

REVIEW ARTICLE

Forced sterilization: the legal and historical aspects

Anastasiia Mernyk, Mariia Turchina, Yuriy Basaraba, Olena Zinchenko

YAROSLAV MUDRYI NATIONAL LAW UNIVERSITY, KHARKIV, UKRAINE

ABSTRACT

Aim: To analyze and summarize the legal, historical aspects of forced sterilization, to outline, systematize the issues related to violations, restrictions on the realization of the right to reproduction, assess their impact on human rights in modern conditions.

Materials and Methods: Theoretical basis for studying issue includes scientific publications and assessments by leading experts in the field, the conclusions of international non-governmental organizations. Practical basis for studying issue includes international regulations. The authors of the paper have also taken into account decisions of the European Court of Human Rights and analyzed Ukrainian judicial practice. The methodological basis of scientific research is general scientific, special scientific methods of cognition. Determinants in the study of this problem are the analysis, synthesis, generalization of the experience and legislative base regarding the legal regulation of human reproductive rights.

Conclusions: The prohibition of forced sterilization has come a long way, from a mere recommendation that states take measures to prevent forced sterilization to a legal obligation to criminalize such acts in national legislation. The prohibition of forced sterilization is an effective means of protecting reproductive rights, which are inalienable human rights. That is why for a person to realize his or her reproductive rights, they must be established not only at the international level but also at the level of national legislation.

KEY WORDS: human rights, reproductive rights, eugenics, right to health care, forced sterilization

Wiad Lek. 2025;78(12):2814-2822. doi: 10.36740/WLek/214414

DOI

INTRODUCTION

Sterilization is a serious intervention in a person's reproductive health, as it affects one of the basic functions of the human body, affecting various aspects of a person's integrity, including their physical and mental well-being and emotional, spiritual and family life. Typically, such surgeries are based on cutting the ejaculatory duct (vasectomy) in men and tying the fallopian tubes in women, as they do not affect the sexual desire or personality of the operated persons (unlike, for example, castration).

Today, despite the growing recognition of negligent, abusive and degrading treatment of women during childbirth and other obstetric procedures in healthcare facilities, there is no global consensus on how these cases can be identified and measured [1].

The World Health Organization advocates the division of obstetric violence into seven distinct categories: physical interference (such as beating and slapping), non-consensual care (lack of informed consent to procedures), non-disclosure (sharing confidential information without consent), and undignified care (such as intentional humiliation, such as swearing and yelling at women), discrimination (usually based on

ethnicity, race, economic status, education, religion, or age), abandonment (leaving a woman alone during and/or after childbirth), and keeping in facilities (e.g., keeping a woman or baby in a clinic until the bill is paid) [2].

Various variations of non-consensual assistance, including during childbirth, include forced sterilization [3]. Such non-consensual actions are particularly common in low- and middle-income countries, where women are often not informed about the risks and reasons for interventions during childbirth and are not asked for consent for procedures to be performed during childbirth [4]. For example, Zishilo Dludlu from South Africa was sterilized without her consent. It happened in 2011 in a hospital during her third delivery. Zishilo is one of many women who have been subjected to forced sterilization in the past 20 years in 38 countries around the world [5].

AIM

To analyze and summarize the legal and historical aspects of forced sterilization, to outline and systematize the issues related to violations and restrictions on the

realization of the right to reproduction, assess their impact on human rights in modern conditions.

MATERIALS AND METHODS

Theoretical basis for studying this issue includes scientific publications and assessments by leading experts in the field, the conclusions of international non-governmental organizations. Practical basis for studying this issue includes international regulations, including European Convention on Human Rights, Council of Europe Convention on preventing and combating violence against women and domestic violence and other. The authors of the paper have also taken into account decisions of the European Court of Human Rights and analyzed Ukrainian judicial practice. The methodological basis of scientific research is general scientific and special scientific methods of cognition. Determinants in the study of this problem are the analysis, synthesis and generalization of the experience and legislative base regarding the legal regulation of human reproductive rights.

The main methodology was the philosophical method, which includes a dialectical approach to scientific research. This made it possible to find the reasons for the existence of forced sterilization in historical retrospect, to determine their internal patterns. The transcendental method made it possible to determine the essence of human reproductive rights by revealing the subjective conditions of their formation. The hermeneutic method served as an auxiliary mechanism for explaining legal norms aimed at regulating the institution of human sterilization. The dialectical general scientific approach was applied in revealing the genesis of human reproductive rights and forced sterilization, in studying the legal position of the European Court of Human Rights on these issues, in understanding the peculiarities of the balance of interests of the individual and society in the implementation of human reproductive rights. The provisions of the current legislation regulating the sterilization process and the decisions of the European Court of Human Rights were analyzed using a systematic method, and the right to respect for the rights of the fourth generation in the human rights system was also considered. The method of ascending from the concrete to the abstract has determined the main objects of the legal protection of human reproductive rights. The sociological and legal group method of research has made it possible to clarify the social conditioning of the existence of forced sterilization in historical retrospect. Special scientific methods have acquired special importance in the research, in particular the method of interpretation of legal norms. It has been used to study

the content of regulatory legal acts regulating the issue of the institution of sterilization.

ETHICS

This review article is based on an analysis of publicly available scientific data published in peer-reviewed journals, clinical guidelines and databases. No patient-identifying data was used during the work, nor was there a need to obtain approval from an ethics committee, as the study did not include new clinical interventions or initial collection of patient information.

REVIEW AND DISCUSSION

The legal regulation of forced sterilization has gone through several stages of evolution: the legalization of forced sterilization at the national level, the formation of an international discourse and the gradual condemnation of this practice; its prohibition; and the enshrinement of the prohibition in international legal acts.

Scientists consider forced sterilization from a medical, social, historical, political, gender, psychological, international and national legal perspective.

Meghan A. in her article highlights the problem of physical and psychological violence against women in medical institutions [1]. The report by Bowser D. provides evidence of violence, inadequate information, humiliation and physical abuse of women in healthcare facilities [2]. It's noted in the research of Castro R. that a significant proportion of women experience violence during childbirth in Mexico [3]. Martín-Badia et al. believe that obstetric violence contradicts basic bioethical principles [6-13]. These researches don't explicitly mention forced sterilization, but the violation of women's rights in these cases creates conditions for sterilizations without the consent of the patients.

A large group of articles and sources include analyses of the national experience of legal regulation of forced sterilization. In particular, in her article, Avila V. directly analyses cases of sterilization of women in California prisons [14]. Lira, N. in her article examined cases of forced sterilization of Mexican Americans in California and made a legal analysis of this [15-26]. Dyer, O. analyses the historical experience of legal regulation of sterilization in Japan [15]. The article by Zampas highlights the problem of forced and coerced sterilization of women in Europe as a violation of human rights guaranteed by international treaties [27]. The research conducted by the American University Washington College of Law analyses cases of forced sterilization in Peru as crimes against humanity and their legal consequences [28]. Reilly, P. R. in his work studied the legislation and court

decisions (Buck v. Bell case) that regulated forced sterilization in the United States [29]. Tsuji, Y. conducted a research of legislation and legal practice in Japan on forced sterilization and abortion [30].

The importance of international recognition of the fact that forced sterilization of women is a fundamental violation of the prohibition of discrimination is an important step in ensuring the cessation of this practice was argued in the work of Patel, P [31]. Nikolić, I. in his article analyses international experience in the legal regulation of forced sterilization of women, drawing attention to the need for reforms in this area [32].

Obstetric violence is still too invisible, and the word "violence" in this phrase and formulation is unacceptable, and difficult to define and describe, as it is a subjective experience. Obstetric violence has been analyzed from a legal, sociological and clinical perspective, but the bioethical aspect must also be considered as it violates basic bioethical principles (nonmaleficence, beneficence, autonomy, justice, vulnerability, dignity and fairness). In addition, whether it is called violence or not, it is ethically important that as long as women have such a negative experience during pregnancy and childbirth, obstetric care is not in line with the principle of humanism [6]. It has been repeatedly emphasized that in the modern conditions of the development of civilization, the introduction of the principle of humanism in all spheres of social life, restrictions on human rights must be reasonable and proportionate [7].

Although for a long time, the international community did not recognize the problem of forced sterilization, with the development of theoretical studies and recognition of the reproductive rights of individuals as part of the general right to health at the international level, the discussion of the prohibition of forced sterilization began.

Thus, in 1968, a proclamation was adopted in Tehran, which stated that parents have the basic human right 'to determine freely and responsibly the number and spacing of their children' [33]. At the same time, the document didn't contain any norms that would regulate the mechanisms for protecting this right and an explicit prohibition on forced sterilization. This resulted in an ambiguous interpretation of this norm by countries and the introduction of forced sterilization at the state level [34]. This proves the need for further development of the international legal discourse and regulatory consolidation of the protection of this right.

In Cairo in 1994, the Programme of Action of the International Conference on Population and Development enshrined reproductive human rights [35]. According to the document, they include the human right to

decide freely and responsibly on the number, spacing and timing of children, as well as the right to access information and means to exercise this right. They also include the right of all people to make decisions about reproduction free from discrimination, coercion and violence. Although we do not see an explicit prohibition on forced sterilization in these provisions, the principles enshrined effectively preclude the practice. The programmer has influenced the policies of many states that have implemented the principles of voluntary and informed choice in contraception and sterilization in their legislation. For example, Albania, Benin and Chad have adopted laws guaranteeing the right to voluntary sterilization and other reproductive services in line with the ICPD principles [36].

In 1998, the Rome Statute of the International Criminal Court was supplemented by a new article that classified forced sterilization as a crime against humanity (Article 7)[37]. The act states that "Sterilization was forcibly committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack". In 2021, the ICC found Dominic Ongwen guilty of crimes against humanity and war crimes, including forced sterilization. This was the first time that the ICC issued a judgment that included forced sterilization as a crime against humanity under Article 7(1)(g) of the Rome Statute [38].

In 2002, the Council of Europe adopted the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence) [8]. This is the first legally binding document in Europe on the prohibition of violence against women and domestic violence, it prohibits forced sterilization in Article 39. This article criminalized the intentional conduct of a person to perform a surgical intervention, the purpose or effect of which is to terminate a woman's ability to reproduce naturally without her prior and informed consent or understanding of the procedure. States Parties undertake to take the necessary legislative or other measures to ensure the criminalization of these intentional acts. To implement this, states must adapt their legislation by the requirements of the Convention, ensuring effective investigation and punishment of such crimes. The implementation of the Istanbul Convention, in particular Article 39, is monitored by the Group of Experts on the Elimination of Violence against Women and Domestic Violence (GREVIO). The body monitors the implementation of the Convention's provisions in the national legislation of the States Parties [8].

In 2005, the Universal Declaration on Bioethics and Human Rights (UNESCO) was adopted, which stipulates that any preventive, diagnostic and therapeutic medical

intervention should be carried out only with the prior, free and informed consent of the person concerned, based on adequate information [35]. Although no article in the Convention explicitly prohibits forced sterilization, the enshrining of the above rights essentially prohibits forced sterilization.

In 2006, The UN Convention on the Rights of Persons with Disabilities (CRPD) enshrined provisions on the rights of persons with disabilities to bodily integrity, the right to parenting, the right to voluntary, and informed consent to medical procedures and reproductive autonomy [39]. A person's right to make decisions should not be overridden by the decisions of a third party. Although there is no article in the Convention that explicitly prohibits forced sterilization, the enshrining of the above rights essentially prohibits forced sterilization. The UN Committee on the Rights of Persons with Disabilities in its General Comments explicitly recognizes forced sterilization as a violation of the rights under the CRPD [40].

In 2017, significant changes were introduced to the legislation regulating the sterilization of individuals in Ukraine, specifically the criminalization of forced sterilization of incapacitated persons, even with the consent of their guardians.

According to the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Health Care", informed consent is a prerequisite for any medical procedure, including sterilization" [40]. Part 4 of Article 134 of the Criminal Code of Ukraine [41] also provides for criminal liability in the form of restraint of liberty for up to five years with or without deprivation of the right to hold certain positions or engage in certain activities for up to three years for forcing sterilization without the voluntary consent of the victim, and part 5 provides for another five years of imprisonment for forcing sterilization without the voluntary consent of the victim if it caused the victim's death or other serious consequences. The provisions of this article are the implementation of Ukraine's obligations under the Istanbul Convention and the CRPD. However, the practical application of this provision in Ukraine is extremely rare, as evidenced by the small number of sentences passed under Article 134 of the CC [42]. This is due to the difficulty of proving coercion and the low level of awareness of victims of their rights.

An analysis of court decisions in Ukraine, particularly from the Unified State Register of Court Decisions, shows that there have been no charges or court rulings under Part 4 of Article 134. This indicates the absence of documented forced sterilization cases in Ukraine since the criminalization of such acts. In our view, this may be explained by two reasons.

Firstly, Part 4 of Article 134 of the Criminal Code of Ukraine (CCU) was introduced on 6 January 2017. Prior to that, sterilization of individuals had been qualified as grievous bodily harm, and the punishment had been determined under Articles 121, 128, or 140 of the CCU, depending on the form of guilt. The introduction of Part 4 of Article 134 led to legal conflicts with existing provisions, especially with Article 121, which carries a more severe sanction. This has complicated the legal classification of acts related to forced sterilization.

Secondly, the issue is rooted in the historical absence of legal regulation concerning forced sterilization in the Ukrainian SSR, as well as the official ban on eugenics and genetics in the 1930s. In the USSR, there was no centralized campaign similar to the American laws on forced sterilization between 1907 and the 1960s. Furthermore, no specific law prohibited or regulated forced sterilization.

Forced sterilization has historically been used as a tool of eugenics and associated with Nazi Germany [5]. According to the Law for the Prevention of Hereditarily Diseased Offspring of 1933 allowed for the forced sterilization of any citizen who, according to the opinion of the 'Court of Genetic Health', suffered from a list of genetic disorders.

However, Germany is not the only country that implemented such a policy through various social programs. During 1907 and 1931, countries such as Norway, Denmark, Finland, the United States, Estonia, the Free City of Danzig, Switzerland, Canada, and Japan passed laws allowing for forced sterilization. This practice was mainly implemented about people with mental illness and intellectual disabilities. In Europe, Denmark was the first country to adopt a law allowing forced sterilization of persons with mental disorders or hereditary diseases in 1925 [43].

Negative eugenics, which is aimed at preventing the reproduction of people with "undesirable" characteristics for a particular society at a certain stage of its existence, was part of the policy in the United States of America and Scandinavian countries.

In 1907, Indiana was the first state to legalize involuntary sterilization. Chapter 215 was intended to prevent the reproduction of persons who were 'proven felons, idiots, imbeciles, and rapists' [44]. The law empowered the governors of the institutions where such persons were held to appoint a committee of experts consisting of two physicians to examine the mental condition of such prisoners [45]. In 1909, the governor suspended the law, and in 1921, the law was overturned by the Indiana Supreme Court. And in 1927, a new law was passed that allowed forced sterilization. Before it was repealed in 1974, more than 2,300 citizens of the state

were forcibly sterilized [46]. According to the North Carolina law; people with an IQ below 70 were subjected to forced sterilization [47].

In 1924, the court case *Buck v. Bell* was heard to test the constitutionality of the new law on forced sterilization. As a result of the proceedings, the US Supreme Court upheld the law and recognized sterilization as legal with a court decision that is known for the quote: 'Three generations of imbeciles is enough [47]. This had immediate consequences: over the next few years, about ten states passed sterilization laws.

Sterilization never became widespread in American prisons, in part because of federal court rulings in Iowa and Nevada that found it to be a violation of the Eighth Amendment's prohibition against cruel and unusual punishment [48]. But between 1907 and 1939, some 30 states passed laws that gave the heads of state institutions for the mentally disabled the right to sterilize those they deemed unfit to be parents.

In 1942, the US Supreme Court struck down an Oklahoma law that allowed the forced sterilization of certain 'repeat offenders', but refused to revisit or limit the precedent of *Buck v. Bell* [49].

After World War II, most state eugenic sterilization programs in the United States gradually ceased to exist.

The province of Alberta in Canada passed a sterilization law in 1928. Over the next 60 years, 2834 people were sterilized in Canada [50].

For example, the eugenic policy of forced sterilization in Finland in 1935-1970 is described by M. Matila in the article "Regional Differences in Finland's Eugenic Forced Sterilization Policy and The Influence of Actors 1935-1970" [10]. We also find similar examples in the history of Sweden. In the 1930s, the country implemented the idea of racial biology, hygiene, and the "improvement" of society through forced sterilization. In 1934, the Riksdag passed the Law on Forced Sterilization [11], which was in effect until 1976. The state sterilized various groups of people, such as people with mental disabilities, women who applied for maternity benefits (child benefits) but were found to have too many children, and women in specialized institutions (places of captivity) [12]. After the repeal of the law that allowed this type of forced sterilization, in 2000 the government publicly apologized and paid financial compensation to those who had been forcibly sterilized.

This policy of the countries was aimed at building an "ideal" society, countries populated by "ideal" people, healthy, strong and economically profitable, and for this, it is necessary to "cleanse" the gene pool of nations, which is possible through forced sterilization.

The second stage of the forced sterilization procedure in Sweden was implemented in 1972 based on the

Act on the Determination of Human Sex in Special Cases, which defined the conditions under which trans people have the right to change their sex. Until 2013, sterilization was the main requirement for transition operations and change of "official" sex. Transgender people were also not allowed to retain any germ cells, so they had to choose between taking on a new gender or becoming a biological parent [13]. Since January 2013, forced sterilization can no longer be used for sex reassignment in Sweden, as it is contrary to the Swedish Constitution and the European Convention and is discriminatory. After the Riksdag abolished the requirement for forced sterilization in the legal text, about 160 people filed a claim for compensation for forced sterilization to the Chancellor of Justice.

The article "Controlling Reproduction and Disrupting Family Formation: California women's Prisons and the Violent Legacy of Eugenics" by A. Vrindevani and J. Ellis [14] is devoted to forced sterilization in California prisons over the past two decades. The authors emphasize that prisons in the United States serve as a place and embodiment of gender and racial state violence. The US incarcerates more people than any other country, both in number and per capita. Women's prisons account for 10% of the total prison population, but women's prisons remain under-researched, and the violence that occurs in women's prisons is rampant, widespread, and racially and gender-specific. The article emphasizes that eugenics policies were popularized and promoted in the United States and around the world in the 20th century. The height of the eugenics era was marked by the forced sterilization of "deviant" individuals, but such policies sometimes go beyond surgical interventions. The hierarchical, racialized social stratification of "deviant" individuals in prisons is driven by eugenic logic, policy, and practice and is inconsistent with reproductive justice.

Under the Eugenics Protection Act of 1948, about 16,500 people were forcibly sterilized in Japan, some as young as 9 years old. Another approximately 8,500 were sterilized after they or their parents gave their consent, which was obtained under heavy pressure from the state. About 70% were girls. The purpose of forced sterilization and the adoption of such a law is to prevent the birth of defective offspring from a eugenic point of view [15].

Recent studies show that the procedure of forced sterilization is not exclusively in history books and is widely used in the 21st century. For example, a report by Global Public Health describes the case of four Indigenous women in Canada who claimed to have been forced to undergo sterilization between 2005 and 2010. In

Japan, sterilization is one of the mandatory conditions of sex reassignment surgery for transgender people. If they refuse sterilization, they are refused surgery [5].

"I would never have agreed to sterilization. What they did to me was very cruel. Now I feel like a useless thing. I am dead," says a woman who was sterilized in a South African hospital. Hospital records show that she signed her consent for sterilization [16]. However, the woman herself denies that she gave consent and believes that she was forcibly sterilized, in particular because she is HIV-positive. The United Nations Special Rapporteur on the right to health, Dr. Tlaleng Mofokeng, notes that women are simply forced to sign consent forms for sterilization during childbirth, when they are particularly vulnerable, without explaining what exactly they are signing [5].

In general, there is evidence of a widespread lack of processes for informing patients or obtaining their consent for sterilization procedures during childbirth. Respondents from Latin America, Africa and, Eastern Europe confirmed the absence of routine patient information and obtaining consent for obstetric intervention [17].

Therefore, access to information is crucial for patients to give their consent to medical procedures and treatments. Numerous cases have been documented around the world where women have been routinely or systematically denied their right to informed consent before sterilization [18]. To be considered legal and valid, consent to sterilization must be given freely and voluntarily, without threats or inducements, after the patient has been informed about the risks and benefits of the procedure, and after alternative counseling about other forms of contraception [19].

Forced sterilization often targets vulnerable populations, especially women from marginalized sections of society, based on discriminatory beliefs and policies about who should have children and who should not. Racial and ethnic minorities, indigenous women, women with intellectual or mental disabilities, transgender individuals, and women living with HIV are particularly vulnerable to coercion of sterilization [20].

This is why there are calls today for states to reform informed consent laws to protect the autonomy of decision-making regarding sterilization procedures, especially for marginalized groups, including persons with disabilities and adolescents, and to ensure that laws do not inherently coerce individuals to undergo forced sterilization.

Forced sterilization has also been the subject of consideration by the European Court of Human Rights. The factual circumstances of the case concerned the testimony of Gypsy women in the Czech Republic,

Hungary and Slovakia who, according to their testimony, were forced to agree to sterilization during childbirth.

In the case "V.C. v. Slovakia" [21], the applicant, a Roma woman of ethnic origin, was sterilized immediately after the birth of her second child. She signed a consent to sterilization during childbirth after being informed that if she had a third child, she or the child would die. After the sterilization, she was ostracized from Roma society and soon divorced her husband. Infertility was the main reason for the divorce. In its decision, the European Court of Human Rights stated that the applicant must have experienced humiliation, suffering and a sense of inferiority in connection with the sterilization.

The European Court of Human Rights recognized a violation of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms [22] (the right to respect for private and family life) due to the existence of insufficient legal guarantees that could ensure special attention to reproductive health of women from the Roma community. In general, the forced sterilization of Roma women is a large-scale problem. The European Court of Human Rights has repeatedly considered cases in which this issue was raised, in particular, in "K.H. and others v. Slovakia" [23], and "V.C. v. Slovakia" [24]. In all these cases, the Court stated a violation of Article 8 of the Convention on the Protection of Human Rights and Fundamental Freedoms. We see that the decisions of the European Court of Human Rights play an important role in the process of enshrining reproductive rights in national legislation. The perfection of legislation, which regulates any sphere of activity, is an important condition for the effective performance by the state of its functions [25].

As for the domestic investigation of cases of forced sterilization of Roma in Slovakia, the investigation was launched in 2003, suspended three times, but reopened after complaints to the Constitutional Court, which found the investigation ineffective. The UN Committee on the Elimination of Discrimination against Women recommended that Slovakia take all necessary measures to ensure fair consideration of the complaints submitted by Roma women regarding their forced sterilization and to provide victims of such practices with effective legal remedies [26].

The Czech authorities also acknowledged the fact that there had been cases of sterilization of Roma women in the past, but they do not believe that such actions were carried out "for reasons of racial or national prejudice." For example, Iveta Chervenakova was illegally sterilized without her consent in 1997 after the birth of her second daughter by cesarean section. In November, the Supreme Court overturned a 2007

decision by the Regional Court, according to which the city hospital had to pay €20,460 in compensation and apologize for violating her rights. The decision was overturned because the three-year statute of limitations had expired, and only an apology was required from the hospital [26].

The British TV channel BBC One broadcasted secret footage of the use of forced sterilization of young people with severe mental and physical disabilities, disabled people in several social care homes. The National Human Rights Defender (Ombudsman) made unannounced visits to psychiatric institutions. During the visits, the facts of forced sterilization in geriatric psychiatric departments were confirmed [26].

In general, the forced sterilization of certain categories of people often became part of population policy not only in totalitarian or authoritarian regimes. In India, women were offered sterilization to overcome population growth. Poor illiterate women were rushed through the formal consent procedure. They were asked to leave a fingerprint without reading the contents of the form or fully explaining the procedure [27]. In connection with this situation, some scholars point to the need to recognize sterilization as forced not only when this procedure is carried out without the person's consent, but also when the person has not been explained the nature and consequences of the sterilization. Failure to provide individuals with complete information

about sterilization didn't formally indicate physical or psychological coercion, but essentially limited freedom of choice [28].

CONCLUSIONS

The prohibition of forced sterilization has come a long way, from a mere recommendation that states take measures to prevent forced sterilization to a legal obligation to criminalize such acts in national legislation. Although there are now states where there are cases of forced sterilization, and in some even as part of demographic policy, the world community has defined these actions as a crime against humanity. Forced sterilization interferes with the very essence of human reproductive rights, the right to choose how to dispose of one's body. The ratification of the Istanbul Convention by modern countries is a step towards solving the problem of ensuring the reproductive rights of citizens of modern countries.

The prohibition of forced sterilization is an effective means of protecting reproductive rights, which are inalienable human rights. That is why for a person to realize his or her reproductive rights, they must be established not only at the international level but also at the level of national legislation. By enshrining a direct prohibition in the legislation of a particular state, its citizens can be sure that their rights will not be violated.

REFERENCES

1. Bohren M, Vogel J, Hunter E et al. The mistreatment of women during childbirth in health facilities globally: a mixed-methods systematic review. *PLoS Med.* 2015;12(6):e1001847. doi:10.1371/journal.pmed.1001847. [DOI](#)
2. Bowser D, Hill K. Exploring evidence for disrespect and abuse in facility-based childbirth. Harvard School of Public Health & University Research Co., LLC. 2010. https://www.urc-chs.com/sites/default/files/urc_usaid_mchip_disrespect_abuse_literature_review.pdf. [Accessed 6 November 2025]
3. Castro R, Frías S. Obstetric violence in Mexico: results from a 2016 National Household Survey. *Violence Against Women.* 2020;26(6-7):555–572. doi: 10.1177/1077801219836732. [DOI](#)
4. WHO recommendations: intrapartum care for a positive childbirth experience. World Health Organization. Geneva: World Health Organization; 2018. <https://apps.who.int/iris/handle/10665/260178>. [Accessed 6 November 2025]
5. Ya bil'she ni dlya choho ne pryatna. Chomu v XXI stolitti prymusovo sterylizuyut' zhinok. [I am no longer fit for anything. Why are women being forcibly sterilized in the 21st century?]. BBC NEWS Ukraine. 2021. <https://www.bbc.com/ukrainian/features-56734545>. [Accessed 6 November 2025]
6. Parra Jounou I, Trivino-Caballero R, Cruz-Piqueras M. For, against and beyond: healthcare professionals' positions on Medical Assistance in Dying in Spain. *BMC Medical Ethics.* 2024;25(1):69:2–14. doi: 10.1186/s12910-024-01069-1. [DOI](#)
7. Bukhanevych O, Kuznichenko S, Mernyk A. Foreign experience in constitutional and legal regulation of restrictions on human rights in conditions of emergency and martial law. *Journal of the National Academy of Legal Sciences of Ukraine.* 2021;28(2):55–66. doi:10.37635/jnalsu.28(2). [DOI](#)
8. Council of Europe. Council of Europe Convention on preventing and combating violence against women and domestic violence. 2011. <https://rm.coe.int/ic-and-explanatory-report/16808d24c6>. [Accessed 6 November 2025]
9. Kryminal'nyy kodeks Ukrayiny 2001 r. Verkhovna Rada Ukrayiny. Zakonodavstvo Ukrayiny. [Criminal Code of Ukraine 2001. Verkhovna Rada of Ukraine. Legislation of Ukraine]. <https://zakon.rada.gov.ua/laws/show/2341-14#Text>. [Accessed 6 November 2025] (Ukrainian)
10. Mattila M. Sterilization policy and Gypsies in Finland. *Romani Studies.* 2018;28(1):109–139. doi:10.3828/rs.2018.5. [DOI](#)

11. Tydén M. Från politik till praktik: de svenska steriliseringslagarna. [From politics to practice: the Swedish sterilization laws 1935–1975.]. Libris. 2002. <http://libris.kb.se/bib/8407930> [Accessed 6 November 2025] (Swedish)
12. Bakgrund till tvångssteriliseringarna och RFSL:s arbete. [Background to the forced sterilizations and RFSL's work]. RFSL. 2021. <https://www.rfsl.se/verksamhet/trans/bakgrund/>. [Accessed 6 November 2025] (Swedish)
13. Ny könstillhörighetslag. [New gender identity law]. RFSL. 2024. <https://www.rfsl.se/verksamhet/trans/ny-konstillhorighetslag/>. [Accessed 6 November 2025] (Swedish)
14. Avila VJ, Elyse J. Controlling reproduction and disrupting family formation: California women's prisons and the violent legacy of eugenics. Societies open Access. 2024;14(5):73. doi:10.3390/soc14050073. [DOI](#)
15. Dyer O. Court orders Japanese government to compensate people over forced sterilisations. BMJ. 2024;386:q1498. doi: 10.1136/bmj.q1498. [DOI](#)
16. Center for Reproductive Rights.; International Federation of Women Lawyers. Failure to deliver: violations of women's human rights in Kenyan health facilities. New York: Center for Reproductive Rights; Nairobi, Kenya: Federation of Women Lawyers-Kenya (FIDA). 2007, p. 104.
17. Response to Call for Submissions in Connection with the Convention on the Elimination of Discrimination Against Women General Discussion on Access to Justice. Centre for reproductive rights. United Nations Human Rights. <https://www.ohchr.org/sites/default/files/documents/HRBodies/CEDAW/AccessToJustice/CenterForReproductiveRights.pdf>. [Accessed 6 November 2025]
18. Positive obligations. Absence of safeguards giving special consideration to the reproductive health of a Roma woman: violation V.C. v. Slovakia - 18968/07. Information Note on the Court's case-law. 2011;146:18.
19. Konventsya pro zakhyst prav lyudyny i osnovopolozhnykh svobod (Yevropeys'ka konventsya z prav lyudyny). Verkhovna Rada Ukrayiny. Zakonodavstvo Ukrayiny. [Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Verkhovna Rada of Ukraine. Legislation of Ukraine]. https://zakon.rada.gov.ua/laws/show/995_004#Text. [Accessed 6 October 2025] (Ukrainian)
20. Decision of the European Court of Human Rights in the case «K.H. and other v. Slovakia», application no. 32881/04. (2009, April). [https://hudoc.echr.coe.int/ukr%22fulltext%22:\[%2232881/04%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-92418%22\]/>/. \[Accessed 6 November 2025\]](https://hudoc.echr.coe.int/ukr%22fulltext%22:[%2232881/04%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-92418%22]/)
21. Decision of the European Court of Human Rights in the case «V.C. v. Slovakia», application no. 18968/07. (2011, November). [https://hudoc.echr.coe.int/ukr%22fulltext%22:\[%2218968/07%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-107364%22\]}. \[Accessed 6 November 2025\]](https://hudoc.echr.coe.int/ukr%22fulltext%22:[%2218968/07%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-107364%22])
22. Mernyk A, Zinchenko O, Sydorenko O, Chevychalova Zh. Legal regulation of the institute of transplantation in Ukraine. Wiad Lek. 2023;76(7):1685–1694. doi: 10.36740/WLek202307126. [DOI](#)
23. The state of the world's human rights. Amnesty international report 2009. Amnesty international. 2009, p. 424 <https://www.amnesty.org/en/wp-content/uploads/2021/06/pol100012009en.pdf>. [Accessed 6 November 2025]
24. Shcherbyna B. Zmist absolyutnoho prava na zhytтя. [The content of the absolute right to life]. Aktual'ni problemy derzhavy i prava. 2017;79:182–187. (Ukrainian)
25. Bukhanevych O, Mernyk A, Petryshyn O. Pidkhody do rozuminnja katehoriyi «spetsial'ni pravovi rezhymi». [Approaches to understanding the category «special legal regimes»]. Visnyk Natsional'noyi akademiyi pravovykh nauk Ukrayiny. 2021;1(28):71–78. (Ukrainian)
26. Lira N., Stern A. Mexican Americans and eugenic sterilization: Resisting reproductive injustice in California, 1920–1950. Journal of Chicano Studies. 2014;39(2):9–34. <https://experts.illinois.edu/en/publications/mexican-americans-and-eugenic-sterilization-resisting-reproductiv>. [Accessed 6 October 2025]
27. Zampas C, Lamačková A. Forced and coerced sterilization of women in Europe. International Journal of Gynecology & Obstetrics. 2011;114(2):163–166. doi:10.1016/j.ijgo.2011.05.002. [DOI](#)
28. American University Washington College of Law. Forced sterilizations as a crime against humanity: Amicus brief in support of the petitioners. 2018. <https://www.wcl.american.edu/impact/initiatives-programs/hracademy/documents/upload/amicus-on-forced-sterilizations.pdf>. [Accessed 6 October 2025].
29. Reilly P. Eugenics and involuntary sterilization: 1907–2015. Annual Review of Genomics and Human Genetics. 2015;16:351–368. <https://doi.org/10.1146/annurev-genom-090314-024930>.
30. Tsuji Y. Forced sterilization and abortion in Japan: Family and constitution. Bratislava Law Review. 2018;2(2):85–100. doi:10.46282/blr.2018.2.2.118. [DOI](#)
31. Patel P. Forced sterilization of women as discrimination. Public Health Reviews. 2017;38(1):15. doi:10.1186/s40985-017-0060-9. [DOI](#)
32. Nikolić I. International legal framework for the prohibition of forced sterilisation of women and girls with disabilities. 2022. https://www.researchgate.net/publication/375693520_International_Legal_Framework_For_The_Prohibition_Of_Forceful_Sterilisation_Of_Women_And_Girls_With_Disabilities. [Accessed 6 October 2025]
33. United Nations. Proclamation of Teheran, International Conference on Human Rights, Teheran, 1968. <https://hrlibrary.umn.edu/instreer/>

l2ptichr.htm. [Accessed 6 October 2025]

34. Bracke M. Women's rights, family planning, and population control: The emergence of reproductive rights in the United Nations (1960s–70s). University of Glasgow. 2023. <https://eprints.gla.ac.uk/301716/2/301716.pdf>. [Accessed 6 October 2025]

35. UNESCO. Universal Declaration on Bioethics and Human Rights. 2005. <https://unesdoc.unesco.org/ark:/48223/pf0000146180>. [Accessed 6 October 2025]

36. Center for Reproductive Rights. Governments in action: Highlighting efforts to implement the ICPD Programme of Action. 2005. https://reproductiverights.org/wp-content/uploads/2020/12/pub_bp_gia.pdf. [Accessed 6 October 2025]

37. International Criminal Court. Rome Statute of the International Criminal Court. 1998. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>. [Accessed 6 October 2025]

38. Decision of the International Criminal Court in the case «The Prosecutor v. Dominic Ongwen (ICC-02/04-01/15)». Judgment pursuant to article 74 of the Statute. (2021, February). https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_01165.PDF. [Accessed 6 October 2025]

39. United Nations. Convention on the Rights of Persons with Disabilities (CRPD). 2006. <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>. [Accessed 6 October 2025]

40. Committee on the Rights of Persons with Disabilities. General comment No. 1 (2014) on article 12: Equal recognition before the law (CRPD/C/GC/1). United Nations. 2014. <https://digitallibrary.un.org/record/812024>. [Accessed 6 October 2025]

A Full list of literature sources is available from the author

CONFLICT OF INTEREST

The Authors declare no conflict of interest

CORRESPONDING AUTHOR

Anastasiia Mernyk

Yaroslav Mudryi National Law University
77 Hryhoriy Skovorody St, 61024 Kharkiv, Ukraine
e-mail: Mernik.n@gmail.com

ORCID AND CONTRIBUTIONSHIP

Anastasiia Mernyk: 0000-0002-9762-3057 A B D E F
Mariia Turchina: 0000-0002-1486-1122 D
Yuriy Basaraba : 0009-0004-6398-3072 B
Olena Zinchenko: 0000-0001-6083-8727 B

A – Work concept and design, B – Data collection and analysis, C – Responsibility for statistical analysis, D – Writing the article, E – Critical review, F – Final approval of the article

RECEIVED: 21.12.2024

ACCEPTED: 18.11.2025

