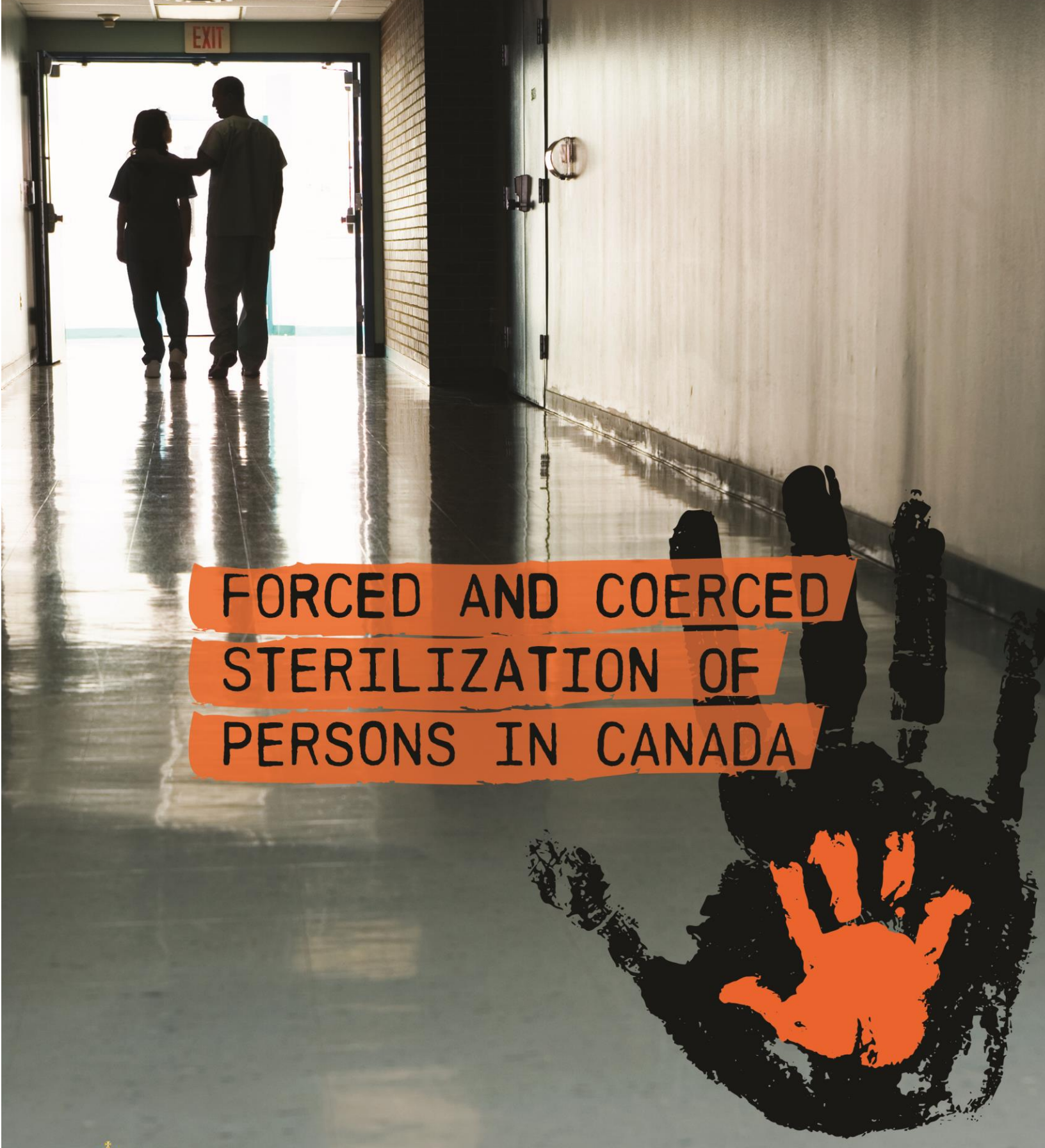

FORCED AND COERCED STERILIZATION OF PERSONS IN CANADA

SENATE | SÉNAT
CANADA

Standing Senate Committee on Human Rights

The Honourable Salma Ataullahjan, *Chair*
The Honourable Wanda Elaine Thomas Bernard, *Deputy Chair*
The Honourable Nancy J. Hartling, *Deputy Chair*

JUNE 2021

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The Honourable Senator Salma Ataullahjan, *Chair*
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The Honourable Senators

Yvonne Boyer
Yonah Martin
Marie-Françoise Mégie
Thanh Hai Ngo
Kim Pate
Scott Tannas

Ex-officio members of the committee:

The Honourable Senator Marc Gold, P.C. (or Raymonde Gagné)
The Honourable Senator Donald Plett (or Yonah Martin)

Senators who participated in the study during the First session of the Forty-second Parliament (2019):

The Honourable Senators Ataullahjan, Bernard, Boyer, Cordy, Cormier, Hartling, LaBoucane-Benson, Moncion, Ngo, Pate, Petitclerc, and Wells

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Ben Silverman, Communications Officer, Committees

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Tuesday, March 30, 2021:

> With leave of the Senate,
>
> The Honourable Senator Woo moved, seconded by the Honourable Senators Gold, P.C., Plett, Tannas and Cordy,
>
> That each standing committee be authorized to examine and report on issues relating to its respective mandate as set out in the relevant subsection of rule 12-7 and to submit its final report on its study under this order no later than June 23, 2021.
>
> The question being put on the motion, it was adopted.
>
> *Interim Clerk of the Senate*
> Gérald Lafrenière

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to rule 12-24(1), the Senate requests a complete and detailed response from the government to this report, with the Minister of Health being identified as minister responsible for responding to the report, in consultation with the Minister of Indigenous Services and the Minister for Women and Gender Equality.

FOREWORD

On 20 February 2019, the Standing Senate Committee on Human Rights (the committee) began a study on the extent and scope of forced and coerced sterilization of persons in Canada. The objective of the study was to gain a preliminary understanding of the issue and include the committee's findings in a report, which would have been used to inform a larger study on the same topic in another parliamentary session.

Due to circumstances beyond the committee's control, however, it was unable to table the initial report, nor was it able to conduct further study as intended. Nonetheless, the committee has remained deeply troubled by what it heard two years ago, and concerned that the horrific practice of forced and coerced sterilization continues to occur, underreported, and disproportionately affecting Indigenous women and other vulnerable and marginalized groups in Canada.

Due to the importance of this issue and the ongoing uncertainty of the Senate committee schedule, the committee accordingly agreed to table its 2019 report as originally drafted without further delay. The committee wishes to thank the 14 witnesses who provided invaluable testimony as well as the individuals and organizations who submitted written evidence. The committee believes further study on this topic is necessary when future opportunities present themselves.

INTRODUCTION

On 20 February 2019, the Standing Senate Committee on Human Rights (the committee) commenced a study on the extent and scope of forced and coerced sterilization of persons in Canada under its general order of reference:

> That the Standing Senate Committee on Human Rights be authorized to examine and monitor issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations.[1]

The objective of the study was to gain a better understanding to inform a proposed secondary study. During this preliminary study, the committee sought to:

- examine the history of eugenics and forced and coerced sterilization in Canada generally and, in particular, its ongoing effects on Indigenous women;
- identify other vulnerable populations who have been impacted by forced and coerced sterilization;
- hear factual situations and circumstances in which forced and coerced sterilization has arisen;
- analyse international examples of forced and coerced sterilization and how it has been handled; and
- gather any available statistics and data regarding the medical procedure of tubal ligation and other medical sterilizing procedures.

[1] Senate, Journals of the Senate, 1st Session, 42nd Parliament, 20 September 2018, p. 3789.

The committee held three meetings on this topic hearing from 14 witnesses, including leaders of three Indigenous organizations, a lawyer who is leading a Saskatchewan class action lawsuit, an academic, independent researchers, and representatives of civil society groups and government departments. The committee also received submissions from civil society organizations, professional associations and a Peruvian women's rights organization.

This report provides an overview of the committee's findings and outlines the conclusions garnered during the committee's hearings. It begins with information to contextualize the study then moves to a discussion of reproductive rights in Canada and internationally followed by a history of forced and coerced sterilization of Indigenous women in Canada. The third section of this report explores reports and testimony on the topic of forced and coerced sterilization of other vulnerable and marginalized groups in Canada and abroad. The report concludes with two recommendations requesting that the Government of Canada respond without delay to this report and that a parliamentary committee conduct further study on this issue.

CONTEXT

Sterilization is a "surgical procedure for the permanent prevention of conception by removing or interrupting the anatomical pathways through which… ova in the female and sperm cells in the male… travel."[2] According to the international non-governmental organization Human Rights Watch, "[f]orced sterilization occurs when a person is sterilized after expressly refusing the procedure, without… knowledge or is not given an opportunity to provide consent."[3] An express refusal can include a verbal and/or a non-verbal statement or movement of pulling away. Amnesty International explains that "[s]terilization under coercion is when people give their consent to be sterilized, but on the basis of incorrect information or other coercive tactics such as intimidation, or that conditions are attached to sterilization, such as financial incentives or access to health services."[4]

In recent years, significant attention has been given to the plight of Indigenous women in Canada who have been forced and coerced into undergoing sterilization procedures. This awareness has largely stemmed from a report that was released by the Saskatchewan Regional Health Authority in July 2017.[5] This was a

> report of an external review commissioned after at least four Indigenous women reported in the media that they had been coercively sterilized in a Saskatoon hospital, primarily between 2008 and 2012. The report documented the experiences of 16 women, most of whom reported being coercively sterilized between 2005 and 2010, and noted that 'pervasive structural discrimination and racism in the health care system in general (despite attempts to remedy these) remains unmistakable.'

[2] Britannica Academic, *sterilization*.
[3] Human Rights Watch, *Sterilization of Women and Girls with Disabilities: A Briefing Paper*, 10 November 2011.
[4] Standing Senate Committee on Human Rights [RIDR], Briefs, *Amnesty International Submission to Standing Senate Committee on Human Rights Study on Sterilization Without Consent*, submitted by Amnesty International, 5 April 2019.
[5] Dr. Yvonne Boyer and Dr. Judith Bartlett, *External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, 22 July 2017.

> A class action law suit filed in Saskatchewan in October 2017 began with two Indigenous women who report being sterilized without their consent. Waves of media coverage of the issue in the fall of 2018 led to over 100 more Indigenous women from five provinces (Saskatchewan, Alberta, British Columbia, Manitoba, and Ontario) coming forward with allegations that they too were sterilized without their free, prior, and informed consent.[6]

Lawyer Alisa Lombard, lead counsel in the Saskatchewan class action lawsuit, noted that these women have been "robbed of their sacred ability to carry life, to give birth, to care for their child, to pass on their knowledge and culture, and to watch children in the number of their choice grow and become parents themselves."[7] The committee heard that although it is unclear how many Indigenous women have been forced or coerced into this procedure, this brutal act has caused irreparable harm to Indigenous peoples for future generations and has perpetuated a historical cycle of discrimination.[8]

Incidents of forced and coerced sterilization continue to be reported despite Canadian media attention and condemnation. Ms. Lombard told the committee that as recently as December 2018 an incident of forced sterilization was reported by an Indigenous woman in Saskatchewan.[9] The committee also questioned whether other vulnerable and marginalized groups have been forced or coerced into sterilization and concluded that an examination was required to discover the extent to which this practice occurs to Canadians. Preliminary evidence identifies poor women, women living with disabilities, African Canadian women, racialized and ethnic women, and women living with HIV as particularly vulnerable to being subjected to forced or coerced sterilization in Canadian health care settings where their personal agency is removed or limited. Evidence further exists to suggest that intersex persons, transgender persons as well as institutionalized persons may be similarly vulnerable.

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[6] RIDR, Briefs, *Amnesty International Submission to Standing Senate Committee on Human Rights Study on Sterilization Without Consent*, submitted by Amnesty International, 5 April 2019.
[7] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Semaganis Worme Lombard, as an individual).
[8] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual); RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation).
[9] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Semaganis Worme Lombard, as an individual).

REPRODUCTIVE RIGHTS

Reproductive rights are protected under domestic and international human rights frameworks. In Canada, they are considered part of the right to security of the person as guaranteed by section 7 of the *Canadian Charter of Rights and Freedoms* (the Charter). Security of the person includes a person's right to control their own body and it also prevents the state from interfering with personal autonomy, which includes the imposition of "unwanted medical treatment."[10] Professional regulating bodies in all jurisdictions in Canada have policies for medical professionals on obtaining free and informed consent to medical intervention.[11] Some of these policies require that consent be free from coercion; however, "further efforts to improve the interactions between patients and providers on informed consent is required."[12]

Freedom from being coerced or forced into undergoing a procedure that would inhibit an individual's ability to reproduce is a fundamental human right. A United Nations interagency statement noted that forced and coerced sterilization has been recognized by human rights bodies as "a violation of the right to be free from torture and other cruel, inhuman or degrading treatment or punishment"[13] as enumerated in Article 1 of the *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.[14]

In December 2018, the United Nations Committee Against Torture (CAT) published its observations of Canada's implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. In its report, CAT acknowledged the information received from Canadian representatives on the forced

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[10] Department of Justice, *Section 7 – Life, liberty and security of the person*, citing *R. v. Morgentaler*, [1988] 1 S.C.R. 30 at p. 56; *Carter v. Canada (Attorney General)*, 2015 SCC 5 at para. 62; *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519; *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307 at para. 55; *C. v. Manitoba (Director of Child and Family Services)*, 2009 SCC 30 at paras. 100-102.

[11] See for example: College of Physicians and Surgeons of Ontario, *Policy Statement #3-15 - Consent to Treatment*.

[12] RIDR, *Evidence*, 15 May 2019 (Abby Hoffman, Assistant Deputy Minister, Policy Branch, Health Canada).

[13] World Health Organization et al., *Eliminating forced, coercive and otherwise involuntary sterilization: An interagency statement*, 2014, p. 1.

[14] *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, General Assembly resolution 39/46, December 1984.

and coerced sterilization of Indigenous women. It expressed concern regarding the implementation of the calls to action outlined in the Saskatoon external review, particularly with respect to providing reparations to the women who were pressured to undergo sterilization.[15] CAT called on Canada to:

> (a) Ensure that all allegations of forced/coerced sterilization are impartially investigated, that the persons responsible are held accountable and that adequate redress is provided to the victims;
>
> (b) Adopt legislative and policy measures to prevent and criminalize the forced or forced/coerced sterilization of women, particularly by clearly defining the requirement for free, prior and informed consent with regard to sterilization and by raising awareness among indigenous women and medical personnel of that requirement.[16]

Karen Stote (Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University), Francyne Joe (President, Native Women's Association of Canada) and Melanie Omeniho (President, Women of the Métis Nation) also stated that the forced and coerced sterilization of Indigenous women constitutes genocide under the *Convention on the Prevention and Punishment of the Crime of Genocide* (Genocide Convention).[17] According to the Genocide Convention, genocide is an act "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" and includes "imposing measures intended to prevent births within the group."[18]

It is especially important for marginalized and vulnerable groups to understand their rights including reproductive rights. This lack of knowledge alone places them at risk.

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[15] United Nations Committee against Torture, "Concluding observations on the seventh periodic report of Canada," *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 21 December 2018.
[16] Ibid.
[17] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual); RIDR, *Evidence*, 10 April 2019 (Francyne Joe, President, Native Women's Association of Canada; Melanie Omeniho, President, Women of the Métis Nation).
[18] United Nations Human Rights Office of the High Commissioner, *Convention on the Prevention and Punishment of the Crime of Genocide*, resolution 260 A (III), 9 December 1948, Article II(d).

As explained by Ms. Lombard:

> Many of the women who have reached out did not know they had rights, that they had the choice. Some didn't know that under Canadian law the doctors, nurses and government had no right to make decisions about their fertility for them. That they have, if equally benefiting from the law, complete bodily autonomy over any and all decisions relating to procedures affecting their reproductive capacity. It is critically important that women know what their rights are.[19]

Understanding reproductive rights also includes a strong comprehension that everyone has a right to free, prior and informed consent. Ms. Lombard explained that informed consent contains four pillars:

> The first is capacity. The person involved in this transaction, if you will, must have the capacity to consent. There can't be too many stressors. This person cannot be under the effects of medication, for example. Child birth, post-administration of an epidural and active labour — even a few weeks leading into active labour — we might say that things aren't the way that they usually are.
>
> The second component is that there must be full disclosure of the risks, consequences and other birth control options. That constitutes the doctor's obligation to disclose that information, and I do not believe — though I would have to check to be absolutely certain — that obligation can necessarily be discharged to or delegated to another entity, person or professional.
>
> Third, the patient has to be afforded the proper time in the appropriate environment and atmosphere to consider the information that's been imparted to them. They have to be able to think about it, ask questions, come to it again later and have a conversation.

[19] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual).

> Fourth, proper and informed consent means that there is no coercion. That means there is no preference of one particular birth control option, for example, over another. There is simply a presentation of such options.[20]

Despite these rights, forced and coerced sterilizations continue to be reported in Canada. The following section provides a brief overview of Canada's history of forced and coerced sterilization of Indigenous women in Canada and identifies some of the factors that render this population vulnerable.

[20] Ibid.

PAST AND PRESENT: FORCED STERILIZATION OF INDIGENOUS WOMEN IN CANADA

The practice of forced and coerced sterilization of marginalized or vulnerable groups to prevent their reproduction has a long history in Canada. Until 1972 and 1973, respectively, Alberta and British Columbia had laws requiring the forced and coerced sterilization of individuals who were considered "mentally defective."[21] Saskatchewan, Manitoba and Ontario had introduced similar sexual sterilization bills but they were defeated in the 1930s and did not become law.[22] As explained by the Canadian Association of Community Living and People First Canada:

> During the eugenics movement, over three thousand Canadians were legally sterilized in Canada – most notably within the provinces of Alberta, and British Columbia where those who were deemed to be "mentally defective," to possess "undesirable elements" or to be part of "unfit groups" were sterilized by the mandate of the state. The Sexual Sterilization Acts of Alberta (est. 1928) and British Columbia (est. 1933) legislated the sterilization of persons with intellectual disabilities without their consent.[23]

Sterilization under these laws was often a precondition for being released from a mental health institution.[24] Persons deemed "mentally defective" were not alone as targets – Eastern Europeans as well as Inuit, First Nations and Métis people were also disproportionately targeted and sterilized.[25] In Alberta, First Nations, Metis and Inuit people made up 2.5% of the population, but represented 6% of those sterilized overall.[26] It is also worth noting that the law in British Columbia not only targeted

[21] The Canadian Encyclopedia, *Eugenics in Canada*.
[22] Ibid.
[23] RIDR, Briefs, *Submission to the Senate Standing Committee on Human Rights*, submitted by the Canadian Association for Community Living and People First of Canada, 17 May 2019.
[24] Randall Hansen and Desmond King, "Sterilization by the State: Eugenics, Race, and the Population Scare in the Twentieth-Century North America," *Cambridge University Press*, New York, 2013; Canada's Human Rights History, *Eugenics*.
[25] Canada's Human Rights History, *Eugenics*.
[26] Karen Stote, "An Act of Genocide: Colonialization of Aboriginal Women," *Fernwood Publishing*, 2015, p. 46.

those with mental health issues but also children, particularly those housed in the Institutional Home for Girls.[27]

Despite the repealing of the provincial eugenics legislation, Professor Karen Stote explained how the forced and coerced sterilization of Indigenous women continued in federally operated "Indian hospitals" as well.[28] Her research reveals that approximately 1,150 Indigenous women had been sterilized in these hospitals over a 10-year period up until the early 1970s, with another "50 or so cases where the sex of the person sterilized is not noted."[29] She informed the committee that documents of the Indian hospital period show that "there was a loosening of guidelines on when sterilizations could be performed, that consent forms were inadequate and that interpreters were not always used."[30] The documents also reveal that there was "a climate of racism and paternalism leading to the view that sterilization was for some women's own good."[31] These attitudes and beliefs continue to underpin health policy today and contribute to the practice of coerced and forced sterilization.[32]

It was assumed that the eugenics-inspired practice had stopped with the changes to legislation in the 1970s. However, the committee learned that it still persists despite legislative changes and significant media attention following the July 2017 external review released by the Saskatoon Health Region. The committee learned cases of forced or coerced sterilization continued to be reported as recently as 2018.[33]

It should be noted, however, that the precise number of Indigenous women who have been subjected to this procedure is unclear. Representatives from Health Canada and Indigenous Services Canada informed the committee that information

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[27] Luke Kersten, *British Columbia passes "An Act respecting Sexual Sterilization"*, Eugenic Archives, Social Sciences and Humanities Research Council of Canada.
[28] "During the 20th century, the federal government established racially segregated 'Indian hospitals' for the treatment of First Nations and Inuit peoples in Canada. With the coming of medicare in the late 1960s, the government began to close most of the Indian hospitals, though it continues to operate hospitals at Norway House and Hodgson in Manitoba." See: The Canadian Encyclopaedia, *Indian Hospitals in Canada*.
[29] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual).
[30] Ibid.
[31] Ibid.
[32] Dr. Yvonne Boyer and Dr. Judith Bartlett, *External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, 22 July 2017.
[33] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual; Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual).

on sterilization procedures does not include data on the ethnicity of the patients who receive them.[34] Additionally, the committee was informed that Indigenous women may not want to self-identify for several reasons. Some are ashamed of what happened and blame themselves[35] while others are unaware that their reproductive rights have been violated.[36] Many are too preoccupied with their survival, and that of their children, and so contemplating whether they were forced or coerced into sterilization has not "been a priority."[37] As one witness explained "[i]t's important to remember that the coerced sterilization of Indigenous women is connected to colonialism and is one of the many forms of violence experienced by Indigenous women in Canada."[38]

It is also important to note that mistrust in a system that continues to fail Indigenous women also prevents them from coming forward.[39] There is also the issue of trauma and the harmful effects of reliving it. As Ms. Lombard explained:

> There's a lot of underreporting because there's no trust. Various processes, including the Truth and Reconciliation Commission and the testimony before the missing and murdered women's inquiry, has repeated this over and over again. The reason for that is because when women do come forward, they're not believed. They are dismissed. They are told that people who are more important than them know more about what's good for them than they do. That's why they don't come forward.[40]

Nonetheless, it was emphasized that the more this issue is discussed, the more Indigenous women are finding the courage to tell their stories.[41] Ms. Lombard stated that the firm has been contacted by approximately 100 women and that number is

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[34] RIDR, *Evidence*, 15 May 2019 (Tom Wong, Chief Medical Officer of Public Health and Executive Director, Department of Indigenous Services Canada; Abby Hoffman, Assistant Deputy Minister, Policy Branch, Health Canada).
[35] RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation).
[36] Ibid.
[37] RIDR, *Evidence*, 10 April 2019 (Anne Curley, Vice President, Pauktuutit Inuit Women of Canada).
[38] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual).
[39] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual; Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual); RIDR, *Evidence*, 10 April 2019 (Francyne Joe, President, Native Women's Association of Canada).
[40] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual).
[41] Ibid.

increasing as public awareness of this issue grows. Of these women, 10 are from Alberta; five are from British Columbia; 12 are from Manitoba; one is from the Northwest Territories; four are from Ontario; two are from Quebec; 64 are from Saskatchewan; and two are from Oklahoma, United States.[42]

Power Imbalance

The effects and application of policies contributing to the disenfranchisement of Indigenous peoples in Canada has been well documented. This includes colonialization, residential schools, forced relocations, the Sixties Scoop, and the threat of child welfare apprehensions.[43] These policies have rendered Indigenous Peoples one of the most vulnerable and marginalized groups in Canada. Some of the Indigenous women who were forced or coerced into sterilization live on reserves in remote areas. Hospitals are often a long distance away and require significant travel – sometimes by air.[44] Away from their family and communities to give birth, many Indigenous women experience language and cultural barriers.[45] As mentioned earlier, many women are not given adequate information or support to understand and to be informed of their rights, including their sexual and reproductive rights.[46]

Medical doctors hold a position of power and privilege. They are knowledgeable of the hospital culture and associated vernacular. As experts in their fields and typically revered by society, doctors are in a position of authority. Most people, including Indigenous women, place significant trust in them.[47] The patient's assumption is that doctors are practicing medicine with their patients' best interests in mind. Francyne Joe, President, Native Women's Association of Canada, stated: "Whenever I go to see my doctor, there's a lot of trust I place in my doctor. If my doctor says I need to have something done, I rarely go for a second opinion. If I'm in this situation where I'm delivering a child and I'm told to abort, I would believe my doctor."[48]

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[42] Ibid.
[43] RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation).
[44] RIDR, *Evidence*, 10 April 2019 (Anne Curley, Vice President, Pauktuutit Inuit Women of Canada).
[45] RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation; Anne Curley, Vice President, Pauktuutit Inuit Women of Canada).
[46] Ibid.
[47] RIDR, *Evidence*, 10 April 2019 (Francyne Joe, President, Native Women's Association of Canada).
[48] Ibid.

There is a significant power imbalance between Indigenous women and their doctors.[49] This dynamic is further complicated by language and cultural barriers. Witnesses explained such conditions allow for the forced and coerced sterilization of Indigenous women. The committee was told a number of times that many Indigenous women were pressured, badgered or led to believe they were obligated to sign consent forms. Others were not fully informed about what they were signing or did not understand the legal or practical implications of the document.[50] Some were not even offered consent forms.[51] The committee was informed that some Indigenous women are given ultimatums: accept sterilization or face the prospect of having their children placed in the child welfare system.[52] The committee also learned of the egregious practice of asking for consent during childbirth which is against the informed consent policies of all provincial colleges of physicians and surgeons.[53] Ms. Lombard shared the story of an Indigenous woman who recounted being sterilized by force:

> SAT is a Cree woman who gave birth to her sixth child in Saskatoon in 2001. When presented with a consent form for her sterilization, SAT reports hearing her late husband exclaim, and I quote: "I am not — expletive — signing that." Before he stormed out of the hospital, she was wheeled into the operating room over her protests. She tried to wheel herself away from the operating room, but the doctor wheeled her right back in the direction of the same operating room. She repeatedly said, "I don't want this," as she cried and while the nurses administered the epidural. When she was in the operating room, she kept asking the doctor if she was done yet. Finally, he said, "Yes. Cut, tied and burnt. There, nothing is getting through that."[54]

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[49] RIDR, *Evidence*, 10 April 2019 (Virginia Lomax, Legal Counsel & Legal Unit Team Lead, Native Women's Association of Canada).
[50] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual); RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation).
[51] Dr. Yvonne Boyer and Dr. Judith Bartlett, *External Review: Tubal Litigation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, 22 July 2017.
[52] RIDR, *Evidence*, 10 April 2019 (Melanie Omeniho, President, Women of the Métis Nation).
[53] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual). See, for example: College of Physicians and Surgeons of Ontario, *Policy Statement #3-15 - Consent to Treatment*.
[54] RIDR, *Evidence*, 3 April 2019 (Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual).

According to Professor Stote, the practice of forced and coerced sterilization of Indigenous women "is consistent with how other medical services have sometimes been offered to Indigenous Peoples as attempts to control their bodies while criminalizing Indigenous health and reproductive practices."[55]

To try to modify this power imbalance, witnesses argued that a more robust mechanism for obtaining informed consent is required.[56] As illustrated above, however, the testimony made it clear that Indigenous women who felt forced or coerced into sterilization did not have an opportunity to provide free, prior and informed consent. The committee agrees that signing a consent form does not constitute informed consent when it is not fully understood, especially when pressure is applied under duress, when cognition is reduced or when information about the procedure is false or incorrect. As stated by Abby Hoffman, Assistant Deputy Minister, Strategic Policy Branch, Health Canada:

> Women need to fully understand and consent to what is happening to their bodies, and they need to be assisted to do that, and providers need to be better equipped to have these discussions in a way that recognizes and respects the situation of the patient, including issues such as language, culture and other realities of the lives of individual patients.[57]

Unfortunately, there are other groups who are vulnerable and marginalized in Canadian society, who may also feel disempowered by our medical system. The following section outlines testimony that underscored the plight of other groups who may have also been subjected to forced and coerced sterilizations.

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[55] RIDR, *Evidence*, 3 April 2019 (Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual).
[56] RIDR, *Evidence*, 3 April 2019 (Jackie Hansen, Gender Rights Campaigner, Amnesty International; Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual; Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, as an individual).
[57] RIDR, *Evidence*, 15 May 2019 (Abby Hoffman, Assistant Deputy Minister, Strategic Policy Branch, Health Canada).

VULNERABLE AND MARGINALIZED: PRECURSORS TO REPRODUCTIVE RIGHTS VIOLATIONS?

Some of the factors enumerated in the previous section that contribute to the vulnerability of Indigenous women in these situations and make possible their forced and coerced sterilization are also experienced by other vulnerable and marginalized groups, increasing their risk of having their reproductive rights violated.[58] Jackie Hansen, Gender Rights Campaigner, Amnesty International stated that the organization "has documented cases of both forced and coerced sterilization in a number of countries," including in Mexico, Chile, China and Peru.[59] She continued:

> All of the cases that Amnesty International has documented have been women from marginalized groups who have experienced multiple forms of discrimination. This gets to the central point that government action to address sterilization without consent must recognize that multiple and intersecting forms of discrimination may place some groups of women at a heightened risk of being sterilized without their consent.[60]

The committee received a brief from Maria Ysabel Cedano, director of Peruvian women's rights organization DEMUS, outlining Peru's recent history with forced and coerced sterilization.[61] Between 1996 to 2000, the Peruvian government implemented the National Reproductive Health and Family Planning Program which resulted in the forced and coerced sterilization of more than 200,000 mostly poor, rural Indigenous women. Following advocacy by civil society groups such as DEMUS and the involvement of the Inter-American Commission on Human Rights, the Peruvian government agreed to implement reparation measures for survivors, including compensation, investigation of individual cases and sanctions against those responsible. In November 2015, the government established the Registry of Forced

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[58] RIDR, *Evidence*, 3 April 2019 (Jackie Hansen, Gender Rights Campaigner, Amnesty International).
[59] Ibid.
[60] Ibid.
[61] RIDR, Brief, *Report to the Senate of Canada Standing Committee on Human Rights so that Victims of Forced Sterilization Can Seek the Truth, Justice and Comprehensive Reparation, Taking into Account the Experience in Peru*, submitted by Maria Ysabel Cedano, Demus-Estudio para la Defensa de los Derechos de la Mujer, 7 June 2019.

Sterilization Victims to assess the full scope of the problem and to connect survivors with legal assistance, psychological support and health care services. In November 2018, a working group composed of government representatives, survivors and civil society was established to develop a "comprehensive reparation policy" to be implemented by the Peruvian government by 2021.[62] Ms. Hansen stated that the Peruvian government's response, while "less than perfect," could provide useful direction for a strategy to combat forced and coerced sterilization in Canada.[63]

Similar to other jurisdictions, many vulnerable and marginalized groups in Canada are also susceptible to violations of their reproductive rights. These include racialized persons, persons with disabilities, persons with HIV, institutionalized persons and persons whose sex and gender do not conform to gender-based expectations of society.[64] Moreover, the committee learned that other medical interventions can and have been used to inhibit a person's capacity to reproduce. These include the use of chemicals, hysterectomies and gender reconstruction surgery.

Bonnie Brayton, National Executive Director, DisAbled Women's Network of Canada stated that "[w]omen with disabilities in Canada have been targeted for coercion and/or forced sterilization historically and remain vulnerable to these practices today."[65] She informed the committee that one of the contributing factors is parental influence, as parents may have the "power and control that can influence access to and decisions around reproductive health."[66] She added that in conducting research, the DisAbled Women's Network of Canada "spoke to one woman with a disability who shared that her parents had made reproductive choices on her behalf, without her consent and against her will."[67] Other factors which contribute to the vulnerability of forced and coerced sterilization of women with disabilities include lack of knowledge and stigma about disability from medical professionals and limited

[62] Ibid.
[63] RIDR, *Evidence*, 3 April 2019 (Jackie Hansen, Gender Rights Campaigner, Amnesty International).
[64] RIDR, *Evidence*, 3 April 2019 (Jackie Hansen, Gender Rights Campaigner, Amnesty International; Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, as an individual; Sandeep Prasad, Executive Director, Action Canada for Sexual Health and Rights); RIDR, *Evidence*, 15 May 2019 (Josephine Etowa, Professor, Faculty of Health Sciences, University of Ottawa, as an Individual; Morgan Holmes, Representative, Egale Canada Human Rights Trust; Bonnie Brayton, National Executive Director, DisAbled Women's Network of Canada).
[65] RIDR, *Evidence*, 15 May 2019 (Bonnie Brayton, National Executive Director, DisAbled Women's Network of Canada).
[66] Ibid.
[67] Ibid.

access to contraception. Ms. Brayton informed the committee that a "Canadian study found that young women with intellectual disabilities were commonly prescribed Depo-Provera in response to family and caregiver concerns around unwanted pregnancy and menstrual hygiene."[68] Depo-Provera is a type of hormonal contraceptive that is administered by injection every three months.[69] According to Ms. Brayton, "Depo-Provera remains controversial, and its side effects can be very serious and are not well understood. There is evidence that it was prescribed to women with disabilities before being approved as a contraception method in Canada."[70]

Another witness, Dr. Josephine Etowa, Professor, Faculty of Health Sciences, University of Ottawa, told the committee that a study conducted by a graduate student under her supervision found that African Canadian women in southwest Nova Scotia were coerced into having hysterectomies in circumstances where they did not have a life-threatening health condition. According to Dr. Etowa, many women cited that limited access to information and health care, as well as feeling powerless to advocate for themselves, led them to feel compelled to undergo the hysterectomy. As is the case for Indigenous communities, a history of structural racism, discrimination and exclusion in Canada has created inequities in the health and well-being of African Canadians.[71] Dr. Etowa also underscored the connection between structural anti-Black racism and forced and coerced sterilization of African Canadian women. She argued that "the current dialogue on forced sterilization needs to include a systematic and critical investigation of issues among women of African descent in Canada."[72]

[68] Ibid.
[69] Britannica Academic, *contraception*; Halifax Sexual Health Centre, *Contraceptive Injection* (Depo Provera); Mayo Clinic, *Depo-Provera (contraceptive injection)* .
[70] RIDR, *Evidence*, 15 May 2019 (Bonnie Brayton, National Executive Director, DisAbled Women's Network of Canada).
[71] RIDR, *Evidence*, 15 May 2019 (Josephine Etowa, Professor, Faculty of Health Sciences, University of Ottawa, as an Individual).
[72] Ibid.

The committee was also told that families of intersex[73] children are being pressured and coerced by medical practitioners to have their children undergo various types of surgery to assign a sex.[74] These may include "removal of clitoral and vulvar tissue, the alteration of the appearance and function of a small or hypospadic penis… the removal of small testes in men with Klinefelter syndrome and their replacement with larger prosthetic testes that serve no biological function whatsoever."[75] According to Morgan Holmes, Representative, Egale Canada Human Rights Trust, in some instances the surgery constitutes sterilization because they completely erode the capacity to reproduce. These surgeries can result in chronic health conditions. For instance, Ms. Holmes explained that surgeries to remove gonads in infants may subsequently require hormone replacement therapy (HRT) for an indefinite period. As a result, the removal of gonads "threatens the bone health of those developing infants and children, leaving them vulnerable to severe osteoporosis at a young age and simultaneously forces them onto HRT, a regimen that increases their risk for developing a number of cancers over their lifetime."[76]

The committee is concerned that this practice has continued and that it affects numerous marginalized and vulnerable groups in Canada. The following section provides some suggestions for a future study on this topic.

[73] According to Morgan Holmes, Representative, Egale Canada Human Rights Trust:
Intersex is not an identity nor a gender, but rather an umbrella term that refers to 17 different types of significant variation of biological sex differentiation. The medical community usually refers to these types in contemporary parlance as 'disorders of sex development,' but those so labelled prefer not to be pathologized, so we use the still contemporary but somewhat older more neutral clinical term 'intersex.'
Of the 17 types, the two most frequent are congenital adrenal hyperplasia, in which the adrenal glands secrete a higher-than-usual level of androgen, which for female fetuses can have a masculinizing effect.
The second most common is androgen insensitivity syndrome, in which case the body is chromosomally XY, but the testes, instead of producing testosterone, convert to estrogen and the appearance is typically female in the complete form.
See: RIDR, *Evidence*, 15 May 2019 (Morgan Holmes, Representative, Egale Canada Human Rights Trust).
[74] Ibid.
[75] Ibid.
[76] Ibid.

FUTURE STEPS

The committee's preliminary hearings on forced and coerced sterilization confirmed its concerns that this horrific practice is not confined to the past but clearly is continuing today. Its prevalence is underreported and underestimated. The committee is deeply concerned that along with Indigenous women, other vulnerable and marginalized groups in Canada are affected, including women with disabilities, racialized women, intersex children and institutionalized persons.

The committee believes this issue is much more prevalent than reported and that it merits further study by a committee such as the Standing Senate Committee on Human Rights. The prime purpose of a future study would aim to provide recommendations on how to stop forced and coerced sterilizations in Canada. Given the sensitive nature of this issue, the committee reiterates the following suggestions from witnesses on how such a study should be conducted:

- Survivors should be consulted in determining how the study should move forward.

- Witnesses from other groups whose voices have not been heard, including people with disabilities, people living with mental illness, intersex and transgender people, should be invited.

- Survivors should be consulted on how their testimony is included and presented to the committee undertaking the study.

- The process should be culturally appropriate and trauma informed as to not revictimize survivors.

- Survivors can identify where the practice of coerced and forced sterilization is most prevalent, such as regions where there are high Indigenous populations,

Black populations and others. These are regions where interviews (in private meetings due to retriggering trauma) may be conducted in a culturally appropriate and trauma informed manner.

- Sensitivity must be used to recognize the unique circumstances of each survivor.

- In documenting and presenting the stories of survivors, the option of anonymity and de-identification must be offered and carried through.

- In addition to survivors, a future study should include hearings with experts and civil society groups involved with survivors of forced and coerced sterilization, as well as relevant government representatives to update on what has transpired since Study 1 was conducted.

- A future study should examine how other jurisdictions such as Peru have stopped this practice, documented the process, registered victims and established a process to provide reparations for survivors of forced and coerced sterilization.

As such, the committee recommends:

RECOMMENDATION 1

That the Government of Canada respond to this report without delay.

RECOMMENDATION 2

That a parliamentary committee conduct further study on the issue of forced and coerced sterilization of persons in Canada with the goal of identifying solutions to stop the practice, and that the testimony gathered during the Standing Senate Committee on Human Rights' scoping study on this topic during the first session of

the forty-second Parliament be incorporated in the future study. Survivors, affected groups and other stakeholders should be consulted on how to proceed in a sensitive manner with such a study.

WITNESSES

Wednesday, April 3, 2019

Alisa Lombard, Lawyer and Partner, Semaganis Worme Lombard, As an individual

Karen Stote, Author and Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University, As an individual

Jackie Hansen, Gender Rights Campaigner, Amnesty International

Sandeep Prasad, Executive Director, Action Canada for Sexual Health and Rights

Wednesday, April 10, 2019

Anne Curley, Vice President, Pauktuutit Inuit Women of Canada

Francyne Joe, President, Native Women's Association of Canada

Virginia Lomax, Legal Counsel, Native Women's Association of Canada

Melanie Omeniho, President, Women of the Métis Nation

Wednesday, May 15, 2019

Bonnie Brayton, National Executive Director, DisAbled Women's Network of Canada

Morgan Holmes, Representative, Egale

Julie Harris, President and Principal, Contentworks Inc.

Josephine Etowa, Professor, Faculty of Health Sciences, University of Ottawa, As an individual

Dr. Tom Wong, Chief Medical Officer of Public Health and Executive Director, Indigenous Services Canada

Abby Hoffman, Assistant Deputy Minister, Strategic Policy Branch, Health Canada

SUBMISSIONS

Monday, April 1, 2019

Amnesty International

Wednesday, April 3, 2019

Karen Stote, Assistant Professor, Women and Gender Studies Program, Wilfrid Laurier University

Friday, May 17, 2019

Kory Earle, President, People First of Canada and Joy Bacon, President, Canadian Association for Community Living

Dr. F. Gigi Osler, President, Canadian Medical Association

Friday, June 7, 2019

Bill Fairbairn, Program Manager, Inter Pares

Maria Ysabel Cedano, Director, Demus-Estudio para la Defensa de los Derechos de Mujer, Peru

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