaren, Our Own Master Race: Eugenics in Canada, 1885-1945 (Toronto: McClelland and Stewart, 1990) at 152.

² Alyce Gullattee, "The Politics of Eugenics" in Jonas Robitscher ed., Eugenic Sterilization (Illinois: Charles C. Thomas, 1973) at 82.

³ There was no clear definition of what constituted "unfitness". Individuals outside of the middle class were usually the ones designated as "unfit". The definition of "unfitness" was so nebulous that it was applied to both the upper and lower class. For instance, late 1800's British author William Rathbourne Greg believed that an extensive threat to the nation was coming from the aristocratic class in addition to the lower classes. He considered both classes to be lacking in morals. The rich were morally bankrupt, for exertion and self denial were not a part of their lives; and the poor lacked training and education. According to Greg, the aristocracy and the poor were careless in the area of marriage and reproduction, for both married at whatever time they wished and had as many children as they desired. The rich did so because they were financially able and the poor did so because of their careless and senseless nature. These two classes were thought, by Greg, to soil and weaken the race. Thus the best class to strengthen and keep the race clean was the middle class. Discussed in Stephen Trombley, The Right to Reproduce: A History of Coercive Sterilization (London: Weidenfeld and Nicholson, 1988) at 7.

⁴ Robert H. Blank, Fertility Control: New Techniques, New Policy Issues (New York: Greenwood Press, 1991) at 58.

⁵ Francis Galton was born into a Birmingham family which made its wealth originally through gun manufacture and then through Galton's father's banking. Richard Soloway, Demography and Degeneration: Eugenics and the Declining Birthrate in Twentieth Century Britain (London: The University of North Carolina Press, 1990) at 19.

⁶ In this context, I am using the term race to refer to the British upper, middle and lower classes. Whether "race" is really a category of investigation is a problematic issue.

⁷ Positive eugenics deals with revealing or discovering individuals who possess the best possible genetic material and coaxing them to reproduce at a high rate.

⁸ Negative eugenics is the process of implementing mechanisms to inhibit the fertility of individuals deemed "unfit".

⁹ Angus McLaren, *supra*, note 1 at 15.

¹⁰ Elazar Barkan, The Retreat of Scientific Racism (Cambridge: Cambridge University Press, 1992) at 7.

¹¹ This critique I am making of eugenics is applicable to other sciences. It is not that eugenics was bad science, but that science is presented as an objective truth.

¹² Nancy Leys Stephen, The Hour of Eugenics: Race, Gender and Nation in Latin America (Ithaca: Cornell University Press, 1991) at 25.

¹³ Leys Stephen, *ibid.* at 25.

¹⁴ Leys Stephen, *ibid.* at 11.

¹⁵ Leys Stephen, *ibid.* at 27.

¹⁶ Leys Stephen, *ibid.* at 33.

¹⁷ Leys Stephen, *ibid.* at 9.

¹⁸ Leys Stephen, *ibid.* at 9.

¹⁹ Daniel Kelves, In the Name of Eugenics (New York: Knopf, 1985) at 77.

²⁰ Leys Stephen, *supra*, note 12 at 11.

²¹ Thomas Shapiro, Population Control Politics: Women Sterilization and Reproductive Choice (Philadelphia: Temple University Press, 1985) at 40.

²² The majority of Galton's career was spent trying to develop objective measures of worth. These measures ranged from "...the statistical distribution of intelligence to anthropometry -- a series of tests, both physical and mental to measure differences in faculty." Greta Jones, Social Darwinism and English Thought (New Jersey: Humanities Press, 1980) at 101.

²³ MacLaren, *supra*, note 1 at 9.

²⁴ His lineage connected him to the Wedgewoods and Darwins, both prosperous families of Victorian Britain. This bolstered his belief that success and ability were influenced by heredity. Leys Stephen, *supra*, note 12 at 25.

At the same time, it is possible to wonder if Galton himself had fallen short of the standard which he had set up for others. Galton amassed an excellent record in his first year at King's College Medical School, in London, while he despised the study of mathematics and was besieged by persistent headaches. He enrolled in Cambridge University in, 1840, to study mathematics and was striving to achieve an honours degree up until his third year when he suffered a nervous breakdown. Kelves, *supra*, note 19 at 5.

²⁵ Kelves, *ibid.* note 19 at 9.

²⁶ Soloway, *supra*, note 5 at 27.

²⁷ Soloway, *ibid.*, at 27.

²⁸ G.R. Searle, Eugenics and Politics in Britain 1900-1914 (Leyden: Noordhoff International, 1976) at 50.

²⁹ Pearson was very progressive in his views on women. He believed women were as capable and intelligent as men. This was the reason he founded a social group for both men and women to engage in intellectual conversation.

³⁰ Kelves, *supra*, note 19 at 32.

³¹ According to Soloway, Pearson was the son of a middle-class Quaker lawyer. Pearson, eventually spurned his father's profession so he could pursue a career in mathematics. Soloway, *supra*, note 5 at 27.

³² This was the only way in which he could rationalise that neither the automobile nor the airplane had been invented in England. Kelves, *supra*, note 19 at 36.

³³ Kelves, *ibid.* at 33.

³⁴ Kelves, *ibid.* at 33.

³⁵ Kelves, *ibid.* at 38.

³⁶ Kelves, *ibid.* at 38.

³⁷ Kelves, *ibid.* at 40.

³⁸ With the tendency towards reduced family size, a change in family structure, and birth rate, statistics asserted the existence of a birth differential between the middle and lower classes, which eugenicists interpreted as "race suicide". Thus eugenicists believed that the quality of the nation's population was declining as the lower classes had a higher fertility rate than the middle class. Linda Gordon, Woman's Body, Woman's Right: A Social History of Birth Control in America (New York: Grossman, 1976) at 130.

³⁹ Galton's sensitivity to the declining fertility of well established families was probably due to his and his two brothers' childlessness. This childlessness is particularly striking when it is known that they were members of a family with nine children and their father was one of ten. Soloway, *supra*, note 5 at 19-20.

⁴⁰ McLaren, *supra*, note 1 at 15.

⁴¹ Kelves, *supra*, note 19 at 45.

⁴² Kelves, *ibid.* at 7.

⁴³ He believed this although it was not scientifically certain who should be sterilised for the category "unfit" was not clearly defined. Kelves, *ibid.* at 47.

⁴⁴ Kelves, *ibid.* at 51.

⁴⁵ Barkan, *supra*, note 10 at 77.

⁴⁶ Barkan, *ibid.* at 77.

⁴⁷ Barkan, *ibid.* at 77.

⁴⁸ Barkan, *ibid.* at 73.

⁴⁹ Kelves, *supra*, note 19 at 45.

⁵⁰ Barkan, *supra*, note 10 at 72.

⁵¹ Shapiro, *supra*, note 21 at 34.

⁵² Kelves, *supra*, note 19 at 58.

⁵³ In addition to the American and British link, after the turn of the century, eugenical endeavors, which were usually called "race hygiene", had developed in Italy France, Poland, Germany, Switzerland, Sweden, Norway and Russia. By the nineteen-twenties the movement had moved to Japan and Latin America. Kelves, *ibid.* at 63.

⁵⁴ McLaren, *supra*, note 1 at 9.

⁵⁵ Kelves, *supra*, note 19 at 76.

⁵⁶ Notions of eugenics in Canada were apparent before Galton's works were made popular by the Eugenics Education Society. For example Dr. Alexander Peter Reid, who was the superintendent of the Nova Scotia Hospital for the Insane, notified the Institute in 1890 that something must be done to stop the national degeneration which was occurring. McLaren, *supra*, note 1, at 219.

⁵⁷ McLaren, *ibid.* at 28.

⁵⁸ MacLaren, *ibid.* at 28.

⁵⁹ Not all doctors liked to ascribe to a hereditarian view of the world. If all ailments which human beings had were due to heredity, then doctors were powerless to stop it. McLaren, *ibid.* at 29.

⁶⁰ Several doctors, as well as citizens, adopted eugenical ideas for a number of reasons other than those considered to be self-serving or which would enhance their careers. Some eugenicists were sympathetic and idealistic and thus preoccupied with those who were "feeble-minded" and the type of life which they would live with the spectre of poverty looming. The majority viewed themselves as reformers who wanted to mix medicine, science and social welfare. They desired to help the poor and the ill and stop the growth and rise in social problems. McLaren, *ibid.* at 166.

⁶¹ Approximately 400,000 immigrants of non-British origin came to Canada in 1913. McLaren, *ibid.* at 47.

⁶² McLaren, *ibid.* at 9.

⁶³ This is developed in Chapter Two.

⁶⁴ McLaren, *supra*, note 1 at 74.

⁶⁵ The majority of close scrutiny which the eugenics movement faced in Canada came from Quebec writers. French Canadian antagonists felt that this theory was an alarming philosophy developed by Protestant anglophones. McLaren, *ibid.* at 151.

⁶⁶ Leys Stephen, *supra*, note 12 at 5.

⁶⁷ Kelves, *supra*, note 19 at ix.

⁶⁸ McLaren, *supra*, note 1 at 170.

⁶⁹ MacLaren, *ibid.* at 170.

CHAPTER TWO -- THE DIVISIVE NATURE OF THE BIRTH CONTROL MOVEMENT

The eugenics movement garnered support from the early feminist movement. This is particularly striking, considering that proponents of eugenics were anti-birth control and anti-feminist. They felt that, among other reasons, the women who should be populating were not because feminism taught them to neglect their true social duty of motherhood.¹ However, both groups believed that birth control should be utilised by the "unfit" classes. The acceptance of eugenical theory by feminists suggests the extent to which the eugenics movement was able to present itself as an objective science. The cooperation which existed between eugenicists and feminists, in the area of birth control, gives us some indication why coercive sterilisation, which affects women of colour, disabled women and poor women, has not been addressed as a feminist issue.

The history of birth control in Canada and the United States can be understood as being driven by two different principles. The desire that individuals should have access to reproductive devices as a right, for health reasons and as a necessary component of sexual equality, is the first underlying principle.² The woman's movement, in its early and present stages, articulated a demand for birth control based on the belief that control over one's reproduction is a necessary precursor for sexual and social equality, even as the meaning of birth control changed from abstinence to the use of physical devices.³

The second underlying principle is the notion that reproduction should be controlled to allow for the maintenance of the institutional interests of population

controllers and eugenicists.⁴ Eugenicists felt that due to the constant decline in the birth rate of the "fit", measures had to be adopted -- making birth control available to all classes of people, not simply the elite -- to offset the imbalance in the birth rate between the "fit" and the "unfit".

Population controllers were concerned with the issue of class, the increase in the number of lower class "third world" individuals, and with overpopulation, with its potential impact on a nation's political stability, environment and food supply. In order to address these concerns, population controllers set up ties with government and institutions to implement population control strategies.⁵

Population controllers, feminists and eugenicists have at certain points in their histories, existed in a fragile framework of cooperation. This chapter will focus specifically on the mingling of eugenical and feminist theory in the early birth control movement. To do this, I will discuss the voluntary motherhood movement as precursor to the birth control movement. Included in this is a discussion of the racism and classism which were present in the early birth control movement and which are present in population control initiatives. The early and continuing practices of classism and racism in the birth control movement have made it difficult for all women to unite under the banner of reproductive freedom. With this groundwork, it is not surprising that the present instances of sterilisation abuse which I have unearthed have not been addressed by the feminist movement.

THE EARLY BIRTH CONTROL MOVEMENT

In the 1870's, as the woman's suffrage movement was approaching its apex, "feminists" began to demand the need for "voluntary motherhood".⁶ Women in favour of voluntary motherhood advocated abstinence from marital sexual relations. This abstinence was to come about through either the mutual decision of the couple or the sole decision of the woman. The right of a woman to refuse to have sex with her husband was the fundamental principle and demand which underlined the ideology of voluntary motherhood.⁷ Since the law made it a woman's obligation to submit to her husband in sexual matters, as she was believed to be his private property,⁸ a woman's right to refuse was seen as a crucial component of her independence.

Women wanted to be sexually autonomous individuals, unconstrained by the desires of their husbands and free to decide when they became pregnant. They wanted to control their own sexuality and in so doing bring male sexuality under control.⁹ This consciousness was born with the movement for political equality, thereby suggesting that these women recognised the connection between sexual and political equality. They realised that they were autonomous beings in both a political and sexual sense.

Although the term "voluntary motherhood" came to be the standard name for birth control, the sex radicals and feminists who were in favour of voluntary motherhood did not approve of contraceptive devices. The initial rejection of physical forms of contraception was based on the reluctance of early birth controllers to separate sex from reproduction.

Most women were convinced that contraception was unnatural and would lead to

increased promiscuity, due to the existence of "less virtuous" women who may have been able to attract their husbands, without the attending risk of pregnancy.¹⁰ Advocates of voluntary motherhood believed that physical means of contraception would erode the control women had established over their bodies and marital relations. The use of contraceptives would weaken their ability to control sexual access on the basis of avoiding an unwanted pregnancy.¹¹

The voluntary motherhood movement was occurring as statistics were asserting that between 1800 and 1900 there was a decline in the birth rate of white, middle class families in the United States.¹² Since no contraceptive method had been formally introduced, this decrease in birth rate suggested that the elite classes of women were modifying their sexual habits and activities. Given the aversion to contraception from advocates of voluntary motherhood, a strict moral code was reinforced which led the voluntary motherhood movement to become associated with social purity movements which upheld a pro-motherhood ideology. As Gordon asserted, "...the voluntary motherhood advocates consistently continued the traditional Victorian mystification and sentimentalization of the mother."¹³ This suggests that the decline in the birth rate among white, middle class families reflected the new construction of women as primarily mothers, in a social context that increasingly constructed motherhood as care and socialisation rather than simply bearing children.¹⁴

Since industrialisation eliminated several jobs which were performed in the home, and in the process differentiated the purpose of the home, motherhood became a woman's social and moral aim. Motherhood shaped a woman's desires about fertility. Thus in the

nineteenth century, motherhood and household management became the main economic function of a middle class wife.¹⁵

This ideology of motherhood had divergent meanings for women of different classes and races. For instance, while the ideology of motherhood was a great influence on the choice to restrict fertility, it was not the most fundamental reason for all women to restrict their family size nor did it pertain to the lives of all women. Conditions of poverty and the need for child and wife labour for blacks, immigrants, the poor and part of the rural population may have made the idea of complete maternal devotion and restricted childbearing unrealistic.¹⁶

In promoting abstinence as a method of birth control to get to this ideal of motherhood, advocates of voluntary motherhood, constructed women's nature as "pure" and asexual.¹⁷ By participating in this ideology, these early feminists were "... at once asserting their procreative freedom and limiting their own sexuality, subscribing to the idea of sex as dangerous and taboo."¹⁸ The reasons advocates of voluntary motherhood took part in a such a construction of female sexuality were connected to issues of race and class, in the context of class division, increasing immigration and discontent against slavery. The element of sexual purity found within the construct of the "lady", was a distinguishing characteristic whereby middle class, white, women were defined and defined themselves in opposition to poor, black and immigrant women.¹⁹ Fewer children were an indication of a virtuous and ladylike existence.²⁰

According to the ideology of voluntary motherhood, there were two classes of women -- the ideal mother, the lady, in essence a "fit" woman and the "unfit" woman who

was a "loose", "lustful" woman. When it came time to determine who should reproduce, it was obvious that the fate of the nation should rest on the shoulders of "fit" women.

Advocates of voluntary motherhood focused on sexual purity and used eugenic logic to increase women's power and dignity as mothers. The social purists who advocated for voluntary motherhood felt that children who were unwanted or poorly spaced would suffer. According to this logic, for families to have "fit" and intelligent progeny, the sexual act which led to the conception, as well as the child, should be wanted.²¹

It is not surprising that these early feminists were spouting eugenic rhetoric. In the American eugenics movement, women had a prominent role in the local groups and were a large part of the audience. This can be attributed mainly to eugenical concerns which focused on the quality and health of those who were being produced. According to biology and middle class values, these issues are the domain of women.²² Eugenicists were particularly concerned with women for they believed that reproduction defined women's role more than it did men's. Due to women's social dependence and vulnerability, control of their reproductive lives appears much more possible and necessary. Eugenics pulled women into the public spotlight, while giving them a decent segue into social activism.²³

RESPONSES TO THE BIRTH DIFFERENTIAL

Belief in the existence of "race suicide" created a backlash against the ideology of voluntary motherhood. It was believed that voluntary motherhood would lead to a decline

in the quality of the nation's population, as white, middle class women had fewer children so they could pursue a career or increase their education. Eugenicists' response to this birth differential was to claim that any form of birth control was a threat to the "race", as the healthy middle class members of society were decreasing their numbers and weakening the country. For instance, Canadian public health pioneer, Helen MacMurchy, claimed that if married women did not engage in motherhood they were unpatriotic and denying themselves great joy. Similarly, in 1918, a Calgary doctor, W.A. Lincoln, claimed that middle class women were unfairly placing the burden of sustaining the nation on the shoulders of women who were less capable of performing this feat.²⁴

Part of the blame for "race suicide" was aimed at feminism, which was said to be increasing the birth differential, because it took women away from their duties as mothers by encouraging them to move into men's domain. Recognising that mere moral rhetoric would not entice the "fit" to produce more children, eugenicists claimed that the "fit" should be rewarded for reproducing, thus implementing a program of positive eugenics.

Manitoba was the first western province, in 1916, to provide a mother's pension for the poor.²⁵ Manitoba then extended the mother's pension to middle class women, in the belief that women would thereby be eliminated from the domain of men and returned to their original duty of motherhood.

By the 1930's, the provinces from Ontario to British Columbia had some form of a mother's allowance plan. Supporters for the plan were interested in ameliorating the poverty and hard work women encountered in the home, but there were also definite eugenical ideals underlying this scheme. As MacLaren asserts "...almost every participant

in the discussion of such schemes spoke in terms of race betterment, [revealing] the success eugenicists enjoyed in setting the terms of the debate."²⁶

Recognising that positive eugenics alone would not ensure the desired results, eugenicists waded into the discussion of birth control. Although there were those who supported the ideas of birth control advocates, Marie Stopes and Margaret Sanger,²⁷ a Canada wide birth control movement did not exist until the 1930's. This Canada wide movement was due to the efforts of two eugenicists, A.H. Tyrer and Kitchener businessman A.R. Kaufman.

Tyrer and Kaufman differentiated themselves from earlier eugenicists. Earlier eugenicists felt contraception had exacerbated the problem of the differential birth rates and had unnecessarily forced them into a discourse on sex. For instance, eugenicists, such as Watson Kirkconnell, a professor of literature at Wesley College in the early 1920's, and Calgary Doctor W. A. Lincoln, were against contraception because they felt it was being used by the families which should be reproducing.²⁸

Tyrer and Kaufman reversed this proposition, by claiming that birth control should be made available to all, to balance the birth differential. Tyrer and others, such as Maurice Eisendrath, Florence Huestis, the vice president of the Social Hygiene Council, and Dr. D.M. Lebourdais who belonged to the National Committee on Mental Hygiene, set up the Birth Control League of Canada, in 1931, to achieve their goals.²⁹

Similarly A.R. Kaufman, who had established the Parents Information Bureau, in 1933, to distribute contraceptives all over Canada,³⁰ was interested in birth control. He believed the only way for the elite to mold the population was to make birth control

available to all classes within society. Access to contraception would decrease the likelihood that the "unfit" would have more children than the "fit".

Once it became apparent that it would not be possible to entice the "fit" to have larger families, the majority of eugenicists began to endorse the use of birth control. They began to believe that the only way to curb the fertility differential was to promote birth control among the masses.³¹

CLASSISM AND RACISM IN THE EARLY BIRTH CONTROL MOVEMENT

The belief in "voluntary motherhood" was confined to middle and upper class women. As Angela Davis asserts:

The aspirations underlying the demand for "voluntary motherhood", did not reflect the conditions of working-class women, engaged as they were in a far more fundamental fight for economic survival. Since this first call for birth control was associated with goals which could only be achieved by women possessing material wealth, vast numbers of poor and working-class women would find it rather difficult to identify with the embryonic birth control movement.³²

One of the reasons middle class women were advocating in favour of birth control was so they could reach their academic aims, by attending university and beginning a career. Poor, working class, women were often times concerned with issues of day to day survival which prevented them from going to university. These women also have needed more children, as child labour was a necessity upon which they relied. The day to day reality of working class and middle class women's lives was so different that university, a career or restricted childbearing were not goals in the reach of the poor, with or without

birth control.

More importantly, a woman's access to birth control in nineteenth and twentieth-century America was affected by her class position in that her class position dictated her relationship to the medical profession. If she was poor, working class and lived in a rural area, she would have difficulty gaining access to doctors and clinics. Hence, the diaphragm, which was the most effective form of birth control available in the 1930's, was impractical for poor and working class women. Poor and working class women usually had little or no access to privacy, running water, private clinics or medical instruction.³³ These features were all necessary for a woman to use a diaphragm effectively.

The birth control movement became more divisive as feminists in favour of birth control began to espouse "race suicide" rhetoric. Feminists claimed that birth control should be used by the lower classes to prevent the spread of the "unfit". For instance, the Alberta magistrate, Emily Murphy, who had condemned contraception in the 1920's, pushed for its use in the early 1930's. Murphy claimed that Canada's social problems could only be dealt with if contraception was used by the "unfit" classes.³⁴ It was believed that "race suicide" could be prevented by distributing birth control to black people, the poor and immigrants, especially since children who came from these families had less chance of being "superior" children. Widespread use of contraception by these groups would maintain whites' superior position in the population.

Feminists also espoused the sentiment that it was the moral duty of the poor to limit their family size, since large families were believed to be a burden on the taxes and charities of the wealthy. Birth control was conceived of as a right for the middle and

upper class sections of the population, but was translated into a duty for the non-white, lower class sectors.

Another example of race bias in the birth control movement is evident as one looks at the Birth Control Federation of America League. The Birth Control Federation of America League, in 1939, called for birth control for black people. The BCFL recruited Black ministers to head local birth control committees so Black people would be as susceptible as possible to birth control rhetoric.³⁵ The BCFL wanted black people to reduce their numbers by using birth control. Margaret Sanger, who was a prominent figure in the birth control movement in the United States, stated in a letter to a colleague, discussing the tactics of the BCFL, that "We do not want word to get out, that we want to exterminate the Negro population and the minister is the man who can straighten out that idea if it ever occurs to any of their more rebellious members."³⁶

These instances demonstrate the racism, classism and eugenical ideals which were conflated in the birth control movement. This movement was divested of its progressive potential as it asserted for poor women, people of colour and the "unfit" not "... the individual right to birth control, but rather the racist strategy of population control."³⁷

As we saw racist, classist and eugenical ideas present in the early push for birth control, we shall see these same ideas operating with respect to present day practices of coercive sterilisation. These eugenical, classist and racist ideals continue to support the belief that social problems are the fault of poor people, disabled people and people of colour, so their reduction in numbers is viewed as a solution.

Another issue raised in these early days and still evident today is how a woman's

class, race and ability position affect her relationship to birth control, in terms of it either being accessible to her or forced upon her. Race and class divisions in reproductive care determine a woman's access to decent fertility services, information and counselling. Her position in society determines the risks she may face in relation to coercive sterilisation and exposure to unsafe contraceptives.

It is generally women who are poor, disabled and of colour who are coercively sterilised. There is minimal recognition in the feminist movement of the ways in which the gains made by white, middle class, able bodied women have been pursued and achieved in oppositional terms to the rights of poor women, women of colour and disabled women. This stemmed in part from the eugenical split of "fit" women and "unfit" women. This construction of two groups helped to set up an "us" and "them" dichotomy which led middle class eugenicists and feminists to believe they could tell others, who did not fit into the middle class mold, how to conduct their lives. This history, which feminists seem to have come to terms with in an uncritical manner, serves as a starting point for feminist theories and practices.³⁸

Additionally, it appears that birth control for the "unfit" was espoused for punitive reasons. Eugenicists were calling for the "unfit" to use birth control when the ideology of motherhood was becoming prevalent. Motherhood was constructed as a great joy and a woman's social purpose. Yet poor women, women of colour and disabled women were asked to forfeit this pleasure, as they did not meet the white, middle class standards of motherhood. These themes which I have discussed are also evident as we look towards third world countries.

As feminists we must address and recognise that Western, eugenical practices are being practiced in developing countries.³⁹ This occurred as early eugenicists became population controllers. For instance, one of the major American supporters of eugenic birth control research, the Milbank Memorial Fund, started to support 1940's research of overpopulation in certain "underdeveloped" countries.⁴⁰ In addition, the International Planned Parenthood Federation (IPPF), an influential fertility limitation organisation, was developed, after World War II, by Margaret Sanger, a prominent birth control activist. The IPPF was located "... in the Headquarters of the Eugenics Society in London..."⁴¹ This and the fact that its very first director was C.P. Blacker, the Eugenics Society secretary, suggested that the organisations shared common interests.⁴²

Since the start of the 1960's, the United States has distributed more than \$4 billion for population initiatives to third world countries.⁴³ Other powerful donors are the World Bank⁴⁴ and the International Monetary Fund. While it may not be stated explicitly, their loans to developing countries usually come with the implicit condition of setting up population control.⁴⁵

The eugenical solution to poverty and potential social unrest has been consistent - the poor are to limit their fertility and keep their increase in check. This belief is present today as the wealthy from the southern and northern hemispheres demand that the impoverished in the southern hemisphere control their fertility. This demand is rationalised as necessary for the survival of humankind and the planet.⁴⁶ As "third world" inhabitants allegedly cause their own hunger by their excessive fertility, they only injure themselves. But by consuming resources which we want to consume, and disrupting the ecological

balance, necessary for the survival of all, they injure us. Thus reproduction by "third world" women is depicted as an irresponsibility towards humanity.⁴⁷

Due to this belief that they are acting irresponsibly, "third world" women suffer certain abuses. "Third world" women are "... used as guinea pigs for new contraceptives and as a dumping ground for medication that the industry can no longer sell at home."⁴⁸ This is evident as women in the south have Dalkon Shields in their wombs, although in the United States and Canada the Dalkon Shield was recalled after serious questions had been raised about its safety.⁴⁹ High dose oral contraceptives are not considered to be safe for Canada, but were exported to Bangladesh by the Canadian International Development Agency.⁵⁰

According to Christa Wichterich "third world" women are being sterilised without any knowledge that the operation is irreversible. Wichterich stated that, "...rumors keep on surfacing -- last year for example in Kenya -- that the drinking water, school milk, or food aid is being laced with sterilizing substances -- and every so often the rumors will have a real basis."⁵¹

Population control initiatives are coercive in approach and limited in their contraceptive offerings. They encourage sterilisation, the use of long term, provider controlled methods and fail to provide women with information on the risks and benefits of each method.⁵² In accordance with eugenic theory, population controllers believe they can dictate what the needs of the poor are.

As feminists we have a responsibility to our sisters abroad and locally. We must carefully investigate our reproductive rights analysis and how issues affect women who

are mediated by their race, class, ability and culture. As Nancy Hewitt asserts:

Rather than retreating we must keep moving; we must recognize the instability of all categories, the contested terrain of all historical sites, the dangers in all political projects, and then shape a human history that captures both the messy multiplicity of lived experience and the power relations within which those lived experiences are played out.⁵³

We need to be constantly challenging the categories and analyses which we develop and strive to make them applicable to all women, not just a select few.

ENDNOTES

¹ Angus McLaren, Our Own Master Race: Eugenics in Canada 1885-1945 (Toronto: McClelland and Stewart, 1990) at 79.

² Thomas Shapiro, Population Control: Women Sterilization and Reproductive Choice (Philadelphia: Temple University Press, 1984) at 12.

³ Shapiro, *ibid.* at 12.

⁴ Shapiro, *ibid.* at 13.

⁵ Shapiro, *ibid.* at 13.

⁶ Angela Davis, "Racism, Birth Control, and Reproductive Rights" in Marlene Gerber Freid ed., From Abortion to Reproductive Freedom: Transforming a Movement (Boston: South End Press, 1990) at 18.

⁷ Linda Gordon, Woman's Body, Woman's Right: A Social History of Birth Control in America (New York: Grossman, 1976) at 101.

⁸ Ruth Dixon-Mueller, Population, Policy and Women's Rights: Transforming Reproductive Choice (Westport: Praeger, 1993) at 36.

⁹ Margaret Jackson, "Sexual Liberation or Social Control" (1983) 6 *Women's Studies Intern. Forum* 1 at 4.

¹⁰ Gordon, *supra*, note 7 at 97.

¹¹ Dixon-Mueller, *supra*, note 8 at 36.

¹² Rosalind Petchesky, Abortion and Woman's Choice: The State, Sexuality and Reproductive Freedom (Boston: Northeastern University Press, 1990) at 74.

¹³ Gordon, *supra*, note 7 at 111.

¹⁴ Petchesky, *supra*, note 12 at 74.

¹⁵ Petchesky, *ibid.* at 75.

¹⁶ Petchesky, *ibid.* at 75.

¹⁷ Petchesky, *ibid.* at 76.

¹⁸ Petchesky, *ibid.* at 77.

¹⁹ For instance, in the 1800's black female slaves were defined as lustful women, while white middle class women were defined as ladies. bell hooks, Ain't I a Woman: Black Women and Feminism (Boston: South End Press, 1981).

²⁰ Petchesky, *supra*, note 12 at 77.

²¹ Gordon, *supra*, note 7 at 120.

²² Daniel Kelves, In the Name of Eugenics (New York: Knopf, 1985) at 64.

²³ Kelves *ibid.* at 23.

²⁴ McLaren, *supra*, note 1 at 79.

²⁵ McLaren, *ibid.* at 80.

²⁶ McLaren, *ibid.* at 81.

²⁷ Marie Stopes and Margaret Sanger were two women in Britain and the United States who were instrumental in having birth control become a way of life for women. McLaren, *ibid.* at 78.

²⁸ McLaren, *ibid.* at 79.

²⁹ McLaren, *ibid.* at 83.

³⁰ McLaren, *ibid.* at 77.

³¹ McLaren, *ibid.* at 18.

³² Davis, *supra*, note 6 at 18.

³³ Gordon, *supra*, note 7 at 309.

³⁴ Emily Murphy, "Birth Control: Its Meaning" Vancouver Sun (27 August 1932) 5.

³⁵ Davis, *supra*, note 6 at 21.

³⁶ Davis, *ibid.* at 21.

³⁷ Davis, *ibid.* at 21.

³⁸ Valerie Amos and Pratibha Parmar, "Challenging Imperial Feminism" (1984) 17 Fem. Rev. 3 at 5.

³⁹ Stephen Trombley, The Right to Reproduce: A History of Coercive Sterilization (London: Weidenfeild and Nicholson, 1988) at 214.

⁴⁰ Gordon, *supra*, note 7 at 396.

⁴¹ Trombley, *supra*, note 39 at 214.

⁴² Trombley, *ibid.* at 214.

⁴³ Sandra Lane, "From Population Control to Reproductive Health: An Emerging Policy Agenda" (1994) 39 Social Science and Medicine 1303 at 1306.

⁴⁴ Lane, *ibid.* at 1307.

⁴⁵ Ellen Hale, "Birth of a Scandal" The Ottawa Sun (20 November 1994) 17.

⁴⁶ Christa Wichterich, "From the Struggle Against 'Overpopulation' to the Industrialisation of Human Production" (1988) 1 Issues in Reproductive and Genetic Engineering 21 at 22.

⁴⁷ Wichterich, *ibid.* at 22.

⁴⁸ Wichterich, *ibid.* at 26.

⁴⁹ Lane, *supra*, note 43 at 1308.

⁵⁰ Canadian Women's Committee on Reproduction, Population and Development, A Canadian Women's Report on Canadian Policies and Practices in the Area of Reproduction, Population and Development (Canadian Women's Committee on Reproduction, Population and Development, August, 1994) at 16.

⁵¹ Wichterich, *supra* note 46 at 26.

⁵² Canadian Women's Committee on Reproduction, Population and Development, *supra*, note 50 at 7.

⁵³ Nancy Hewitt, "Compounding Differences" (1992) 18 Feminist Studies 313 at 317.

CHAPTER THREE -- PAST AND PRESENT LEGAL STATUS OF COERCIVE STERILISATION

Although eugenicists promoted a variety of means to achieve their aim of improving the "quality" of the race,¹ eugenicists strongly stood behind coercive sterilisation as the ultimate solution to preventing the "unfit" from reproducing. To ensure that this method of negative eugenics was utilised, it was put into legislation.

This chapter will discuss the women who were the targets of sexual sterilisation legislation and the implications of that legislation, by looking at American and Canadian cases. I will explore the development and use of the term "feeble-minded" to classify individuals and the present legislative position on nonconsensual sterilisation.

A REMEDY TO THE PROLIFERATION OF THE "FEEBLEMINDED"

Alberta passed the first sterilisation act, in Canada, in 1928,² with British Columbia becoming the second province to pass legislation³ allowing for the sterilisation of those considered to be mentally ill.⁴ The demand for sterilisation legislation to deal with the "feeble-minded" was due to the perceived inefficiency of institutionalised segregation.⁵

Up until the turn of the century, a portion of those who were deemed "feeble-minded" were controlled and prevented from having children through segregation in asylums. By the early twentieth century, criticism abounded that segregation was becoming costly and inefficient. Sterilisation was believed to be an ideal solution to this

problem, as it was viewed as a cheaper and a more effective way of controlling reproduction.⁶

The British Columbia Act established a board to authorise the sterilisation of patients of a provincial institution who "...would be likely to beget or bear children who by reason of inheritance would have a tendency to serious mental disease or mental deficiency...".⁷ This Eugenics Board was to consist of three persons, "...one of whom shall be a Judge of a Court of Record in the Province, one of whom shall be a psychiatrist, and one of whom shall be a person experienced in social welfare work..."⁸

While the British Columbia Act covered mental hospitals, public hospitals for the insane and industrial homes for girls⁹, the Alberta Sexual Sterilisation Act was applicable to individuals in mental hospitals.¹⁰ A Eugenics Board was appointed under the Alberta legislation to administer the Act. At the time of discharge, individuals were assessed by a Medical Superintendent to see if s/he would pass on a mental disability to her/his future children. The Board was the final arbiter on whether the patient, on discharge, would pass on some disability to future children. If there was a strong possibility, the board recommended sterilisation.¹¹

Section six of the Alberta Act set out that the consent of the inmate was required if s/he was capable of consent. If the Board felt the inmate was incapable of consent, then the inmate's parents or spouse were required to consent. If this was not possible, then the consent of the Minister of Health was required.

The Alberta legislation was amended three times. The 1937 amendment removed the consent provision for mentally defective persons, but retained it for those classified

as psychotic.¹² The 1942 amendment expanded the range of the Act to include those who were affected by Huntington's Chorea, mental deterioration, epilepsy with psychosis and neurosyphilis.¹³ Finally, in 1972, the act was repealed.¹⁴ The British Columbia Act was never amended and was repealed in 1973.¹⁵

Numerous professionals and reformers, in other provinces, desired the enactment of statutes similar to those in Alberta and British Columbia. For instance, in Ontario, the Eugenics Society of Canada, an organisation developed and backed by very high profile people, advocated in favour of compulsory sterilisation legislation. The 1930 Ontario Report of the Royal Commission on Public Welfare went so far as to recommend sterilisation laws to deal with "...immoral defectives and criminals."¹⁶

Despite a great deal of public support, Ontario and Manitoba¹⁷ were unable to turn their mandate into legislation, due to provincial politicians' caution in dealing with their Catholic constituency.¹⁸ The large Catholic population was opposed to any form of birth control and vehemently opposed to sterilisation. They were able to exert sufficient political pressure to keep out compulsory sterilisation legislation.

It was only in British Columbia and Alberta, where there was a large immigrant presence, which raised the spectre of hereditarian concerns, and where there was minimal amount of Catholic opposition, that eugenicists' policies were advanced.¹⁹

The growth and emergence of these statutes and the push for similar legislation in Ontario and Manitoba were due to the perception of a proliferation of the "feble-minded". This perception originated from British and American studies which asserted that "feble-mindedness" was an inherited characteristic.

These studies claimed that "normal" women had fewer children than "feeble-minded" women. This was considered to be alarming, as it was believed that the "feeble-minded" were largely responsible for the social problems of the time such as criminality, delinquency, unemployment, prostitution and poverty.²⁰ It followed that if there was an increase in the number of "feeble-minded", as the studies indicated, then society would be plagued by numerous social problems.

The concept "feeble-minded" was developed in the context of the restructuring of the education system, at the turn of the century. In Britain, with the passage of the Education Act of 1870, a national elementary school system was developed which pulled children from all classes into the classroom. Schools, like other institutions, are structured on bureaucratic lines. Like any bureaucracy, there exists in the education system, hierarchical ordering of roles and a differentiation of individuals according to the roles they play in their particular organisation. There is also an evaluation of the individual's performance according to output and achievement.²¹ All individual students were evaluated through identical medical inspections, tests and examination. It eventually became obvious that a percentage of children were unable to conform and cope with the schoolwork due to mental or physical differences.²² It was in the quest for an explanation for the poor performance of these children, that the concept "feeble-mindedness" was developed. Special classes to deal with the now visible social problem of "feeble-mindedness" were developed, not long after the implementation of a modern school system.²³

In addition to the change in the education system, industrialisation brought about

the demand for individuals who conformed to specific standards of ability to ensure the smooth running of newly developed businesses and factories. In these settings, there was little effort to adapt to the needs of those individuals who did not conform. Thus, individuals who were unable to conform were excluded from the workplace.

Although there was a great deal of ambiguity as to what the term "feeble-minded" actually meant, it was applied to individuals with a wide variety of social problems. Authorities had wide berth in labelling individuals as "feeble-minded".²⁴ Those who were poor, unemployed and female were predominantly labelled as "feeble-minded".

Medical science began to believe that the "discovery" of "feeble-mindedness" provided explanation for the major social problems of the time. For instance, "feeble-mindedness" was linked to venereal disease around World War I. This link was derived from statistics that indicated that sixty percent of prostitutes were "feeble-minded". Since it was widely believed that prostitutes carried and spread venereal disease, "feeble-mindedness" became equated with prostitution and venereal disease. Soon, the line blurred between "feeble-mindedness" as an inherited condition and as a physical disease.²⁵

It was not that individuals who were different or disabled had not existed before.

As Anne Finger asserts:

The fact that folk tales and rhymes refer to "the simple" and "the village idiot" as a stock figure; that blind and other disabled people appear in the myths and legends of many places, all indicate that in the past, disabled people had more of a daily presence in the world.²⁶

What changed in the late 1800's was the social attitude toward those considered to be different. With major changes, such as industrialisation and mass education

occurring in society, individuals who did not conform, for whatever reasons, were treated as anomalies and were punished.

These new standards created two classes of people, the normal -- those who were able to conform to these standards -- and the abnormal -- those who were unable to meet these standards.²⁷ Advocates for sterilisation were demanding policies to deal with an apparition they had created.

CRITIQUE OF ARGUMENTS IN FAVOUR OF STERILISATION

Arguments in favour of coercive sterilisation were based on eugenical principles and the Darwinian theory of survival of the fittest. According to the rules of nature, those who were "unfit" would have perished, but due to medicine, they were able to live and thus reproduce. With the intervention of medical technology, in the form of sterilisation, the original balance which nature had prescribed would be restored. This was particularly necessary since proponents of sterilisation believed the Galtonian premise that individuals inherited their intelligence and mental ability from their parents. Thus, if individuals would reproduce children similar to them, in terms of intelligence and "fitness", "feeble-minded" women would give birth to "feeble-minded" children. Since it was believed that "feeble-minded" women reproduced at a greater rate than "normal" women, sterilisation was necessary to prevent society from being overrun with "feeble-minded" individuals.

In refuting the argument that "like beget like", opponents of sterilisation routinely retorted that it was possible for a "feeble-minded" woman to give birth to "normal"

children. Proponents of sterilisation then moved to an environmental tactic, claiming that children, in such instances would be harmed due to inadequate parenting and should not be born.²⁸ In so doing, advocates in favour of sterilisation had inadvertently asserted that an individual's environment held a great deal of significance, thus demonstrating the inconsistency in their argument that an individual's fate was determined at birth.

Another argument in favour of sterilisation was premised on economic necessity. Sterilisation advocates believed that economic and social hardship would result if sterilisation was not in place. Crime, prostitution and the production of illegitimate children (which became conflated with "feeble-mindedness"), whom the state would have to then support, would be rampant. "Feeble-minded" individuals would have to be institutionalised, either for breaking the law or because they were not able to look after themselves. The state would have to pay for the institutionalisation of these individuals. Since there was no known "cure" for "feeble-mindedness", the ideal solution was to prevent their reproduction, thus lowering the economic costs to society. Sterilisation was also believed to lower moral costs to society, as it was believed to impose sexual and moral discipline on the "feeble-minded".

In response to the argument that sterilisation curtailed an individual's freedom, proponents stated that sterilisation would give the individual greater freedom, as there would be less worry about pregnancy. Proponents chose to overlook the possibility that sterilisation might increase the so called "immorality" and "degeneracy", they were so desperately trying to curtail, since pregnancy was no longer an issue for the sterilised individual. They were able to overlook this criticism as they erroneously believed

sterilisation led to greater self control.²⁹ What sterilisation led to was greater social control, as it was meant to regulate the fertility of women as it punished them for nonconformity.

The fact that sterilisation affected pregnancy but not sexuality does not detract from the point that sterilisation was sexually punitive. It was used as punishment for inappropriate behaviour. This reality is particularly striking for women in a patriarchal society which defines their sexuality in relation to their reproduction. Sterilisation was supposed to change and modify women's behavior. Since women were viewed only in their childbearing capacity, a cessation of fertility was believed to change their sexual behaviour.

Sterilisation served to prevent individual reproduction, but its proponents felt that it would put an end to the majority of social problems. In their quest for a quick solution to a variety of complex problems, proponents of sterilisation disregarded the inconsistencies in their premises and victimised an already vulnerable group of people.

WHO HAS BEEN STERILISED?

There was a definite bias in who was characterised as "feeble-minded". The "feeble-minded" were believed to originate from the working class poor and unemployed. Oftentimes, the distinction between a "feeble-minded" individual and an individual who was considered a social failure was fragile.³⁰ This biased characterisation was evident as social reformers were particularly concerned with working class and poor women.

Women were a concern for it was initially believed that "feeble-mindedness" was

genetically transferred and that "feeble-minded" women had a higher rate of fertility than other women. "Feeble-minded" women were also believed to suffer from a paucity of moral restraint in the area of sexual intercourse, unlike "normal" or "pure" women. Due to this lack of restraint, they frequently became pregnant and gave birth to several illegitimate, "feeble-minded" children. The problem of "feeble-minded" women was seen as twofold. They were regarded as a cause of "feeble-mindedness", for they passed on their "feeble-mindedness" to their children. They were also considered a threat to middle class views of sexuality and morality, as their presence threatened the moral fiber of their community, due to the link between "feeble-mindedness", criminality and prostitution.³¹

From looking at the application of compulsory sterilisation legislation³² in Canada and court cases in the United States, it is evident that coercive sterilisation was largely practiced upon poor women, women of colour and disabled women. The first American case to deal with the validity of involuntary sterilisation legislation was the 1927 case of Buck v. Bell.³³ In this case, the United States Supreme Court ruled that a Virginia statute authorising the involuntary sterilisation of Carrie Buck was not in violation of the due process clause of the Fourteenth Amendment.³⁴

Carrie Buck was living at a foster home at age seventeen and about to have a child out of wedlock, due to having been raped. Several months after giving birth to her child, she was taken to a hospital where she was sterilised. Her sister, Doris, was taken a year later to the Virginia Colony for Epileptics and The Feeble-minded and was also sterilised.³⁵ Justice Oliver Wendell Holmes Jr. justified this action stating:

...she may be sexually sterilized without detriment to her general health and that her welfare and that of society will

be promoted by her sterilization," [sic]... We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the state for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind... Three generations of imbeciles are enough.³⁶

What is interesting about this passage is the amount of eugenic sentiment it espouses and the way in which those who were thought to be "feeble-minded" are constructed. It is evident that Holmes believed that those who were "feeble-minded" had a debt to pay to society. Eugenicists believed the "feeble-minded" were depleting the strength of society, as the middle class had to pay taxes to support them and their illegitimate children. Since the "feeble-minded" could not look after themselves, the rest of society would have to. This burden was seen to be greater and greater, as the "feeble-minded" were prone to having numerous children, to whom they passed on their "feeble-mindedness". It was Carrie Buck's civic duty to be sterilised, to relieve the burden she placed on society.

It was later uncovered that the Buck sisters had been sterilised, partly because they were daughters of a prostitute.³⁷ This demonstrates the ambiguity of the category "feeble-minded" and suggests that these women were sterilised because they and their mother did not conform to a middle class standard of childbearing and sexuality, thus demonstrating the punitive nature of sexual sterilisation legislation. The criteria of "feeble-mindedness" was a self-serving definition which suited the needs of the middle

class. The Buck case upheld the validity of the eugenic sterilisation legislation passed by American states earlier in the century and reaffirmed the category "feeble-minded".

Another case, later in American history, which made use of the term mental retardation and demonstrates how unstable categories are, was the 1978 case of Stump v. Sparkman.³⁸ In this case, the mother of fifteen year old Linda Kay Spitler "...presented to Judge Harold D. Stump of the Circuit Court of DeKalb County Ind., a document captioned 'Petition to Have Tubal Ligation Performed on a Minor and Indemnity Agreement'".³⁹ Under oath, the mother claimed in this document that her daughter was "somewhat retarded."⁴⁰

In the aforementioned document, Mrs. Spitler "...undertook to indemnify and hold harmless Dr. John Hines, who was to perform the operation, and the Dekalb Memorial Hospital, where the operation was to take place, against all causes of action that might arise as a result of the performance of the tubal ligation."⁴¹ The petition was approved by Judge Stump and Linda Spitler was sterilised on July 15, 1971.

Prior to entering the hospital, Linda Spitler was told by her mother that she would be having her appendix removed. This lie was repeated to her while she was in the hospital. Two days later she left the hospital, unaware that she had been sterilised.

Two years after the operation, Linda Spitler married Leo Sparkman and then attempted to become pregnant. The couple later went to a doctor, as they were experiencing difficulty conceiving. Once the couple realised that Linda had been sterilised, they filed suit against Linda's mother, her lawyer, Judge Stump, the hospital and the doctors who helped in the operation. Linda and her husband were seeking damages

for the loss of fatherhood, medical malpractice, violation of Linda's constitutional rights, assault and battery.⁴²

The Sparkmans wanted to hold the defendants liable as they conspired with Judge Stump in these purportedly unconstitutional acts. However, the District Court "... held that no federal action would be against any of the defendants because Judge Stump, the only state agent, was absolutely immune from suit under the doctrine of judicial immunity."⁴³

On appeal, the court reversed the judgement of the District Court, stating that the important issue was whether the judge had acted within his jurisdiction. The court found that he had not and therefor was not immune from liability and damages. The court also held that he had forfeited his immunity due to his non-compliance with basic "...principles of procedural due process."⁴⁴ Finally, the U.S. Supreme Court reversed the Court of Appeal decision because, "... there was no Indiana statute and no case law of 1971 prohibiting a circuit court, a court of general jurisdiction, from considering a petition of the type presented to Judge Stump."⁴⁵

This case is an example of the ambiguity found in the terms "mental retardation" and "feeble-mindedness". The assertion that Linda was "somewhat retarded" was undermined by her attendance of public school and her yearly promotion. It appeared as if the mother was concerned because her daughter was associating with young men "... and had stayed out overnight with them on several occasions."⁴⁶ There were no set criteria of what constituted "feeble-mindedness" and the judge failed to request any type of confirmation that Linda was indeed "somewhat retarded". This case also highlights the

deception/coercion that has/is involved in a number of instances where coercive sterilisation occurs.

One of the American cases which was an impetus for the development of federal guidelines to eliminate sterilisation abuse was Relf v. Weinberger.⁴⁷ In 1971, the Relfs, a poor black family, with three daughters, Mary age 12, Minnie age 14 and Katie age 16 moved into a housing project in Montgomery Alabama. Upon arriving, they received "...unsolicited visits from the Family Planning Service."⁴⁸ Depo-Provera shots were given to Katie at age fourteen, Mary at age ten and Minnie at age twelve. In March 1973 Katie, at age sixteen, was taken, by a nurse, without her parents' consent, to a family planning clinic where she had an IUD inserted, although she told the nurse she did not want it.

On June 13 1973, a nurse arrived at their home and took Mrs. Relf, Mary and Minnie to a doctor's office. Mrs. Relf was told by the nurse that the girls were receiving their "shots". While at the doctor's office, only the nurse spoke with the doctor. Mrs. Relf and her daughters were then taken to the hospital, where the girls were given a room and Mrs. Relf signed a form. Being unable to read or write, Mrs. Relf put an 'X' on a sheet which was a sterilisation consent form. Mrs. Relf was then taken home. The girls were sterilised the next morning.⁴⁹ The Relfs, joined in a class action suit by the National Welfare Rights Organization, brought an action against the Health Secretary, Casper Weinberger. They won their case and the government was ordered to produce sterilisation guidelines.

After this case and other abuses⁵⁰ which took place became public, a waiting period, a consent provision and other guidelines, were implemented to try and alleviate

the frequency of abuse. These regulations were put in place to ensure informed consent of all federally funded sterilisations. Yet, author Charlotte Rutherford claims, there is inadequate monitoring of these regulations and the data which is collected in this area is not published or made public so the effectiveness of the regulations is unknown.⁵¹

While it was believed to be desirable to sterilise non-white, poor, disabled women, on the other end of the spectrum, white, middle class, able bodied women had difficulty gaining access to sterilisation, unless they filled the 120 rule. This was an unofficial rule of the Canadian and American Colleges of Obstetrics and Gynecology until about 1970.⁵² Under this rule, a woman's age multiplied by the number of children she had, had to be equivalent to 120 or more, if she was to have sterilisation for contraception. This is an overt demonstration of how a woman's race, class and ability affected the way in which a policy impacted upon her.

The American cases which I have referred to are important as the legislative and judicial activity in the United States was picked up in Canada. The biases and disparities we see in the American context, have also been present in Canada. For instance, Robert Lechat documented, in 1977, that the Canadian government had an intense sterilisation program aimed at Inuit women on Holma Island. According to Lechat twenty-three percent of the Iglooik women were sterilised.⁵³ The sterilisations were not performed at the request of the women in question, but promoted by Health Services in the area. Lechat asserts:

With my own ears I heard two Inuit women declare publicly and quite openly that "if we had known exactly what the operations we were made to undergo meant, we would never have accepted it." In plain language, I would

call that an extorted consent.⁵⁴

Lechat believes that the birth rate of the Inuit was being controlled under the pretense of health improvement and that the Igloolik situation was representative of the entire Northwest Territories. He states:

Everything inclines me to believe that the high percentage of sterilizations in Igloolik is representative of the Northwest Territories as a whole, but I strongly doubt that Medical Services would be willing to submit to public scrutiny the total number of sterilizations - male and female - performed on Inuit. That's probably a "professional secret."⁵⁵

Lechat's work provides a clear example of coercive sterilisation based on race. It appears that eugenically minded individuals did not believe that Inuit women should reproduce or that they should have a choice in the matter. An external middle class standard was imposed on these individuals, without their knowledge or consent.

Moving to Alberta and looking at a breakdown of the figures on the people who were sterilised under the Alberta Sexual Sterilization Act, it is evident that the Act was employed to control the vulnerable and the marginalised. Timothy Christian, in his attempt to uncover the historical events underlining the implementation of the Alberta Sterilization Act and to ascertain how the Act was utilised,⁵⁶ made some interesting discoveries. His discoveries strengthen my belief that, in addition to the Act being implemented to prevent inmates from mental hospitals from passing their "disability to progeny", it was also used to maintain the purity of the race and control the marginalised.

By 1972, when the Alberta Act was repealed, it had been used to sterilise some 2,500 Albertans, seven times the number sterilised under the British Columbia Act.⁵⁷

Sixty-four percent of those sterilised were women. According to Christian, in numerous instances the Eugenics Board would recommend that women of childbearing age and women who had several children be sterilised based only on the claim that the woman in question was "incapable of intelligent parenthood."⁵⁸ This claim was never made for men. Christian also speculates that institutional administrators who brought women to the Board felt pregnant women were more of a visible problem than men who were sexually active.⁵⁹

In keeping with the eugenical view that the professional middle classes were the ideal group to keep the nation healthy and fit, it is not surprising that none of the professionals who were presented to the board, between 1939 and 1943 were sterilised.⁶⁰ In contrast, the number of "not employed" individuals who were sterilised was very high.⁶¹

The racist nature of eugenical policy is also evident when one looks at Christain's findings. Throughout every time period, except 1929-1933, the number of East Europeans sterilised was disproportionately high in comparison to their composition in the Alberta population.⁶² Through the history of the Act, a disproportionately large number of Indian-Metis individuals were sterilised.

The most glaring indications that differential treatment occurred were in the last years of the Board. Indian or Metis individuals represented 3.4% of the Alberta population, but they were 25.7% of the patients sterilized between 1969-1972. In this period, more Indian-Metis individuals were sterilised than British.⁶³ This is striking, when Indian and Metis were the least statistically significant racial group in the province.

It appears that state policies designed to control fertility were aimed at women's sexual and reproductive autonomy in addition to controlling the population's quantity and "quality". Sterilisation was put into legislation because most members of the middle class eugenics movement were alarmed by the possibility of increased numbers of immigrants and the growing number of poor people. Sterilisation was seen as a way to keep the population of the "unfit" under control.⁶⁴ It was particularly behavior which was defined by the dominant group as deviant that resulted in sterilisation and not any absolute proof of genetic failure. In most instances, instead of a medical diagnosis, eugenic boards relied upon what they believed to be "normal" sexuality, morality and work habits to classify the people they reviewed.⁶⁵

These compulsory sterilisation laws in Canada, and the United States, symbolised the state's desire to purge the social body of those who caused societal problems by focussing on sexual and population control. These "unfit" individuals were believed to exist in the lower classes, particularly lower class women. These laws were designed to rid society of a defective gene pool and punish those who broke sexual mores.

These policies manifested themselves in different ways for women from different classes, races and levels of ability. What unites these policies is that they precluded women from being the final decision-makers of their relationship to motherhood and sexuality -- regardless of their race, class and ability background. This connection would appear to be a unifying foundation on which feminists may have initiated an agenda that was able to surpass the "...barriers of class and race to address the forms of oppression specific to women as a whole."⁶⁶ Yet, it is specifically due to the power of class and race

stratification and the transference of this stratification "...into the sex-race-class dichotomy of "pure women" and "lustful women" that prevented such unity, or even a perception of common interests."⁶⁷ Feminists of the "first wave" strongly supported coercive sterilisation of the "unfit".⁶⁸ This support for coercive sterilisation was a result of the racist, ableist and classist prejudices of feminists. These prejudices are still present as poor women, disabled women and women of colour are being sterilised. Current feminist support may be more passive than active, but in not taking a stand against coercive sterilisation, feminists are condoning these practices.

With the repeal of sterilisation legislation in Alberta⁶⁹ and British Columbia,⁷⁰ the law relating to compulsory sterilisation was uncertain. In the absence of express statutory authority, people "...had to look to more general statutory provisions or the common law for the authority, if such existed, to make a substitute decision about sterilization."⁷¹ During this time there was an increased deinstitutionalisation and, as well, family responsibility for caring for those with developmental impairments increased. According to associations for the mentally disabled, "...mentally disabled persons were being sterilized when sterilization was not medically necessary and should not be taking place."⁷² The potential for abuse was present due to a lack of clear substantive and procedural protections. This potential for abuse was lessened as a result of the decision in Re Eve.⁷³

PRESENT LEGAL POSITION ON COMPULSORY STERILISATION

In the 1986 case of Re Eve, the Supreme Court of Canada ruled, that, in the

absence of legislation, parents, guardians or the courts may not give consent on behalf of a person, who, based on his/her youth, mental or intellectual inability "is legally incapable of consenting to a doctor's performance of non-therapeutic sterilization procedure".⁷⁴

"Eve" was a 24 year old female who had an intellectual disability. She was said to suffer from "extreme expressive aphasia". She was not able to communicate perceived thoughts or concepts. Her mother, who was referred to by the courts as "Mrs E.", wanted to have Eve sterilised. Eve's mother was worried about the possible emotional effects which Eve may go through if she were to experience childbirth. Mrs. E. also felt that Eve could not handle the pressures of motherhood. Thus, if Eve became pregnant the child would become the unwanted responsibility of Mrs. E. Evidence was brought before the court which demonstrated that Eve was not able to use effective alternative methods of birth control.

Eve was an adult, so she was not in her mother's custody, but she was not legally competent to consent to medical treatment. Mrs. E. requested that the court delegate her as the committee of Eve's person and "authorize her consent on Eve's behalf to a tubal ligation for the purpose of contraception."⁷⁵

According to the Supreme Court of Canada, clear and precise legislative language would be needed in order to allow a committee to have the power to authorise a non-therapeutic sterilisation. It is not enough that legislative language allows a committee to consent to medical treatment.⁷⁶ Thus if the court made Mrs. E the committee of Eve, this alone would not allow the mother to give consent. Accordingly, the court had to decide the issue of whether it was able to authorise sterilisation under its parens patriae power.

Justice La Forest decided that:

The grave intrusion on a person's rights and the certain physical damage that ensues from non-therapeutic sterilization without consent, when compared to the highly questionable advantages that can result from it, have persuaded me that it can never safely be determined that such a procedure is for the benefit of that person. Accordingly, the procedure should never be authorized for non-therapeutic purposes under the *parens patriae* jurisdiction.⁷⁷

This case is viewed as a landmark, in light of our history of sterilisation abuse. It protects legally incompetent people against sterilisation abuse practiced in the name of eugenics or any other social theory. The court, in asserting that non-therapeutic sterilisation was beyond the reach of the court's *parens patriae* jurisdiction, emphasized the gravity of sterilisation and the graveness of its consequences, in addition to respect for an individual's autonomy.⁷⁸ *Eve* also settles the common law and "...specifies certain evidential and procedural standards that must be satisfied in the cases that are brought to the court."⁷⁹

In theory, *Eve* protects the rights of those who traditionally have been trampled upon. As the rights of the most vulnerable are protected, then all along the continuum, everyone's rights should be protected. However, coercive sterilisation is still occurring all along the continuum. Ironically, the ruling in *Eve* may have made this practice much more covert and difficult to investigate. Since the non-therapeutic sterilisation of an individual incapable of giving consent is forbidden, if such a practice is to occur, it must be hidden. Similarly, the coercive sterilisation of other groups of women -- women of colour, poor women and women with disabilities -- is hidden or disguised in more subtle

ways, but the practice continues, as it does with respect to women incapable of giving consent. Unfortunately, as positive a decision as Eve is, law does not always translate into reality.

ENDNOTES

¹ Eugenacists were behind proposals such as restrictive immigration policies, segregation and restrictive marriage laws. Law Reform Commission of Canada, Sterilization: Implications for Mentally Retarded and Mentally Ill Persons (Ottawa: Law Reform Commission of Canada, 1979) at 25.

² The Sexual Sterilization Act S.A. 1928, c. 37.

³ An Act Respecting Sexual Sterilization S.B.C. 1933, c. 59.

⁴ In the United States, there were attempts at asexualisation for eugenic purposes in the 1890's. With the development of simple surgical procedures came a turning point. Procedures such as the salpingectomy and vasectomy allowed a physician to make an individual infertile without destroying sexual feeling. Following this, numerous proposals emerged in favour of legalising compulsory sterilisations.

Indiana passed the first sterilisation law, in the United States, in 1907. The 1907 law, "...initiated the involuntary sterilization of any habitual criminal, rapist, idiot or imbecile to a state institution and diagnosed by physicians as 'unimprovable'". Phillip Reilley, "Involuntary Sterilization in the United States: A Surgical Solution" (1987) 62 *The Quarterly Rev. of Biology* 153 at 159.

⁵ For instance, Dr. Clarence Hincks, founder and executive secretary of the CNCMH -- Canadian National Committee for Mental Hygiene -- claimed in 1925 that "...the estimated \$60,000,000 required for the custodial care of the 60,000 cases of feeble-mindedness in Canada was inordinately expensive." Harvey Simmons, From Asylum to Welfare (Downsview: The National Institute on Mental Retardation, 1982) at 111.

⁶ Advocates for sterilisation were usually well known figures such as the editor of the *Canadian Medical Association Journal*, A.G. Nichols, and the assistant editor H.E. MacDermott. Doctor C.M. Hincks from the National Committee on Mental Hygiene, Dr. C.B. Farrar of the Toronto Psychiatric Hospital, Dr. W.L. Hutton president of the Canadian Eugenics Society and Professor Madge Thurlow Macklin of the University of Western Ontario were also advocates of sterilisation. Angus McLaren, Our Own Master Race: Eugenics in Canada, 1885-1945 (Toronto: McClelland and Stewart, 1990) at 90.

⁷ An Act Respecting Sexual Sterilization, supra, note 3 s. 4(1).

⁸ An Act Respecting Sexual Sterilization, ibid. s. 3.

⁹ An Act Respecting Sexual Sterilization, ibid. s. 2.

¹⁰ The Sexual Sterilization Act, supra, note 2.

¹¹ The Sexual Sterilization Act, *ibid.* s. 5.

¹² A "mentally defective" person was defined in s. 2(c) as "...any person in whom there is a condition of arrested or incomplete development of mind existing before the age of eighteen years, whether arising from inherent cause or induced by disease or injury." The Sexual Sterilization Act, S.A. 1937, c.47 s.5.

¹³ The Sexual Sterilization Act, S.A. 1942, c.48, s. 3.

¹⁴ The Sexual Sterilization Repeal Act, S.A. 1972, c. 87.

¹⁵ Sexual Sterilization Repeal Act, S.B.C. 1973, c. 79.

¹⁶ Bernard M. Dickens, "Eugenic Recognition in Canadian Law" (1975) 13 Osgoode Hall L. Journ. 546 at 559.

¹⁷ In Manitoba a section in a 1933 bill dealing with the sterilisation of those who were considered to be defective was removed only after substantial controversy. Dickens, *ibid.* at 559.

¹⁸ McLaren, *supra*, note 6 at 125.

¹⁹ The benefits which were expected to accrue in Alberta and British Columbia did not come to fruition. There was no dramatic reduction in the social ills which were thought to be pervasive. In contrast, this legislation resulted in an increase of social harms to an already beleaguered portion of the population.

²⁰ Simmons, *supra*, note 5 at 50.

²¹ Simmons, *ibid.* at 53.

²² Simmons, *ibid.* at 52.

²³ The very first classes were opened in Germany, followed by Britain and the United States. Simmons, *ibid.* at 53.

²⁴ In 1959 Le Laine Muir was sterilised at age fourteen after she had been told she would be having her appendix removed. The operation was performed with the approval of her parents and the provincial training school, in Red Deer Alberta, where she had been placed at age 11. The sterilisation was authorised by the Alberta Eugenics Board. Le Laine Muir was told that she was a moron with an I.Q. of 64. In 1993, at age forty, she began proceedings to sue the Alberta government for \$2.5 million. Canadian Broadcasting Corporation "As it Happens: Eugenics Victim" 9 June 1993.

²⁵ Simmons, *supra*, note 5 at 95.

²⁶ Ann Finger, "Claiming All Our Bodies: Reproductive Rights and Disability" in Rita Arditti, Renate Duelli Klein and Shelley Minden eds., Fest-Tube Women: What Future for Motherhood (London: Pandora Press, 1989) at 295.

²⁷ McLaren, *supra*, note 6 at 91.

²⁸ McLaren, *ibid.* at 98.

²⁹ McLaren, *ibid.* at 98.

³⁰ Simmons, *supra*, note 5 at 71.

³¹ Simmons, *ibid.* at 58.

³² There has been sterilisation legislation in other parts of the world. In Denmark, Norway and Sweden sterilisation laws were usually used for hereditary or eugenic reasons for those it was believed could not care for their children. According to Bodil Ekman Ehn, "... sterilization in Scandinavia before the 1970s was an operation directed at people with various disadvantages, often in association with a certain degree of coercion." Bodil Ekman Ehn and Jerker Liljestrand, "Experiences of Legal Sterilization in Scandinavia" (1993) 48 *Contraception* 158.

³³ Buck v. Bell, 274 U.S. 1000 (1926)

³⁴ Buck v. Bell, *ibid.* at 1002.

³⁵ Thomas Shapiro, Population Control Politics: Women Sterilization and Reproductive Choice (Philadelphia: Temple University Press, 1985) at 25.

³⁶ Buck v. Bell, *supra*, note 33 at 1002.

³⁷ Shapiro, *supra*, note 35 at 4.

³⁸ Stump v. Sparkman, 435 U.S. 336 (1978).

³⁹ Stump v. Sparkman, *ibid.* at 336.

⁴⁰ Stump v. Sparkman, *ibid.* at 336.

⁴¹ Stump v. Sparkman, *ibid.* at 336.

⁴² Stump v. Sparkman, *ibid.* at 337.

⁴³ Stump v. Sparkman, *ibid.* at 338.

⁴⁴ Stump v. Sparkman, *ibid.* at 338.

⁴⁵ Stump v. Sparkman, *ibid.* at 340.

⁴⁶ Stump v. Sparkman, *ibid.* at 336.

⁴⁷ Relf v. Weinberger, 372 F. Supp. 1196 (D.D.D. 1974)

⁴⁸ Stephen Trombley, The Right to Reproduce: A History of Coercive Sterilisation (London: Weidenfeld and Nicholson, 1988) at 182.

⁴⁹ The night before, Minnie had borrowed money from a patient and called a neighbor whom she asked to tell her mother to come pick them up. But Mrs. Relf had no means of transportation. The same afternoon that Minnie and Mary were in the hospital the same family planning nurse came by and attempted to bring Katie to the hospital. Katie locked herself in her room until the nurse left. Trombley *ibid.* at 182.

⁵⁰ There are numerous abuses of coercive sterilisation in American history. Petchesky asserts that between 1907 and 1945 45,000 persons in the United States were coercively sterilised. More than half of them were poor women. Petchesky goes on to assert that, "...the systematic character of the sterilisation procedures reached the point where many mentally retarded or unstable persons were being admitted to the institution merely to be sterilised and then released." Rosalind Petchesky, Abortion and Woman's Choice: The State, Sexuality and Reproductive Freedom (Boston: Northeastern University Press, 1990) at 87. Also, during the Relf case, Judge Gesell stated that "Over the last few years, an estimated 100,000 to 150,000 low income persons have been sterilized annually under federally funded programs." Relf v. Weinberger *supra*, note 47. He also stated that "...there is uncontroverted evidence in the record that minors and other incompetents have been sterilized with federal funds and that an indefinite number of poor people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilization." Relf v. Weinberger at 1199.

⁵¹ Charlotte Rutherford, "Reproductive Freedoms and African American Women" (1992) 4 Yale Journ. of Law and Femin. 255 at 274.

⁵² Marion Powell, "Female Sterilization" in Benjamin Schelsinger ed., Family Planning in Canada: A Sourcebook (Toronto: University of Toronto Press, 1974) at 163.

⁵³ Robert Lechat, "Intensive Sterilization for the Inuit" (1976-1977) 12 *Eskimo* 5.

⁵⁴ Lechat, *ibid.* at 6.

⁵⁵ Lechat, *ibid.* at 6.

⁵⁶ Timothy Christian, The Mentally Ill and Human Rights in Alberta: A Study of the Alberta Sexual Sterilization Act (Alberta: The Alberta Law Foundation and the Department of Justice, 1974) at 1.

⁵⁷ Christian, *ibid.* at 30.

⁵⁸ Christian, *ibid.* at 43.

⁵⁹ Christian, *ibid.* at 44.

⁶⁰ Christian, *ibid.* at 65.

⁶¹ Christian, *ibid.* at 65.

⁶² Christian, *ibid.* at 89.

⁶³ Christian, *ibid.* at 90.

⁶⁴ McLaren, *supra*, note 6 at 168.

⁶⁵ McLaren, *ibid.* at 168.

⁶⁶ Petchesky, *supra*, note 50 at 89.

⁶⁷ Petchesky, *ibid.* at 89.

⁶⁸ In British Columbia, some of the most vocal proponents of sterilisation were individuals involved with the early woman's movement. For instance, the first public declaration in favour of sterilisation was in the 1914 edition of "The Champion", a British Columbia suffragist paper. This support for sterilisation by a number of early feminists was intermingled with the ideology of voluntary motherhood.

Women had demanded the vote under the argument that it was necessary for them to protect their home and their children. After they received the vote they, focused their efforts on programs to protect their children. One significant way to ensure the safety of their children was to protect them from exposure to those considered to be "abnormal". In 1915, the National Council of Women had requested that Prime Minister Borden set up a Royal Commission to deal with those considered to be abnormal.

By 1925, the National Council of Women were out in favour of sterilisation. The

majority of support in the provinces came from Alberta and British Columbia, backed by Nellie McClung, Emily Murphy, Hennrietta Edwards and Helen Gregory MacGill. Howard Palmer, Patterns of Prejudice: A History of Nativism in Alberta (Toronto: McClelland and Stewart, 1982) at 112-113.

⁶⁹ The Sexual Sterilization Repeal Act, supra, note 14.

⁷⁰ Sexual Sterilization Repeal Act, supra, note 15.

⁷¹ Institute of Law Research and Reform, Sterilization Decisions: Minors and Mentally Incompetent Adults (Alberta: Institute of Law Research and Reform, 1988) at 56.

⁷² Institute of Law Research and Reform, Competence and Human Reproduction (Alberta: Institute of Law Research and Reform, 1989) at 23.

⁷³ Re Eve (1986), 31 D.L.R. (4th) 1 (S.C.C.).

⁷⁴ Manitoba Law Reform Commission, Report on Sterilization and Legal Competence (Manitoba: Manitoba Law Reform Commission, 1992) at 1.

⁷⁵ Re Eve, supra, note 73 at 1.

⁷⁶ Re Eve, ibid. at 1.

⁷⁷ Re Eve, ibid. at 32.

⁷⁸ Institute of Law Research and Reform, supra, note 72 at 35.

⁷⁹ According to the Institute of Law Research and Reform "...the onus of proof lies with the person seeking to have the sterilization performed, the burden of proof, 'though a civil one, must be commensurate with the seriousness of the measure proposed', and it is 'essential that the mentally incompetent have independent representation.'" Institute of Law Research and Reform, ibid. at 35.

CHAPTER FOUR -- COERCIVE STERILISATION IN ITS NEW FORM

Most of us would see the acts of the Eugenics Boards, against the women they sterilised, as coercive, for these women had no choice in the matter. Yes, the legislation did contain a consent provision, but this consent cannot be viewed as having been freely given as a refusal would have kept the patient in custody. The individual in custody was not there because s/he was in need of medical treatment or to prevent possible danger; s/he was there to prevent a passing on of alleged "unfitness".¹ This same kind of coercive sterilisation is still occurring in our present society. It may not be legislated, as it was in the past, but it is still sterilisation and it is still coercive.

Presently, women who endure coercive sterilisation exist in our society. This sterilisation is rooted in eugenical beliefs which assert that certain women -- these are generally poor women, women of colour and disabled women -- should not reproduce.

These eugenical beliefs are also found to exist in the manner in which the drug Norplant is being used against poor women, women of colour and disabled women, thus suggesting that this form of fertility control is akin to coercive sterilisation. This chapter will uncover the recent incidents of coercive sterilisation, establish connections with eugenics, and redefine sterilisation in our present context, in terms of the methods employed and the impact on targeted groups of women.

COERCIVE STERILISATION TODAY

For most women, sterilisation is a medical procedure they undergo when they do

not wish to become pregnant. Yet, numerous women with disabilities, poor and Aboriginal women have not been given the choice of deciding when to terminate their capacity to reproduce. For instance, in the 1970's and 1980's, several Aboriginal women in Canada were forced to undergo sterilisation without their full consent. In several instances, the sterilisations took place immediately after a Caesarean section without the woman's approval or awareness. In other instances, a doctor would try to convince the woman that sterilisation was an ideal procedure due to her health, while failing to mention that such a procedure was irreversible.² These women were being sterilised in the 1970's and 1980's due to eugenical beliefs which asserted that these women were having too many children.

These practices are not bizarre anomalies in Canadian medical history. I found evidence which suggests that women are still being sterilised in a coercive manner. According to the National Aboriginal Network on Disability,³ "Like other women with disabilities, Aboriginal women are often pressured to undergo sterilization procedures. They receive no counselling on either birth control or sexuality."⁴ An anonymous woman quoted in "Voices in the Wilderness: Aboriginal Women with Disabilities" states:

I had just come out of my coma. Because the accident had resulted in my discontinuing my birth control pills, I started to menstruate. A nurse told me that I should get my tubes tied. I didn't know what she was talking about. That's how I found out I was going to be parapalegic. The young girl in the next bed had the [sterilisation] surgery. She didn't think she had any alternative. She was only sixteen.⁵

This quotation elucidates the contexts in which coercive sterilisation occurs.

From the passage, the reader gets the sense that both women did not know what was happening to them, nor did they feel they had any other alternatives. These two elements make the process coercive, as the women are ill-informed, unaware of their choices and powerless to seek other alternatives. It would appear that the health care providers involved do not believe these women need to be fully informed of their options. This forces me to speculate that these women are not valued as potential mothers, harkening back to eugenical theory which asserted that only the "fit" should reproduce.

Also contained in this passage is the idea that certain women (disabled and Aboriginal) are not sufficiently reliable to use birth control. This is connected to the reason "sterilising" provider-controlled drugs were developed. These drugs were designed to take the responsibility of fertility out of the hands of "unreliable" women -- disabled women, poor women and women of colour.⁶

It is important that the reader recognise the source of this information.⁷ This information is coming from a group which has been traditionally thought to be "unfit" to propagate its species, thus they were sterilised. Christian outlines how disproportionately it was women rather than men, non-white rather than white who were sterilised.⁸ From this booklet it appears that these women are still targets of coercive sterilisation. What we see -- in the fact that there is scant evidence of this practice occurring -- is that these women have been pushed aside as this practice continues.

As I continued my research, I came across a sentence in a draft statement by the Women's Health Interaction which asserted, "Today in Canada, women with disabilities continue to be submitted to sterilisation without their full consent or knowledge."⁹ What

could this mean? Can I rely upon this entry, as it is only a draft copy? Where did they come up with the idea that such a practice exists, so they would write it down and send it to me? I am not really sure what to make of this and what connections to draw. It appears that while some people are talking about it, I have the luxury of not knowing for certain if such a practice is taking place. If I was a disabled woman, would I know for certain? Should we not, as feminists, know or at least be familiar with what is going on? I believe that this ignorance on the part of feminists is due to the early dichotomy of "fit" women and "unfit" women which prevented feminists from recognising their affiliation with poor women, disabled women and women of colour.

There were two other pieces of information which I came across which asserted the existence of coercive sterilisation. The third piece of evidence was a footnote from the Manitoba Law Reform Commission. The footnote stated that:

...disturbing rumors were cited on various occasions that despite the Eve prohibition, parents of minor children with intellectual disabilities could sometimes still obtain a nontherapeutic sterilization from some Manitoba doctors willing to operate on the strength of parental consent. There was no way to substantiate whether such rumors have a basis in fact or are completely unfounded.¹⁰

Finally, the fourth piece of evidence I received, was in a conversation with Joanne Lowell, Representative from the National Action Committee on the Status of Women in Yellowknife, on July 13, 1994. Due to her work with Native women in Yellowknife, Joanne Lowell was able to state that sterilisation of Native women, in this area, is a common practice. She found that these women are treated roughly and are routinely sterilised immediately after giving birth.

This last piece of evidence is verbal, as opposed to written. Although my evidence from the Manitoba Law Reform Commission was written, it was based on an oral tradition, as it was something that was spoken and not documented. Unfortunately, these forms of knowledge are, generally, accorded less weight than written forms of knowledge. I believe this to be true because research, generally, operates in accordance with a scientific model; a model in which notions of objectivity and verifiability are seen as paramount. Due to our respect for science, it can make these demands and have them met. Yet, as we have seen in Chapter One's discussion of eugenics, science is not some "objective" force or activity operating outside of the social life in which it was created. Science is a part of the social life and affects it. However, we continue to treat science and research as exercises in "objectivity." In adhering to scientific method, we disqualify other knowledges and ensure that only certain people are heard.

We, generally, do not accept oral information on its own, as it is considered to be "unreliable". This is particularly disturbing in this instance, as the individuals who are being ignored are Native, disabled and traditionally overlooked. It appears that society's views about these groups are being played out on an abstract and on a practical level.

It is instructive that my argument is founded upon sources which are not, generally, considered to be scholarly. If these sources are pushed aside, then the reader can dismiss the idea that this practice is occurring. It may have existed in the past, but it does not exist presently. The question I need to ask myself is, "How does research on a topic become a topic if there is no proof or belief that such a practice exists?" Looking at other examples of reproductive abuses will help to support the belief that there is a

strong possibility that coercive sterilisation is occurring.

For example, Shelia Linehan discusses how Inuit women are being forced to give "...birth the white man's way".¹¹ What Linehan means by the "white man's way" is that Inuit women are being forced out of their community to give birth in hospitals against their wishes. Physicians are attempting to colonize the childbirth experience in the North by changing the birthing experiences of Inuit women. Specialists are flown in, referral centres are set up and all pregnant women are flown out on their own "...against their will and the wishes of their families and communities in order to force them to have southern style deliveries in a hospital."¹²

These Inuit women try to resist this procedure by delaying the reporting of their pregnancy, so the due date is uncertain. They also attempt to stall going "...to the evacuation centre until labour is so far advanced, it is impossible to get the woman onto a Medevac flight."¹³ These women are forced to react in ways which can compromise both their safety and their child's. This an example of a reproductive abuse that mirrors early eugenical beliefs, thus setting the stage for other abuses. It is not coincidental that the women in this instance who are being forced to give birth the "white man's way" are the same women who have traditionally been robbed of their reproductive capacity. These women have not been allowed to decide how to exercise their reproductive capabilities. They are constantly being made to conform to an externally imposed standard. This is reminiscent of the middle class standard eugenicists attempted to impose upon other members of society. These standards were beyond the reach of all but the middle class, as they were based solely on characteristics which the middle class

possessed. In both instances, today and the past, each standard was developed in the name of science. Backed by science, each group believes that it can dictate to other members of society how to conduct their life.

In addition to Inuit women being forced to give birth in a certain manner, fertility control drugs, such as Depo-Provera are being utilised in a manner which is reminiscent of early eugenical practices. Depo-Provera is a contraceptive injection which women receive from their doctor every three months. Depo-Provera is disproportionately given to women with disabilities, Aboriginal women, teenage women, poor women, women who are substance abusers and women of colour.¹⁴ This is particularly problematic, since Depo-Provera is not to be used in Canada for general contraceptive purposes due to safety reasons. Apart from this, it is approved for use in the treatment of some forms cancer and endometreosis. When the benefits outweigh the risks, doctors may prescribe Depo-Provera as a contraceptive.¹⁵ It appears, again, that the wishes, desires, concerns, and not to mention the safety, of these women are not considered. It is as if society does not value these members of our society. Doctors will give the above mentioned women this drug, although their safety is compromised. This is a reflection of earlier eugenical ideals, where only "fit" women had the right to reproduce.

NORPLANT

In the past, we have seen that a variety of methods have been employed to achieve eugenical aims. For instance, with the introduction of the vasectomy and salpingectomy, in 1908, the public was much more responsive to eugenic sterilisation. This was ideal,

for proponents of eugenic sterilisation did not have to defend extreme means of asexualisation such as castration. They could now argue that they had a method which interfered with reproduction, but was not painful. This is presently the case with Norplant. It is less extreme and less invasive than traditional sterilisation, but still has the desired effect. In essence, it is a form of birth control which is effectively being used as sterilisation.

Norplant is a relatively new drug in Canada. Six match stick size capsules make up Norplant. The insertion of these rods, under a woman's skin requires a local anesthetic and the operation takes approximately fifteen minutes. The woman is dependent on care providers for the insertion and removal of Norplant.¹⁶ It is approximately ninety-nine percent effective in preventing pregnancy and its effects are "reversible".

Norplant stops pregnancy for approximately five years. Although Norplant must be removed within five years of use, a tracking system has not been established which can identify where a woman is to ensure the required removal. In Canada, removal kits were only provided in October 1994, six months after the insertions had begun. This is problematic as in other countries several women requested its removal before the five year mark.¹⁷ This early removal was likely due to the negative aspects to Norplant. It may cause a variety of side effects, such as:

changes in menstrual bleeding, headaches, nervousness, nausea, dizziness, ovarian or fallopian tube enlargement, weight gain, hair loss or excessive hair growth and acne. In addition, Norplant is contraindicated for women with acute liver disease, breast cancer or blood clots and Norplant users with high blood pressure should be closely

monitored.¹⁸

This drug is changing the landscape of coercive sterilisation because of its reversibility. As Blank asserts:

The availability of safe and effective sterilization techniques which offer high rates of reversibility, along with long term subdermal implant, will create a social climate in which these pressures for nonconsensual sterilization are heightened.¹⁹

The advent of Norplant forces us to redefine coercive sterilisation by focusing on factors other than irreversibility. With Norplant, sterilisation carries with it an increased health risk while at the same time it involves a somewhat less invasive procedure and only produces a temporary cessation of fertility which is easier to accept because of its reversibility. These fertility control mechanisms which aim at making sterilisation less invasive and less permanent may increase the frequency of its use for eugenic purposes, as it eliminates one of the most offensive aspects -- irreversibility.²⁰

Sterilisation has been criticised by the courts and numerous authors due to its irreversibility. Justice La Forest, in deciding that sterilisation should not be authorised, for non-therapeutic reasons, for individuals legally incapable of consenting raised the issue of irreversibility. Justice La Forest stated: "Moreover, the implications of sterilization are always serious. As we have been reminded, it removes from a person the great privilege of giving birth and is for practical purposes irreversible."²¹

In the 1949 case of Murray v. McMurchy, British Columbia Supreme Court Judge MacFarlane held that a doctor should not have performed a tubal ligation on a patient, at the time of a Caesarean section, without the consent of the patient, in the

absence of an emergency.²² In this case the plaintiff was awarded damages. In his rationale, the judge stated that:

The point is whether such an emergency existed, whether it was necessary that the operation be done, not whether it was more convenient to perform it. It must be remembered that the effect of the procedure was to deprive the plaintiff of the possible fulfillment of one of the great powers and privileges of her life.²³

Critics of sterilisation abuse also discuss it in terms of its irreversibility. Sandra Serrano Sewell asserts:

To understand our right of choice is the key to changing the present situation. With this understanding we would not have great numbers of forced sterilizations. Two million sterilization procedures that render people permanently incapable of having children are performed each year in the United States.²⁴

In addition, Betsy Hartmann stated: "Sterilization and abortion are the most controversial of birth control methods -- sterilization because of its finality, abortion because it terminates pregnancy."²⁵

The weight which authors and courts place on the irreversibility of sterilisation as a foundation for rejecting its use, causes one to wonder whether these arguments hold up in the face of new procedures which are thought to be effective, safe and reversible. Given the significance accorded to the irreversibility of sterilisation, one needs to reconceptualise sterilisation by taking into consideration factors other than reversibility. One such factor is the women whom Norplant is being directed at.

Norplant is being aimed at low income women, disabled women and women of colour. According to the Canadian Women's Report, the proponents of Norplant feel that

Norplant is an ideal tool for effectively preventing pregnancy. Advocates for Norplant hold eugenical beliefs that Aboriginal, Inuit, women of colour and other marginalised women have too many children.²⁶ It appears that provider controlled, long lasting methods of birth control are the methods preferred by health care providers to deal with "unfit" women.

In Canada, Norplant is being used to solve intricate and complex problems "...of poverty and powerlessness of women."²⁷ This appears to be a replication of earlier eugenical theory, which believed that in order to bring an end to poverty and other social problems the control of the fertility of particular groups of women was necessary.

The control of a woman's fertility is taken out of her hands because Norplant is provider controlled. Provider-controlled means that the user has no way of discontinuing the use of Norplant without the aid of a doctor. This is particularly frightening as "third world" women who had been used as guinea pigs to test this drug²⁸ requested early removal. As with earlier eugenical practices, these women are not allowed control over their reproductive abilities.

Balasubrahmanyam's discussion of Norplant use in "third world" women reinforces this position. According to Balasubrahmanyam, it was the desire to curtail the large number of dropouts from birth control programs in the "third world" which led to the development of Norplant. Norplant is designed to satisfy the service provider as opposed to the user.²⁹ Balasubrahmanyam describes how a woman who received Norplant in the 1980's had trouble having the drug removed from her body. Due to the persistent bleeding she was experiencing, she was physically abused by her husband for denying

him sex. She was also being abused by her mother-in-law for she was unable to work in the kitchen. Each time she went to the hospital, she was given an excuse as to why the implant could not be removed. Finally after about two months of this, her implant was removed after she threatened to commit suicide.³⁰ In addition, Thai women who receive Norplant are routinely told that since it is a long-term method, it will not be removed for "minor" side effects.³¹

These examples from "third world" countries are not in any way to suggest that "third world" women's experiences are the same as those of Canadian and American women.³² The main purpose of these examples is to highlight how Norplant can and is used in an abusive manner, connecting it to coercive sterilisation.

Norplant use in some American court cases highlights its likeness to eugenical sterilisation³³ in that it is directed at poor women, women of colour and women on social assistance.³⁴ One particular American case demonstrates this proposition, as it forces us to consider Norplant as a form of sterilisation. Darlene Johnson, who hit her two eldest daughters with a belt and an electric cord pled guilty to "...three counts of inflicting corporal injury upon a child resulting in a traumatic condition."³⁵ Johnson was sentenced to probation, conditioned on her acceptance of Norplant. At the time of making her plea, Johnson was twenty-seven years old, pregnant with her fifth child, on welfare and unmarried. Her prior record revealed convictions for assault and battery, forgery and theft, but none for child abuse. Looking at a maximum state prison sentence of seven years, she entered a request for probation. Judge Howard R. Broadman remanded "...Johnson to jail for the month between the plea hearing and sentencing hearing, because

he feared that Johnson might use drugs and jeopardize her pregnancy if she were released from custody even though there was no evidence in the record that Johnson used drugs."³⁶ Johnson, five days later, submitted a motion to reconsider the Norplant condition, but her motion was denied as the court felt that she had knowingly and willingly consented to Norplant. The judge also stated that the rights of her unconceived children overrode her right to procreate.³⁷ This ties back to the eugenical idea that to ensure the "fitness" of the race, we should prevent the "unfit" from reproducing. Here, Johnson was not considered to be an appropriate candidate to reproduce.

Johnson's circumstances mirrored those of many of the American women who have had Norplant or sterilisation as a condition of probation or part of a sentence.³⁸ She was a single, welfare mother, with several children, who received public assistance.³⁹ The court-ordered imposition of Norplant operates on two levels. Norplant, like sterilisation, serves to prevent Johnson from reproducing. Norplant, like sterilisation, contains a punitive element. When early sterilisation laws were put in place, they had a punitive element, designed to punish women who broke social mores by having children outside of wedlock. These laws were also designed to punish poor women, disabled women and women of colour who did/could not conform to the middle class standard set by eugenicists.

Norplant is being used to punish Johnson for being a "bad mother" as opposed to her criminal conduct.⁴⁰ This is apparent as the judge did not terminate Johnson's parental rights or forbid her from having unsupervised contact with her children. He demanded that she be implanted with Norplant, so she could not have any more children.

Judge Broadman incarcerated Johnson to preclude her use of drugs, engaging in conduct unhealthy to the fetus and conceiving. This suggests that the imposition of Norplant was also meant to control these women.⁴¹

The restrictive measures, which accompany probation conditions, precluding procreation, can be seen as attempts to compensate for a woman's perceived lack of self control. This is particularly evident in situations where there is no husband or father to provide control. For instance, the prosecution in Knighten's case,⁴² remarked that the Norplant condition could be removed if Knighten had a "...stable relationship with a man or a loving environment for her children."⁴³ Thus, a man would take over the court's responsibility of controlling Knighten. At this time, the Norplant condition could be lifted.

The Knighten case is reminiscent of Buck v. Bell⁴⁴ and Stump v. Sparkman.⁴⁵ In Carrie Buck's case, in addition to being sterilised because she was the daughter of a prostitute, she was sterilised because she had an "illegitimate" child. In the Sparkman case, Linda's mother feared Linda would have an illegitimate child. If men had been involved in the form of marriage, there would have been no need for sterilisation. If Buck and Knighten had adhered to a middle class standard of morality, by having children in wedlock, they would not have been sterilised. Since they violated this standard, they were punished.

The Johnson case serves to alert the reader to the context in which Norplant is being utilised and raises our awareness in Canada. We have seen from the past that eugenical ideas have freely travelled across borders. Moving to the Canadian context, we

see many of the same themes as are reflected in the American cases.

In a telephone conversation with Nancy Miller, Calgary Project Coordinator of the Alberta Status of Women, she expressed concern over the province's proposal to fund Norplant for women on social assistance. According to Miller, the funding of Norplant is occurring when large cuts to social assistance are occurring. Due to the large cuts, women feel "pressured" into accepting Norplant for fear of otherwise having their benefits revoked. Any threats or perceived threats will be taken seriously by the recipients of social assistance.

Miller feels that the Alberta government does not support women's freedom of choice, as the side effects of Norplant (long and short term) are not all known. The only other method of birth control which is funded by social assistance is the birth control pill. In addition, there is presently a threat to the abortion clinics in the area and Planned Parenthood has been closed down. In the face of this, the government is willing to offer Norplant to women, for it believes that Norplant is a way to reduce taxes.⁴⁶

The rationale behind this proposal, is that those women who are on social assistance are carelessly having children. The underlying rationale for such a philosophy is similar to the eugenic argument that the poor continue to have children at a disproportionate rate, causing the upper classes to support them. The focus on welfare mothers as a means to reduce taxes is based on an inaccurate perception that mothers on welfare, "...have more children in order to increase their welfare payments."⁴⁷ Women on welfare are thus constructed as being "...out of control reproducers in need of regulation."⁴⁸

These women who receive social assistance are not in a good bargaining position. They are receiving something from the State. Since the State is already giving out tax dollars, it may feel it is in a position to demand something in return and attach conditions on what it gives. Here it appears as if the government is attempting to eradicate social problems by placing the blame on the shoulders of the poor.

Norplant is a form of coercive sterilisation because it takes the control of reproduction out of the hands of the individual woman. There is evidence that it is being aimed at poor women, women of colour and disabled women. Most importantly, Norplant is conceived of as coercive sterilisation because of the context in which it is being utilised. If a black, middle class, able bodied, woman goes to see her doctor, because she is interested in using birth control and the doctor informs her of all the possibilities and she chooses sterilisation, I do not consider this to be coercive sterilisation. If a white, poor, able bodied, woman goes to a clinic for birth control advice and is fully informed, but chooses sterilisation, because it is covered by government funding and abortion is not, I consider this to be a form of coercive sterilisation. This analysis is the same for Norplant. It is a matter of context and choices. If a woman is "forced" to use Norplant -- and these women tend to be poor, disabled and of colour, women who have been traditionally eugenically sterilised -- then this is a form of coercive sterilisation.

CONCLUSION

I do not really wish to conclude and sum up, rounding off the argument so as to dump it in a nutshell on the reader. A lot more could be said about any of the topics I have touched upon...I have meant to ask questions, to break out of the frame...The point is not a set of answers, but making possible a different practice.⁴⁹

As the above quotation states, my aim is not to close off or conclude, but to ask questions which open new avenues. Ideally, I would like it if my work led others to investigate the existence of coercive sterilisation in its old and new forms. Is coercive sterilisation in its traditional form taking place on a wide scale? If so, why have we as feminists not been aware of this? My hope is that others will recognise the potential for abuse and the necessity of listening to other perspectives.

What does it mean to suggest that Norplant is being used as a form of coercive sterilisation? Does this mean that all methods of birth control are potential agents of coercive sterilisation? It appears as if the answer to this question is yes, if the drug in question is being employed in the same manner as traditional forms of coercive sterilisation. If this is the case, then how do we prevent such abuses? Hopefully, one method is to recognise that it can/does occur and then to think about what that means for us as women.

Some of the questions I have asked bring to the fore the necessity of recognising that particular practices, demands and theories manifest themselves in a variety of divergent fashions for women, as they are mediated by race, class and ability. This is evident when one looks at the issue of birth control. More "choice" and easier to use fertility control drugs may be of limited benefit to white, middle class, able bodied

women in our society and of detriment to those women who do not fit into this category.

These questions make it obvious that we need to develop theories which recognise and address the complexity of each woman's life.

ENDNOTES

¹ Bernard Dickens, "Eugenic Recognition in Canadian Law" (1975) 13 Osgoode Hall Law Journ. 546 at 561-562.

² Women's Health Interaction Fact Sheet (Ottawa: Draft July, 1994) at 4.

³ National Aboriginal Network on Disability, Voices in the Wilderness: Aboriginal Women and Disabilities (Cornwall: National Aboriginal Network on Disability, 1992).

⁴ National Aboriginal Network on Disability, *ibid.* at 5.

⁵ National Aboriginal Network on Disability, *ibid.* at 6.

⁶ Doctors in the United States have pushed hysterectomies for women they believed were not capable of complying with "contraceptive management." According to Adele Clarke this concept was merely a euphemism for women of color, poor women, and disabled women. Adele Clarke, "Subtle Forms of Sterilization Abuse: A Reproductive Rights Analysis" in Rita Arditti, Renate Duelli Klein and Shelley Minden eds., Test-Tube Women: What Future for Motherhood (London: Pandora Press, 1989) at 194.

⁷ On October 12, 1994 I telephoned Clifford Thomas -- the office administrator at the National Aboriginal Network on Disability. I asked him about the women in this booklet and if there was any way I could verify his sources. Clifford Thomas stated that the women only came forward as long as their identity remained confidential. On October 13, 1994 I thought about this and asked myself: "What should I do?" Should I put an ad in the paper asking First Nations women if they had been sterilised against their will or knew of someone who had been?" "Should I ask them to sell their intimate secrets for my thesis?" I did not do any interviews with these women because I believe that this issue may be better addressed by someone who personally understands the complexity of this issue.

⁸ Timothy Christian, The Mentally Ill and Human Rights in Alberta: A Study of the Alberta Sexual Sterilization Act (Alberta: The Alberta Law Foundation and the Department of Justice, 1974)

⁹ Women's Health Interaction, *supra*, note 2 at 4.

¹⁰ Manitoba Law Reform Commission, Report on Sterilization and Legal Competence (Manitoba: Manitoba Law Reform Commission, Jan. 7 1992), note 13 at 3.

¹¹ Shelia Jennings Linehan, "Giving Birth the 'White Man's Way'" (1992) 13 Healthsharing 11.

¹² Linehan, *ibid.* at 11.

¹³ Linehan, *ibid.* at 11

¹⁴ Canadian Women's Committee on Reproduction, Population and Development, A Canadian Women's Report on Canadian Policies and Practices in the Area of Reproduction, Population and Development (Canadian Women's Committee on Reproduction, Population and Development, August, 1994) at 15.

¹⁵ Canadian Women's Committee on Reproduction, Population and Development, *ibid.*

¹⁶ Canadian Women's Committee on Reproduction, Population and Development, *ibid.*

¹⁷ Canadian Women's Committee on Reproduction, Population and Development, *ibid.*

¹⁸ M. Henley, "The Creation and Perpetuation of the Mother/Body Myth: Judicial and Legislative Enlistment of Norplant" (1993) 41 Buffalo Law Review 703 at 733.

¹⁹ Robert Blank, Fertility Control: New Techniques, New Policy Issues (New York: Greenwood Press, 1991) at 72.

²⁰ Blank, *ibid.*

²¹ Re Eve (1986), 31 D.L.R. (4th) S.C.C. at 29.

²² Murray v. McMurchy, [1949] 1 W.W.R. 989 (B.C.S.C.) at 992.

²³ Murray v. McMurchy, [1949] *ibid.*

²⁴ Sandra Serrano Sewell, "Sterilization Abuse and Hispanic Women" in Helen B. Holmes, Billy B. Hoskins and Micheal Gross eds., Birth Control and Controlling Birth Women-Centred Perspectives (New Jersey: The Humana Press, 1980), at 121.

²⁵ Betsy Hartmann, Reproductive Rights and Wrongs: The Global Politics of Population Control and Contraceptive Choice (New York: Harper and Row, 1987) at 227.

²⁶ Canadian Women's Committee on Reproduction, Population and Development, *supra*, note 14 at 14.

²⁷ Canadian Women's Committee on Reproduction, Population and Development, *ibid.*

²⁸ The issue of testing contraceptives on third world women in itself is problematic, but beyond the scope of this essay.

²⁹ Vimal Balasubrahmanyam, "Fix it, Forget it: Norplant and Human Rights" (1993) 28 *Economic and Political Weekly* at 1088.

³⁰ Balasubrahmanyam, *ibid.*

³¹ Balasubrahmanyam, *ibid.*

³² However, I do believe that we have a responsibility to these women for numerous Canadian and American ideas are transposed to "third world" countries.

³³ In discussing Norplant, Stacey L. Arthur argues that Norplant is not a form of sterilisation. According to Arthur, "Eugenic sterilization differs in theory and methodology from temporary birth control as a condition of probation. Eugenics is defined as the science of improving the social stock. Pursuant to its goals, individuals believed to carry undesirable, inheritable traits are rendered permanently infertile. In contrast, when a court orders a convicted child abuser to use contraception, it targets an individual who has demonstrated a propensity to harm children. The ultimate objective is not to prevent procreation, but to deny offenders access to children until they can better control their destructive behaviour." Stacey L. Arthur, "The Norplant Prescription: Birth Control, Woman Control or Crime Control" (1992) 40 *U.C.L.A. Law Rev.* 1, note 29.

³⁴ For instance, in the United States, Michelle Carlton was charged with felony child abuse. She allowed her infant son to die after he had been violently shaken by her boyfriend. Her boyfriend was sentenced to five years in prison. Carlton received a minimum term in county jail as well as two years probation for failing to prevent her son's death. In addition to this, the judge requested that Carlton not have any more children while she was on probation unless she had the approval of the court. Henley, *supra*, note 18 at 737.

In another case Cathy Lanael Knighten pled guilty to injuring her daughter. Twenty-three year old Knighten, mother of three, had been videotaped at Texas children's hospital attempting to suffocate her daughter. Judge Shaver barred Knighten from having unsupervised contact with children under fourteen. Knighten also received ten years probation, and the judge required that she be implanted with Norplant. After receiving the implant, Knighten experienced serious side effects. A short time after she had a tubal ligation without checking with the court for possible alternatives. Henley, *supra*, note 18 at 743.

In the third case, Texan, Ida Jean Tovar, agreed to the implantation of Norplant with ten years of probation. Rather than receive a ten year prison sentence for shaking her two month old so severely that he was brain damaged. Henley, *supra*, note 18 at 737.

³⁵ Henley, *ibid.* at 739.

³⁶ Henley, *ibid.* at 739.

³⁷ Henley, *ibid.* at 741.

³⁸ Another example of coercive sterilisation is the case of Melody Baldwin. In August 1988, Indiana Superior Court Judge Roy F. Jones said that he would consider reducing Baldwin's twenty year prison sentence for poisoning her four year old son Joshua if she were sterilised. Judge Jones stated that: "She has no need for anymore children." T. Jacoby, "Is Sterilization the Answer?" Newsweek (8 August 1988) at 59.

³⁹ Henley, *supra* note 18, at 742.

⁴⁰ Henley, *ibid.*

⁴¹ Henley, *ibid.* at 743.

⁴² Henley, *supra* note 18, at 34.

⁴³ Henley, *supra* note 18 at 743.

⁴⁴ Buck v. Bell, 274 U.S. 1002 (1927).

⁴⁵ Stump v. Sparkman, 435 U. S. 349 (1978).

⁴⁶ This is very much in keeping with the comment made in 1980, by Hilmar G. Moore, chairman of the agency that administers welfare programs in Texas. Moore felt that recipients of welfare should be forced to undergo mandatory sterilisation or abortions so they do not have children they cannot afford. Moore stated "I'm a little discouraged and irritated at the welfare recipient families growing in size all the time and those of us who work and pay taxes all the time to pay for them." "Official Urges Sterilization of Texan Welfare Recipients" New York Times (28 Feb. 1980) at A16.

⁴⁷ Henley, *supra*, note 18 at 752.

⁴⁸ Henley, *ibid.* at 753.

⁴⁹ Susanne Kappeler, The Pornography of Representation (Cambridge: Polity Press, 1986).

BIBLIOGRAPHY

Akhter, Farida, "The Eugenic and Racist Premise of Reproductive Rights and Population Control" (1992) 5 Issues in Reproductive and Genetic Engineering 1.

Amos, Valerie and Pratibha Parmar, "Challenging Imperial Feminism" (1984) 17 Feminist Review 3.

Arditti, Rita, Renate Duelli Klein and Shelley Minden eds., Test-Tube Women: What Future for Motherhood. London: Pandora Press, 1989.

Arthur, Stacey L., "The Norplant Prescription: Birth Control, Woman Control or Crime Control?" (1992) 40 U.C.L.A. Law Review 1.

Atwood, Margaret, The Robber Bride. Toronto: McClelland and Stewart, 1993.

Bacchi, Carol, "Race Regeneration and Social Purity: A Study of the Social Attitudes of Canada's English Speaking Suffragettes" (1978) 11 Histoire Sociale/Social History 460.

Balasubrahmanyam V., "Fix it, Forget it: Norplant and Human Rights" (1993) 28 Economic and Political Weekly 1088.

Bannerji, Himani, "Introducing Racism: Notes Towards an Anti-Racist Feminism" (1987) 16 Resources for Feminist Research 10.

Barkan, Elazar, The Retreat of Scientific Racism. Cambridge: Cambridge University Press, 1992.

Blank, Robert H., Fertility Control: New Techniques, New Policy Issues. New York: Greenwood Press, 1991.

Bourne, Jenny, "Towards an Anti-Racist Feminism" (1983) 15 Race and Class 1.

Canadian Women's Committee on Reproduction Population and Development, A Canadian Women's Report on Canadian Policies and Practices in the Areas of Reproduction, Population and Development. (August, 1994).

Christian, Timothy J., The Mentally Ill and Human Rights in Alberta: A Study of the Alberta Sexual Sterilization Act. Alberta: The Alberta Law Foundation and the Department of Justice, 1974.

Cocking, Marie "New Birth Control: Balancing Benefits and Risks" (1994), January 28 The Globe and Mail A19.

- Cohen, Lori and Ric Dolphin, "Sterilizing the Retarded: the Infant "K" Raises a Moral Uproar" (1985), 12 Alberta Report 44.
- Cohen, Jamie and T.F. Baskett, "Sterilization Patterns in a Northern Canadian Population" (1978) 69 Canadian Journal of Public Health 222.
- Cohen, Sherrill and Nadine Taub eds., Reproductive Laws for the 1990s. New Jersey: Humana Press, 1989.
- Corea, Gena, The Mother Machine. Reproductive Technologies from Artificial Insemination to Artificial Wombs. New York: Harper and Row, 1985.
- Coyle, Colleen M., "Sterilization: A "Remedy for the Malady" of Child Abuse?" (1989) 5 Journal of Contemporary Health Law and Policy 245.
- Crosby, Uel D. et. al., "A Preliminary Report of Norplant Implant Insertions in a Large Urban Family Planning Program" (1993) 48 Contraception 359.
- Degener, Theresia, "Female Self-Determination Between Feminist Claims and 'Voluntary' Eugenics, Between 'Rights' and Ethics" (1990), 3 Issues in Reproductive and Genetic Engineering 87.
- Delgado, Richard and Jean Stefancic, "Why Do We Tell the Same Stories?: Law Reform, Critical Librarianship, and the Triple Helix Dilemma" (1989), 42 Stanford Law Review 207.
- Dickens, Bernard M., "Eugenic Recognition in Canadian Law"(1975) 13 Osgoode Law Hall Journal 546.
- Dixon-Mueller, Ruth, Population Policy and Women's Rights: Transforming Reproductive Choice. Westport: Praeger, 1993.
- Duster, Troy, Backdoor to Eugenics. New York: Routledge, 1990.
- Ehn, Bodil Ekman and Jerker Liljestrand, "Experiences of Legal Sterilization in Scandinavia" (1993) 48 Contraception 157.
- Evans, K.G., "Sterilization of the Mentally Retarded -- A Review" (1980) 123 Canadian Medical Association Journal 1066.
- Flannery, Michael T., "Norplant: The New Scarlett Letter" (1992) 8 Journal of Contemporary Health, Law and Policy 201.
- Fried, Marlene Gerber ed., From Abortion to Reproductive Freedom: Transforming a Movement. Boston: South End Press, 1990.

Gaylin, Willard and Ruth MackLin eds., Mental Retardation and Sterilization: A Problem of Competency and Paternalism. New York: Plenum Press, 1981.

Gillespie, Peter D., "Development Prospects in Bangladesh: Critical Options for Canadian Aid Policy" (1991) 12 Canadian Journal of Development Studies 187.

Gupta, Jyotsna Agnihotri, "Women's Bodies: The Site for the Ongoing Conquest by Reproductive Technology" (1991) 4 Issues in Genetic Engineering 93.

Gordon, Linda, Woman's Body, Woman's Right: A Social History of Birth Control in America. New York: Grossman, 1976.

Goundry, Sandra, Women, Disability and the Law: Identifying Barriers to Equality in the Law of Non-Consensual Sterilization, Child Welfare and Sexual Assault. Winnipeg: The Canadian Disability Rights Council, 1994.

Graycar, Regina and Jenny Morgan, The Hidden Gender of Law. Leichhardt NSW: Federation Press, 1990.

Grubb, Andrew and David Pearl, "Sterilisation and the Courts" (1987) 46 Cambridge Law Journal 439.

Hale, Ellen, "Birth of a Scandal" (1994), November 20 The Ottawa Sun 16.

Hale, Ellen, "Favoured Sons" (1994) November 21 The Ottawa Sun 34.

Hale, Ellen, "Population or Poverty" (1994) November 22 The Ottawa Sun 26.

Harrison, Diane D. et. Cynthia W. Cooke, "An Elucidation of Factors Influencing Physicians' Willingness to Perform Elective Female Sterilization" (1988) 72 Obstetrics and Gynecology 565.

Hartmann, Betsy, Reproductive Rights and Wrongs: The Global Politics of Population Control and Contraceptive Choice. New York: Harper and Row, 1987.

Henley, M., "The Creation and Perpetuation of the Mother/Body Myth: Judicial and Legislative Enlistment of Norplant" (1993) 41 Buffalo Law Review 703.

Hewitt, Nancy R., "Compounding Differences" (1992) 18 Feminist Studies 313.

Holmes, Helen B., Billy B. Hoskins, and Michael Gross eds., Birth Control and Controlling Birth: Women Centered Perspectives. New Jersey: Humana Press, 1980.

hooks, bell, Ain't I a Woman: Black Women and Feminism. Boston: South End Press, 1981.

Institute of Law Research and Reform, Competence and Human Reproduction. (Alberta February, 1989).

Institute of Law Research and Reform, Sterilization Decisions: Minors and Mentally Incompetent Adults. (Alberta, 1988).

Jacoby, T., "Is Sterilization the Answer?" (1988) 112 August 8 Newsweek 59.

Jackson, Margaret, "Sexual Liberation or Social Control" (1983) 6 Women's Studies International Forum 1.

Jones, Greta, Social Darwinism and English Thought. New Jersey: Humanities Press, 1980.

Kappler, Susanne, The Pornography of Representation. Cambridge: Polity Press, 1986.

Kelves, Daniel, In the Name of Eugenics. New York: Knopf, 1985.

Kirby, Sandra and Kate McKenna, Experience Research Social Change: Methods From the Margins. Toronto: Garamond Press, 1989.

Lane, Sandra D., "From Population Control to Reproductive Health: An Emerging Policy Agenda" (1994) 39 Social Science and Medicine 1303.

Lather, Patti, Getting Smart, Feminist Research and Pedagogy Within the Postmodern. New York: Routledge, 1991.

Law Reform Commission of Canada, Sterilization, Implications for Mentally Retarded and Mentally Ill Persons. Ottawa: Law Reform Commission of Canada, 1979.

Lechat, Robert, "Intensive Sterilization for the Inuit" (1976-77) 12 Eskimo 5.

Linehan, Sheila Jennings, "Giving Birth the 'White Man's Way'" (1992) 13 HealthSharing 11.

Manitoba Law Reform Commission, Report on Sterilization and Legal Competence. (Report #76 Jan. 7 1992).

Marshall, David, "The Eve" Decision, "It May Turn Out to be a Meek Authority Indeed" (1987) 136 Canadian Medical Association Journal 650.

Mascarenhas L., "Long Acting Methods of Contraception -- Much to Offer" (1994) 308 British Medical Journal 991.

McDonnell, Kathleen ed., Adverse Effects, Women and the Pharmaceutical Industry. Toronto: Women's Educational Press, 1986.

McLaren, Angus, Our Own Master Race: Eugenics in Canada, 1885-1945. Toronto: McClelland and Stewart, 1990.

McLaren, Angus, "The Creation of a Haven for 'Human Thoroughbreds': The Sterilization of the Feeble-Minded and the Mentally Ill in British Columbia" (1986) 2 Canadian Historical Review 127.

McLaren, Angus and Arlene Tigor-McLaren, The Bedroom and the State: the Changing Practices and Politics of Contraception and Abortion in Canada, 1880-1980. Toronto: McClelland and Stewart, 1986.

McWhirter, K.G. and J. Weijer, "The Alberta Sterilization Act: A Genetic Critique" (1969) 191 University of Toronto Law Journal 424.

Mies, Maria, "Sexist and Racist Implications of the New Reproductive Technologies" (1987) 12 Alternatives 333.

Mohanty, Chandra Talpade, Ann Russo and Lourdes Torres eds., Third World Women and the Politics of Feminism. Bloomington: Indiana University Press, 1991.

Murphy, Emily, "Birth Control: Its Meaning" (1932), August 27 Vancouver Sun 5.

National Aboriginal Network on Disability, Voices in the Wilderness: Aboriginal Women and Disabilities. Cornwall: National Aboriginal Network on Disability, 1992.

New York Times, "Official Urges Sterilization of Texan Welfare Recipients" New York Times, Feb. 28, 1980 A16.

O'Neil John D., "Self-Determination, Medical Ideology and Health Services in Inuit Communities" in Northern Communities: The Prospects for Empowerment Gurston Dacks and Ken Coates eds., (Boreal Institute for Northern Institutes: Alberta, 1988).

Palmer, Howard, Patterns of Prejudice, A History of Nativism in Alberta. Toronto: McClelland and Stewart, 1982.

Paul, Julius, "The Return of Punitive Sterilization Proposals" (1968) 3 Law and Society Review 77.

Petchesky, Rosalind P., Abortion and Woman's Choice: The State, Sexuality and Reproductive Freedom. Boston: Northeastern University Press, 1990.

Peter S.W. ed., Race and Ethnic Relations in Canada. Toronto: Oxford University Press, 1990.

Praptohardjo U., "The 'U' Technique: a New Method for Norplant Implants Removal" (1993) 48

Contraception 526.

Reilley, Philip R., "Involuntary Sterilization in the United States: A Surgical Solution" (1987) 62 The Quarterly Review of Biology 153.

Roberts, Dorothy E., "The Future of Reproductive Choice for Poor Women and Women of Color" (1992) 14 Women's Rights Law Reporter 305.

Robitscher, Jonas ed., Eugenic Sterilization. Illinois: Charles C. Thomas, 1973.

Rutherford, Charlotte, "Reproductive Freedoms and African American Women" (1992) 4 Yale Journal of Law and Feminism 255.

Schlesinger, Benjamin, Family Planning in Canada. Toronto: University of Toronto Press, 1974.

Searle, G.R., Eugenics and Politics in Britian 1900-1914. Leyden: Noordhoff International, 1976.

Shapiro, Thomas M., Population Control Politics: Women Sterilization and Reproductive Choice. Philadelphia: Temple University Press, 1985.

Simmons, Harvey G., From Asylum to Welfare. Downsview: The National Institute on Mental Retardation, 1982.

Smart, Carol, Feminism and the Power of Law. London: Routledge, 1989.

Sneiderman, Barney, "Sterilization Poses Difficult Problem" (1990), December 28 Winnipeg Free Press 7.

Soderstrom, R.M., "Case Reports II: Sterilization Litigation" (1988) 31 Clinical Obstetrics and Gynecology 174.

Soloway, Richard A., Demography and Degeneration: Eugenics and The Declining Birthrate in Twentieth-Century Britain. London: The University of North Carolina Press, 1990.

Spelman, Elizabeth, Inessential Woman. Boston: Beacon Press, 1988.

Starkman, Bernard, "The Control of Life: Unexamined Law and the Life Worth Living" (1973) 11 Osgoode Hall Law Journal 175.

Stasiulis, Davia K., "Rainbow Feminism: Perspectives on Minority Women in Canada" (1987) 16 Resources for Feminist Research 5.

Stefan, Susan, "Whose Egg is it Anyways?: Reproductive Rights of Incarcerated, Institutionalized and Incompetent Women" (1989) 13 Nova Law Review 405.

Stephen, Nancy Leys, The Hour of Eugenics: Race, Gender and Nation in Latin America. Ithaca: Cornell University Press, 1991.

Strong-Boag, Veronica, "Wages for Housework: Mother's Allowances and the Beginning of Social Security in Canada" (1979) 14 Journal of Canadian Studies 24.

Tait, Janice T., "Reproductive Technology and the Rights of Disabled Persons" (1986) 1 Canadian Journal of Women and The Law 445.

Thobani, Sunera, "In Whose Interest?" (1991) 12 Healthsharing 15.

Trombley, Stephen, The Right to Reproduce: A History of Coercive Sterilization. London: Weidenfeld and Nicholson, 1988.

Vanderwater, Bette, "Meanings and Strategies of Reproductive Control: Current Feminist Approaches to Reproductive Technology" (1992) 5 Issues in Reproductive and Genetic Engineering 215.

Waldschmidt, Anne, "Against Selection of Human Life -- People with Disabilities Oppose Genetic Counselling" (1992) 5 Issues in Reproductive and Genetic Engineering 155.

Walker, Alice, Possessing the Secret of Joy. New York: Pocket Star Books, 1992.

Ward, Martha C., Poor Women, Powerful Men. Colorado: Westview Press, 1986.

Wichterich, Christa, "From the Struggle Against 'Overpopulation' to the Industrialisation of Human Production" (1988) 1 Issues in Reproductive and Genetic Engineering 21.

Women's Health Interaction Fact Sheet (Draft July, 1994).

CASES

Buck v. Bell, 274 U.S. 1000 (1926).

Murray v. McMurchy, [1949] 1 W.W.R. 989; 2 D.L.R. 442 (B.C.S.C.).

Re Eve (1986), 31 D.L.R. (4th) 1 (S.C.C.).

Relf v. Weinberger, 372 F. Supp. 1196 (D.D.D. 1974).

Stump v. Sparkman, 435 U.S. 336 (1978).

LEGISLATION

The Sexual Sterilization Act, S.A. 1928, c. 37.

The Sexual Sterilization Repeal Act, S.A. 1972, c. 87.

An Act Respecting Sexual Sterilization, S.B.C. 1933, c. 59.

Sexual Sterilization Repeal Act, S.B.C. 1973, c. 79.