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# FORCED SEXUAL STERILISATION OF PERSONS WITH DISABILITIES: BETWEEN INTERNATIONAL OBLIGATIONS AND NATIONAL IMPLEMENTATION: A COMPARATIVE STUDY

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## ABSTRACT

***Background:*** *This study investigates the legal regulation of forced sterilisation of persons with disabilities through a comparative analysis of the United Arab Emirates, the Czech Republic, and the United States, evaluated against international human rights norms, particularly the Convention on the Rights of Persons with Disabilities (CRPD). Unlike much of the existing literature, which reiterates established prohibitions, this research highlights the persistence of legal loopholes that enable sterilisation without personal consent, including third-party authorisation in the UAE, guardianship and judicial approval in the Czech Republic, and significant disparities across U.S. states.*

***Methods:*** *Employing a descriptive-analytical comparative methodology, the study systematically examines constitutional, legislative, and judicial texts, integrates human rights*

*jurisprudence, and draws on UN and NGO reports to assess practical enforcement. The findings demonstrate three original contributions: (1) mapping the causal link between guardianship regimes and the continuation of forced sterilisation practices; (2) exposing the inadequacy of partial remedies, such as the Czech Victims' Compensation Act, in addressing systemic violations; and (3) proposing a concrete policy framework comprising cooling-off periods, substituted consent, simplified consent procedures, a national registry, and redress mechanisms.*

***Results and Conclusions:*** *The research advances the debate by moving beyond normative condemnation to offer an actionable reform blueprint. It argues that protecting reproductive autonomy requires universal and explicit prohibition of sterilisation without free and informed personal consent, the replacement of guardianship with decision-support systems, and the removal of sterilisation requirements from administrative processes such as legal gender recognition. By integrating comparative evidence with practical policy tools, the study contributes a novel pathway for aligning domestic laws with the CRPD and strengthening accountability in the protection of reproductive rights.*

## 1 INTRODUCTION

The practice of forcibly sterilising persons with disabilities is among the gravest violations of human rights. It deprives the individual of the ability to make personal decisions regarding procreation and is often carried out under the pretext of "care" or "the best interests." International bodies have condemned this practice for decades. In 2014, United Nations agencies, including the World Health Organization, affirmed that sterilisation must never be performed except on the basis of free, fully informed consent, and that forced sterilisation violates a constellation of fundamental rights—among them the rights to health, information, privacy, decision-making about the number and spacing of children, family formation, and non-discrimination, as well as the right not to be subjected to torture or cruel treatment. The joint statement by UN agencies further characterises the practice as a form of violence against women and persons with disabilities.[1]

Within international human rights law, both the International Covenant on Civil and Political Rights[2] and the Convention on the Elimination of All Forms of Discrimination against Women[3] protect bodily integrity and freedom from torture or inhuman

1 World Health Organization, *Eliminating Forced, Coercive and Otherwise Involuntary Sterilization: An Interagency Statement, OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO* (WHO 2014) <https://iris.who.int/handle/10665/112848> accessed 20 June 2025.

2 UNGA Res 2200A (XXI) 'International Covenant on Civil and Political Rights' (16 December 1966) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> accessed 20 June 2025.

3 UNGA Res 34/180 'Convention on the Elimination of All Forms of Discrimination against Women' (18 December 1979) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> accessed 20 June 2025.

treatment. This is made explicit in the Convention on the Rights of Persons with Disabilities (CRPD),[4] which affirms that every person with a disability has the right to respect for his or her physical and mental integrity on an equal basis with others.[5] The CRPD further recognises the right to marry and found a family based on free and full consent, to decide freely and responsibly on the number and spacing of children, and to retain fertility on an equal basis.[6]

Forced sterilisation is therefore in direct conflict with states' international obligations, as1 it strips the individual of reproductive freedom and interferes with bodily and mental integrity.

National constitutions likewise contain guarantees that reinforce these rights. The Constitution of the United Arab Emirates[7] (UAE) affirms equality, social justice, security, and equal opportunities for all citizens;[8] obliges society to care for those unable to care for themselves because of illness or incapacity;[9] guarantees equality before the law without discrimination;[10] and protects personal liberty while prohibiting torture and degrading treatment.[11] Read together, these provisions ground a constitutional right of persons with disabilities to protection from degrading treatment and require their free, informed consent for any medical intervention affecting fertility.

In the Czech Republic, the Charter of Fundamental Rights and Freedoms[12]—part of the constitutional order—declares that all people are free and equal in dignity and rights[13] (prohibits discrimination on grounds such as sex or race "and other statuses";[14] protects the inviolability of the person and private life, and prohibits torture or inhuman treatment;[15] and guarantees protection of personal dignity and bodily integrity.[16] Forced sterilisation conflicts with these provisions by violating bodily sanctity and human dignity and by relying on disability-based discrimination.

Coercing persons with disabilities into sterilisation—whether through guardianship, medical decisions, or judicial orders—constitutes a multi-layered violation of constitutional

4 UNGA Res 61/106 'Convention on the Rights of Persons with Disabilities' (12 December 2007) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> accessed 20 June 2025.

5 ibid, art 17.

6 ibid, art 23.

7 Constitution of the United Arab Emirates (1971) <https://www.constituteproject.org/constitution/United_Arab_Emirates_2009> accessed 20 June 2025.

8 ibid, art 14.

9 ibid, art 16.

10 ibid, art 25.

11 ibid, arts 26–28.

12 Resolution of the Presidium of the Czech National Council No 2/1993 Coll 'On the proclamation of the Charter of Fundamental Rights and Freedoms as part of the constitutional order of the Czech Republic' (16 December 1992) <https://lawcat.berkeley.edu/record/175215> accessed 20 June 2025.

13 ibid, art 1.

14 ibid, arts 4–7.

15 ibid, art 3.

16 ibid, art 10.

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and international rights.[17] It harms equality and personal dignity and undermines the rights to bodily integrity, privacy, and family life.[18] Consequently, this practice squarely breaches state obligations, whether in the UAE or the Czech Republic, to enable persons with disabilities to make their own decisions freely and to respect their humanity, and it calls for legislative and policy reforms that prohibit forced sterilisation, guarantee decision-making support, and protect reproductive rights.

The core problem is the tension between international commitments to protect bodily integrity for persons with disabilities and the persistence of some domestic rules that allow forced sterilisation or empower guardians and third parties to consent on another's behalf. In the Czech Republic, the Civil Code and health-care legislation allow guardians to consent to sterilisation without the person's free and informed consent.[19] Current procedures also permit expert committees and courts to authorise sterilisation where a person is deemed unable to express his or her will.[20] In the UAE, although the Government has stated that forced sterilisation is prohibited,[21] Article 13 of Federal Law No. 10 of 2008 allows sterilisation with third-party consent,[22] raising concerns about alignment with the right of persons with disabilities to make their own reproductive choices.

In the United States, the issue is somewhat complex due to the federal system of government. Some states legalised and regulated forced sterilisation, such as Indiana in 1907, with the number of states enacting such laws reaching 32 by the mid-20th century. The U.S. Supreme Court's ruling in *Buck v. Bell* (1927), which upheld the constitutionality of forced sterilisation, remains a binding legal precedent and has not been overturned. This legal framework facilitated the sterilisation of a large number of people. However, some states, such as Alaska and North Carolina, completely prohibit forced sterilisation.[23]

17 Karem Sayed Aboelazm, 'Supreme Constitutional Court Review of the Legislative Omission in Egypt in Light of International Experiences' (2024) 10(17) Heliyon e37269. doi:10.1016/j.heliyon.2024.e37269.

18 Karem Sayed Aboelazm, 'The Constitutional Framework for Public Policy in the Middle East and North Africa (MENA) Countries' (2021) 7(3) International Journal of Public Law and Policy 187. doi:10.1504/IJPLAP.2021.118325; Paul R Friedman, 'Human and Legal Rights of Mentally Retarded Persons' (1977) 6(1) International Journal of Mental Health 50.

19 'Respect, Protect, and Fulfill the Right to Bodily Autonomy! Ending Forced Sterilization of Women and Girls with Disabilities' (*International Disability Alliance*, 6 June 2024) <https://www.internationaldisabilityalliance.org/blog/respect-protect-and-fulfill-right-bodily-autonomy-ending-forced-sterilization-women-and-girls> accessed 20 June 2025.

20 Act of the Czech Republic No 372/2011 Coll 'On Health Services and Conditions of their Provision (Health Services Act)' (6 November 2011) <https://www.zakonyprolidi.cz/translation/cs/2011-372?langid=1033> accessed 20 June 2025; Act of the Czech Republic No 89/2012 Coll 'Civil Code' (3 February 2012) <https://www.zakonyprolidi.cz/cs/2012-89> accessed 20 June 2025.

21 Committee on the Rights of Persons with Disabilities, 'The Initial Report of the United Arab Emirates on its Implementation of the CRPD' (2024).

22 Respect, Protect, and Fulfill the Right to Bodily Autonomy (n 19).

23 Zixuan Wang and others, *In Communities We Trust: Institutional Failures and Sustained Solutions for Vaccine Hesitancy* (Gerald R Ford School of Public Policy University of Michigan 2021) doi:10.7302/21935.

Studying this subject is especially important because it addresses one of the most serious human rights violations faced by persons with disabilities, reveals the gap between international obligations and domestic implementation,[24] and highlights the ethical and legal dimensions of these practices and their psychosocial impacts. Czech statistics indicate that 889 individuals had been compensated by April 2025 under the Czech compensation law for victims of unlawful sterilisation,[25] underscoring the scale of the problem and the need for broad-based reform. The perceived tension between official statements in the UAE and reports by international organisations, likewise, provides a window into implementation challenges and compliance monitoring.

## 1.1. Research Objectives

This research analyses the regulatory frameworks governing the sterilisation of persons with disabilities in the UAE and the Czech Republic and assesses their conformity with international human rights treaties—especially the CRPD.[26] It also offers legislative and policy recommendations to safeguard bodily integrity and free decision-making. Additionally, the paper aims to the following:

a) Analyse treaty provisions (CRPD; CEDAW) that prohibit forced sterilisation and protect bodily integrity for persons with disabilities.

b) Review relevant provisions in Federal Law No. 10 of 2008[27] and Federal Law No. 29 of 2006[28] and interpret the clause allowing third-party consent to sterilisation in the UAE in light of official statements prohibiting the practice.

24 Hilali Abdullah Ahmed, *Obligations of the Pregnant Woman Towards the Fetus between Criminalization and Preamble* (Dar Al-Nahda Al-Arabiya 1996) 32; Judith A Baer, 'The Rights of the Disabled' in Judith A Baer, *Equality under the Constitution: Reclaiming the Fourteenth Amendment* (Cornell UP 1983) 190.

25 Act of the Czech Republic No 48/1997 Coll 'On Public Health Insurance and on Amendments and Additions to Certain Related Acts' (7 March 1997) < https://www.zakonyprolidi.cz/translation/cs/1997-48?langid=1033> accessed 20 June 2025; Act of the Czech Republic No 371/2021 Coll 'Act Amending Act No 48/1997 Coll "On Public Health Insurance and on Amendments and Supplements to Certain Related Acts, as amended, and certain other acts"' (14 September 2021) <https://www.zakonyprolidi.cz/cs/2021-371> accessed 20 June 2025.

26 Karem Sayed Aboelazm, 'The Judicial Constitutional Review for the Legislative Omission: A Comparative Study' (2025) 17(1) Krytyka Prawa: Niezależne Studia nad Prawem 316. doi:10.7206/kp.2080-1084.766; Muhammad Ali Al-Baz, *Birth Control Policy and Methods in the Past and Present* (Modern Age for Publishing and Distribution 1991) 361–373.

27 Federal Decree-Law of UAE No (4) of 2016 'Concerning Medical Liability' [2016] Official Gazette 601 <https://uaelegislation.gov.ae/en/legislations/1192> accessed 20 June 2025.

28 Federal Law of UAE No (29) of 2006 'Concerning the Rights of Persons with Special Needs' [2006] Official Gazette 453 <https://uaelegislation.gov.ae/en/legislations/1172> accessed 20 June 2025.

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c) Examine Civil Code and health-care provisions in the Czech[29] authorising guardians to consent to sterilisation; review CRPD Committee recommendations urging repeal; and cover the compensation statute for victims between 1966 and 2012 (applications accepted until 2 January 2027).

d) Judicial developments: Discuss the European Court of Human Rights judgment in *T.H. v. Czechia* (12 June 2025),[30] which held that imposing sterilisation as a condition for legal gender recognition violates the right to private life, and analyse its implications for Czech law.

e) Compare the UAE, USA and Czech frameworks regarding the protection of free consent and the availability of preventive and remedial safeguards.

f) Propose legal and policy reforms to prevent forced sterilisation, ensure supported decision-making, and provide effective remedies and reparations.

## 1.2. The Research Question

To what extent do national and international laws protect persons with disabilities from forced sexual sterilisation?

In addition to the main question, the paper seeks to answer the following questions:

a) What international standards govern the forced sterilisation of persons with disabilities and define the right to bodily integrity and free consent?

b) How does UAE law regulate the sterilisation of persons with disabilities, and are there tensions between legal texts and practice?

c) What Czech provisions allow sterilisation without the person's consent, and how does the state justify these measures?

d) How do recent judgments and legislation—such as the ECtHR's *T.H. v. Czechia* and the Czech compensation law—shape the present and future of forced sterilisation?

e) Where do the UAE, USA and Czech approaches converge and diverge in protecting persons with disabilities from forced sterilisation?

f) What reforms would align states' laws with international standards on bodily integrity and free consent?

29 Act of the Czech Republic No 89/2012 Coll (n 20); Act of the Czech Republic No 372/2011 Coll (n 20); Act of the Czech Republic No 48/1997 Coll (n 25).

30 *TH v the Czech Republic* App no 33037/22 (ECtHR, 12 June 2025) <https://hudoc.echr.coe.int/eng?i=001-243567> accessed 20 June 2025.

## 2 METHODOLOGY

To conduct a comprehensive study on the regulation of forced sterilisation of persons with disabilities through a human-rights lens, this research adopts two main approaches: comparative legal analysis and analysis of human-rights recommendations and reports. The study employs a descriptive-analytical legal method, which involves collecting and examining statutory texts, international instruments, and case law, then comparing them across the UAE and the Czech Republic. This method includes analysing the content of legal provisions, identifying tensions with international standards, and using human-rights reporting to evaluate implementation, through the following procedures and methods:

- Primary legal texts – including constitutional provisions, statutory frameworks, and laws on medical liability or guardianship in the UAE, the Czech Republic, and the United States.
- Case law – leading decisions of the European Court of Human Rights (ECtHR), national constitutional and supreme courts, and relevant appellate judgments.
- International instruments – provisions of the Convention on the Rights of Persons with Disabilities (CRPD) and the European Convention on Human Rights (ECHR), together with General Comments and UN guidance.
- Scholarly and NGO reports – peer-reviewed legal scholarship, official reports, and civil society monitoring documents that interpret or evaluate the practice of sterilisation.

The temporal scope emphasised developments from 2000 to 2025, with particular focus on recent reforms and case law between 2023 and 2025, including the Constitutional Court of Czechia's 2024 decision and the *ECtHR's T.H. v. Czech Republic* (2025).

The UAE represents a MENA jurisdiction that has modernised disability-rights policy, ratified the CRPD, and enacted a non-discrimination framework. UN reporting nonetheless notes health-law clauses allowing sterilisation based on third-party consent, raising questions about adherence to free consent. The Czech Republic, a civil-law EU state with a long history of forced sterilisation, maintains Civil Code and health-care provisions that allow guardians or courts to authorise sterilisation without the person's consent, despite CRPD Committee recommendations to repeal them. The Czech Republic also adopted a compensation law in 2021 for victims sterilised between 1966 and 2012, reflecting official acknowledgement of past wrongs. Comparing these culturally and legally distinct jurisdictions helps illuminate how religion, history, and legal structure influence regulation, and supports tailored, rights-consistent recommendations.

Regarding the United States, only one aspect will be discussed, but a very important one: the origins and development of the concept of forced sterilisation, as well as the landmark court case of 1927, which forms the basis for the legal justification of forced sterilisation.

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The selection of the UAE, the Czech Republic, and the United States as case studies is deliberate and grounded in comparative logic. The UAE represents a jurisdiction in the Global South with developing statutory frameworks on medical liability and guardianship, offering insight into how international norms like the CRPD are interpreted in emerging legal systems. The Czech Republic is a European Union member state that has undergone recent and significant judicial developments, including the Constitutional Court's 2024 ruling and the ECtHR's judgment in *T.H. v. Czech Republic* (2025), making it a pivotal test case for CRPD–ECHR interaction. The United States illustrates a contrasting common law system with a long and problematic history of eugenics legislation, where state-level diversity (31 states permitting, others prohibiting substituted consent) allows for a rich doctrinal comparison. Together, these jurisdictions capture a spectrum of legal traditions—civil law, common law, and hybrid systems—and provide a basis for evaluating how international standards on bodily integrity and substituted consent interact with diverse domestic frameworks.

## 3 CONCEPTUAL FRAMEWORK

### 3.1. Definition of Persons with Disabilities

The CRPD recognises "persons with disabilities" as those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.[31] This definition emphasises the social model of disability, connecting disability to environmental barriers rather than reducing it to a medical condition.

Federal Law No. 29 of 2006 in UAE concerning the Rights of Persons of Determination defines a "person with a disability" as anyone with a total or partial deficiency or disorder in physical, sensory, mental, communicative, educational, or psychological abilities—permanent or temporary—to a degree that reduces his or her ability to meet ordinary life requirements compared with peers without disabilities.[32] The definition focuses on the impact of impairment on daily functioning.[33]

In the Czech Republic, there is no single, cross-cutting statutory definition; the term is defined contextually. Governmental guidance indicates that recognition as "disabled" often requires a long-term illness or condition lasting more than one year that significantly limits physical, sensory, or mental capacity, constraining the ability to work or pursue qualifications; minor impairments generally do not qualify.[34]

31 UNGA Res 61/106 (n 4) art 1.

32 Federal Law of UAE No (29) of 2006 (n 28) art 1.

33 Maya Khater and others, 'The Role of Assistive Technology in Reinforcing the Rights of Persons with Disabilities to Employment from a Legal Perspective' [2025] International Journal of Law and Management. doi:10.1108/IJLMA-04-2025-0151

34 Act of the Czech Republic No 89/2012 Coll (n 20); Act of the Czech Republic No 372/2011 Coll (n 20)

Some specialists define a person with a disability as "any person with a sensory, significant, or mental, psychological, or social disability that limits his ability to perform his roles at work and in life in a normal and independent manner, thereby creating a need for services, care, and specialized rehabilitation to enable him to achieve the maximum possible potential."[35] Another definition describes the person "who has one or more impediments that weaken capacity and therefore needs informed external assistance—grounded in scientific and technological methods—to restore functionality to normal, or as close as possible to it."[36]

The Americans with Disabilities Act of 1990 (ADA) defines a person with a disability as someone who: (a) has a physical or mental impairment that substantially limits one or more major life activities; (b) has a history or record of such an impairment; or (c) is perceived by others as having such an impairment.

## 3.2. Defining Forced Sexual Sterilisation

Mosby's Medical Dictionary defines sterilisation as "a process or procedure that renders an individual unable to reproduce," including permanent surgical procedures such as tubal ligation or hysterectomy in women and vasectomy in men.

Sterilisation is "forced" when performed after the person has refused, or without their knowledge, or without providing a genuine opportunity for free and informed consent. In many cases, decisions are taken by a guardian, physician, or court without the participation of the person concerned. The term "coerced sterilisation" is also used where consent is extracted through pressure, misinformation, or conditionality—e.g., tying access to services or benefits to acceptance of sterilisation.

The World Health Organisation (WHO) maintains that sterilisation as a family-planning method must be available, acceptable, and of good quality, and free from discrimination and violence. It further emphasises that laws and policies must guarantee provision solely based on free and informed decision-making. UN bodies have characterised forced sterilisation as a systemic form of violence against women and girls with disabilities, noting that it may amount to torture when performed without their knowledge or consent, or in defiance of their refusal.

35 Medhat Muhammad Abu Al-Nasr, *Disability and the Disabled: A Modern Perspective* (2nd edn, Arab Group for Training and Publishing 2014) 26; Hatim Amin Muhammad Abada, *Birth Control, Birth Control, and the Extent of the State's Authority to Prevent Birth: A Jurisprudential Study* (Dar Al-Fikr Al-Jami'i 2011) 21-3; Elizabeth S Scott, 'Sterilization of Mentally Retarded Persons: Reproductive Rights and Family Privacy' (1986) 5 Duke Law Journal 806. doi:10.2307/1372669.

36 Muhammad Abdul Moneim Nour, *Medical Social Work and Rehabilitation* (Cairo Modern Library 1973) 157; Ammar Abbas Al-Husseini, *The State of Necessity and Its Impact on Criminal Liability: A Comparative Study* (Al-Halabi Legal Publications 2011).

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Sexual sterilisation is a medical procedure that can be performed on both men and women. It does not entail removal or destruction of the reproductive glands; rather, it aims to permanently deprive a person of fertility and the ability to reproduce. Forced sexual sterilisation refers to a medical procedure intended to permanently prevent fertility without the individual's consent, or with defective consent—for example, where the person lacks adequate information about the nature and consequences of the procedure, misunderstands their medical condition, or where purported consent is the product of coercion, deception, or fraud.[37]

Czech courts have defined sterilisation performed without proper (i.e., free and informed) consent as an unjustified, deeply harmful, and almost irreparable intervention that can cause profound changes in an individual's overall personality development.[38] This aligns with the legislator's definition of illegal sexual sterilisation in *Act on the Payment of a Specific Financial Amount to Persons Victims of Illegal Sterilisation*, which provides: "For the purposes of this law, illegal sterilisation means any fertility-preventing medical procedure to which the authorized person did not consent, or for which consent was given in violation of the legal regulations governing such procedures at the relevant time, or under conditions that seriously impede or impair the freedom and simplicity of consent."[39] The law adds that violations include exerting pressure, coercion, or persuasion; failing to inform the person clearly and adequately about their condition, the purpose and nature of the procedure, expected benefits, potential consequences and risks; and failing to discuss alternatives, their suitability, benefits, and risks.

## 4 HISTORICAL AND IDEOLOGICAL FOUNDATIONS OF FORCED STERILISATION

This section examines two emblematic cases—the United States and (Czecho) Slovakia/Czechia—to trace the phenomenon's roots and evolution.

Eugenics refers to the belief that promoting "good genes" and eliminating "bad genes" would strengthen national health by improving upbringing. Derived from the Greek eugenes ("well-born"), the concept was formulated in the late 19th century by Francis Galton. It gained significant traction in the early 20th century following the rediscovery (in 1900) of Gregor Mendel's 1865 research on inheritance. As heredity emerged as a foundational science, eugenicists argued that so-called "social undesirables"—including alcoholics,

37 Lukáš Novotný, 'Illegal Sterilisation in the Czech Republic' (2024) 76(8) 'Europe-Asia Studies 1187.

38 ibid 1188; Sayed Fahmy Ali, *Psychology of People with Motor, Hearing, Visual, and Mental Disabilities* (Dar Al-Jami'a Al-Jadida 2010) 12-8.

39 Act of the Czech Republic No 297/2021 Coll 'On the Payment of a Specific Financial Amount to Persons Victims of Illegal Sterilization' (22 July 2021) art 3 <https://www.zakonyprolidi.cz/cs/2021-297> accessed 20 June 2025.

prostitutes, and persons with disabilities—would reproduce more of the same, passing their supposed defects to children.[40]

## 4.1. The Role of Eugenics in Normalizing Sexual Sterilisation

Eugenics normalised sexual sterilisation through three intertwined mechanisms: (1) politicising science by positing heredity of "feeble-mindedness" and "deviance," thereby granting ethical and political license to eliminate the fertility of groups labeled "socially burdensome"; (2) welfare bureaucracies linking institutional cost-reduction and overcrowding to sterilisation; and (3) legislative and judicial codification that translated these claims into enduring law.

Indiana enacted the first U.S. sterilisation statute in 1907, targeting "confirmed criminals, idiots, and imbeciles." By mid-century, 32 states had legalised forced sterilisation.[41] Victims were often labelled "feeble-minded," a capacious category that could include minor sensory impairments.[42] California led these programs, performing about 20,000 sterilisations between 1909 and 1979—roughly one-third of all U.S. procedures.[43] A later federal inquiry found that, in the 1970s, federally funded programs sterilised between 100,000 and 150,000 poor people annually.[44]

By 1936, despite emerging scientific criticism, more than 60,000 people had been sterilised in the U.S., disproportionately poor and often Black or Latina women.[45] The U.S. Supreme

40 Christian Malatesta, 'America's Sterilization Laws: An Essential Guide' (MA thesis, Rutgers, State University of New Jersey 2017) 6. doi:doi:10.7282/T3ZS309W; Fouad Muhammad Al Kubaisi, *Childbirth (Defining, Regulating, Increasing): A Comparative Study in Sharia and Law* (Dar Al Nawader 2012) 119.

41 Abdul Moneim Abdul Qader Al-Miladi, *From People with Special Needs: The Mentally Disabled* (University Youth Foundation 2006) 31; Camilla Ida Ravnbøl, 'The Human Rights of Minority Women: Romani Women's Rights from a Perspective on International Human Rights Law and Politics' (2010) 17(1) International Journal on Minority and Group Rights 1; Priti Patel, 'Forced Sterilization of Women as Discrimination' (2017) 15(38) Public Health Reviews 1. doi:10.1186/s40985-017-0060-9.

42 Fattouh Abdullah Al-Shazly, 'Legal Protection of Women's Right to Reproduction' (2009) 2(2) Journal of Law and Economic Research 129. doi:10.21608/lalexu.2009.272217; Randall Hansen and Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America* (CUP 2013) 3.

43 Novotný (n 37) 1188; Amnesty International, 'Submission to Standing Senate Committee on Human Rights Study on Sterilization without Consent' (1 April 2019) <https://sencanada.ca/content/sen/committee/421/RIDR/Briefs/AmnestyInternational_Brief_e.pdf> accessed 20 June 2025.

44 Hansen and King (n 42) 4; Muhammad Atwaif, 'Criminal Protection for the Disabled Child in Moroccan Legislation' (2015) 1(1) Criminal Justice Journal, Morocco 123; Ronli Sifris, 'Involuntary Sterilization of HIV-Positive Women: An Example of Intersectional Discrimination' (2015) 37(2) Human Rights Quarterly 464.

45 Malatesta (n 40) 6; Nadhbar Muhammad Awhab, 'Protection of the Disabled, Fetal and Adult: A Jurisprudential Study, Sterilization of the Disabled as a Model' (2017) 34(2) Journal of the College of Islamic and Arabic Studies for Boys, Al-Azhar University 3025.

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Court's decision in *Buck v. Bell* (1927) upheld compulsory sterilisation of institutionalised persons, entrenching a legal framework under which over 60,000 people were sterilised across more than 30 states into the 1970s.[46] California alone conducted 20,108 procedures before 1964, with marked bias against those labelled mentally ill and women of Mexican or African-American origin.[47] U.S. laws influenced Nazi Germany's far more expansive program (approximately 350,000 forced sterilisations between 1934 and 1945) before eugenics waned post-war.[48]

Harry Laughlin's 1922 model sterilisation statute—published in *Eugenical Sterilisation in the United States*—became a template that many states adopted.[49] *Buck v. Bell* (1927) then declared Virginia's law constitutional, with Justice Holmes's notorious line, "Three generations of imbeciles are enough," catalysing around 65,000 sterilisations.[50] Nazi officials later cited California's success to justify Germany's 1933 Law for the Prevention of Hereditarily Diseased Offspring, which resulted in 360,000 and 375,000 sterilisations.[51]

Although *Buck v. Bell*[52] has never been expressly overturned by the U.S. Supreme Court, its precedential value has been substantially eroded by subsequent constitutional jurisprudence on privacy, autonomy, and equal protection. Decisions such as *Skinner v. Oklahoma*[53] reframed procreation as a fundamental right under the Equal Protection Clause, while later cases on reproductive autonomy (e.g., *Griswold v. Connecticut, Roe v. Wade*, and more recently *Obergefell v. Hodges*)[54] reinforced bodily autonomy and decisional privacy under the Due Process Clause. Despite this jurisprudential shift, the persistence of state-level sterilisation statutes for persons with disabilities reveals a doctrinal gap between

46 Karen Stote, 'The Coercive Sterilization of Aboriginal Women in Canada' (2012) 36(3) American Indian Culture and Research Journal 120. doi:10.17953; Khiara M Bridges, 'White Privilege and White Disadvantage' (2019) 105(2) Virginia Law Review 449.

47 Lucy-Ann Buckley, *Combatting Disability Harassment at Work: Human Rights in Practice* (Bristol UP 2022) 21-58. doi:10.2307/j.ctv2x00vrm.11.

48 Cynthia Soohoo and Farah Diaz-Tello, 'Torture and Ill-Treatment: Forced Sterilization and Criminalization of Self-Induced Abortion' in Center for Human Rights and Humanitarian Law, *Gender Perspectives on Law and Torture: Law and Practice* (American University Washington College of Law 2021) 279; Novotný (n 37) 1188.

49 Harry Hamilton Laughlin, *Eugenical Sterilization in the United States* (Psychopathic Laboratory of the Municipal Court of Chicago 1922); Malatesta (n 40) 7; Spiro Fakhoury, *Pregnancy Regulation Using Modern Scientific Means* (Dar Al Ilm Lil Malayeen 1984) 207-8.

50 Hansen and King (n 42) 79; Carolyn Frohmader and Stephanie Ortoleva, 'The Sexual and Reproductive Rights of Women and Girls with Disabilities' (ICPD International Conference on Population and Development Beyond 2014, July 2012) <https://ssrn.com/abstract=2444170> accessed 20 June 2025.

51 Abdul Fattah Ali Ghazal, *The Psychology of Disabilities: Theories and Treatment Programs* (Dar Al-Ma'rifa Al-Jami'a 2016) 15; Malatesta (n 40) 3.

52 *Buck v Bell*, 274 US 200 (1927).

53 *Skinner v Oklahoma ex rel Williamson*, 316 US 535 (1942).

54 *Griswold v Connecticut*, 381 US 479 (1965); *Roe v Wade*, 410 US 113 (1973); *Obergefell v Hodges*, 576 US 644 (2015).

constitutional principles and guardianship practices, where substituted consent continues to be invoked in ways inconsistent with CRPD standards.

In Czechia, policies took on an ethnic dimension, with European bodies documenting forced sterilisations of Roma women and later efforts toward redress. Some Czech provisions and practices persisted into the 1990s. The current Czech framework still permits guardian/court-authorised sterilisation with committee and judicial oversight, including a 7–14 day consultation period.[55] The 2021 law provides compensation for women sterilised between 1966 and 2012, yet does not itself repeal third-party authorisation mechanisms.[56] In 2009, the Government issued an apology, but legislative proposals to abolish guardian authorisation did not pass.[57]

In the U.S., although most eugenic statutes were repealed in the 1970s, many states replaced them with guardianship-based provisions allowing judges to authorise sterilisation for individuals deemed unable to consent. A 2021 report by the National Women's Law Centre indicated that 31 states plus the District of Columbia still allow some form of court- or guardian-authorised sterilisation, while only two—Alaska and North Carolina—broadly prohibit it, albeit with restrictions that may impede access to voluntary sterilisation.[58]

## 5 LAWS AND CASE LAW IN SELECTED JURISDICTIONS

In the UAE, Federal Law No. 29 of 2006 enshrines the rights of Persons of Determination in education, employment, and dignified life and prohibits disability-based discrimination. Federal Law No. 10 of 2008 on Medical Liability (as amended) provides in Article 13 for sterilisation with third-party consent (e.g., family member or guardian). Although the UAE reporting to international bodies has affirmed that forced sterilisation and forced abortion are prohibited and criminalised, the third-party consent clause raises concerns about free and informed consent.[59]

The UAE's Federal Decree-Law No. 4 of 2016 on Medical Liability,[60] complemented by Cabinet Resolution No. 40 of 2019,[61] establishes patient consent as a cornerstone of medical

55 Patel (n 41) 6.

56 Claude Cahn, 'Justice Delayed: The Right to Effective Remedy for Victims of Coercive Sterilization in the Czech Republic' (2017) 19(2) Health and Human Rights Journal 9.

57 Novotný (n 37) 1185-202.

58 ibid 1189-90; Omar Sultan Haque and Michael Ashley Stein, 'COVID-19 Clinical Bias, Persons with Disabilities, and Human Rights' (2020) 22(2) Health and Human Rights 285.

59 Hanan bint Muhammad bin Hussein Jastaniyeh, 'Medical Precautions for Marriage: A Jurisprudential Study' (2016) 33 Journal of the Saudi Jurisprudence Association 347-8.

60 Federal Decree-Law of UAE No (4) of 2016 (n 27).

61 *Cabinet Resolution No (40) of 2019 Concerning the Executive Regulations of Federal Decree-Law No (40) of 2016 Concerning Medical Liability* [2019] Official Gazette 658 <https://uaelegislation.gov.ae/en/legislations/1191> accessed 20 June 2025.

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practice, permitting exceptions only in emergencies. Legislative intent, reflected in the travaux preparators and official commentaries, emphasises protecting patients from non-consensual treatment and aligning medical practice with international ethics. However, ambiguities in practice arise where guardianship laws intersect with medical liability provisions, potentially allowing third-party consent for irreversible procedures such as sterilisation. Judicial interpretation remains limited, but cases concerning medical negligence and informed consent in the UAE courts suggest a cautious approach that privileges patient autonomy. This tension highlights the need for clearer jurisprudential guidance to ensure conformity with CRPD Articles 12, 17, and 25, particularly in safeguarding the reproductive rights of persons with disabilities.

In Czechia, the Civil Code and health-care law allow a guardian or court to consent to sterilisation for persons unable to consent, subject to expert committee review and judicial approval, with a 7–14 day cooling-off period and consultation.[62] Human-rights organisations have criticised this framework for lacking sufficient safeguards to free consent and for relying on substituted consent instead of supported decision-making. The 2021 compensation law provides lump-sum payments to women sterilised between 1966 and 2012[63] but does not, in itself, abolish guardian-based authorisation. In *T.H. v. Czechia*,[64] the ECtHR held that requiring sterilisation as a condition for legal gender recognition violates the right to private life, adding pressure for reform.

In the U.S, because of the federal structure, the landscape varies widely by state. There is no single federal statute explicitly banning forced sterilisation across all contexts. Many states maintain provisions allowing court- or guardian-authorised sterilisation of persons with disabilities who cannot consent.[65] Some states retain legacy doctrines in guardianship codes; others (e.g., Alaska, North Carolina) prohibit forced sterilisation but in ways that may inadvertently burden access to voluntary procedures. The Supreme Court's *Buck v. Bell* decision—never formally overturned—remains a troubling precedent, notwithstanding widespread condemnation and evolving constitutional doctrine.

62 Laura Elliott, 'Victims of Violence: The Forced Sterilization of Women and Girls with Disabilities in Australia' (2017) 6(3) Laws 8. doi:10.3390/laws6030008.

63 Abdul Raouf Mahdi, *Explanation of the General Rules of the UAE Penal Code Compared to Egyptian Law* (UAE University Publications 1989) 501.

64 *TH v the Czech Republic* (n 30).

65 Charles W Murdock, 'Sterilization of the Retarded: A Problem or a Solution?' (1974) 62(3) California Law Review 917. doi:10.2307/3479751.

***Table* 1. State Approaches to Consent for Sterilisation of Persons with Disabilities**[66]

| State | Rule | Substituted Consent Allowed? | Source |
|---|---|---|---|
| Texas | Guardians/courts cannot authorise sterilisation; only the individual may consent | No | Tex Health & Safety Code §592.041 |
| New York (bill pending) | Seeks to prohibit substituted consent, requiring informed consent only | Moving to ban | NY Senate Bill S3357 (2025) |
| 31 states + DC | Allow sterilisation under court-approval procedures | Yes | National Women's Law Center (2022) |

The UAE publicly affirms adherence to free consent but retains a third-party consent pathway in medical-liability law. The Czech Republic has apologised and created compensation mechanisms, but still permits substituted consent via guardianship. The U.S. shows substantial state-level variation, with many jurisdictions retaining court-authorised sterilisation under guardianship regimes despite repudiation of eugenics. Durable protection of bodily integrity requires comprehensive reform: prohibiting forced sterilisation, embedding supported decision-making, and ensuring effective remedies.

In the UAE, Federal Decree-Law No. 4 of 2016 on Medical Liability (Article 5) requires patient consent, with narrow exceptions in emergencies. Cabinet Resolution No. 40 of 2019 further clarifies the standards for consent. However, ambiguity remains where guardians or family members give substituted consent on behalf of persons with disabilities. This tension necessitates harmonisation with CRPD Articles 12, 17, and 25, which require SDM mechanisms and judicial safeguards.

In Czechia, prior to reforms, the Civil Code (§ 29)[67] and the Specific Health Services Act (§ 21)[68] permitted third-party or judicial consent for sterilisation. The Constitutional

66 Source: Authors.
Texas Health and Safety Code - Health & Safety § 286.041 <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.286.htm#286> accessed 20 June 2025; NY Senate Bill S3357 (2025) <https://www.nysenate.gov/legislation/bills/2025/S3357> accessed 20 June 2025; National Women's Law Center (2022) <https://nwlc.org/> accessed 20 June 2025.

67 Act of the Czech Republic No 89/2012 Coll (n 20) § 29(1).

68 Act of the Czech Republic No 373/2011 Coll 'On Specific Health Services' (6 November 2011) § 21 <https://www.zakonyprolidi.cz/cs/2011-373> accessed 20 June 2025.

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Court, in Pl, ÚS 52/23 (2024),[69] struck down these provisions as unconstitutional, aligning national law with CRPD standards. The ECtHR's *T.H. v. Czech Republic* (2025) reinforced this trajectory, narrowing the margin of appreciation and mandating robust protections for bodily integrity.[70]

## 6 INTERNATIONAL LAW AND HUMAN RIGHTS

What is forced sterilisation? A permanent loss of fertility imposed without free, prior, and informed consent, or by coercion, deception, exploitation, or legal conditionality (e.g., requiring sterilisation for legal gender recognition). UN practice treats "consent" obtained during severe pain, emergency, or via misinformation as coercive.

Forced sterilisation is not a discrete, isolated violation; it triggers a chain of harms—from bodily violation to enduring psychosocial and economic consequences. Under human-rights law, causation entails (1) factual "but-for" causation between the act and the harm, and (2) legal proximity (foreseeability) linking a deliberate, unlawful act to serious and direct consequences. This framing clarifies states' positive obligations and the responsibility of public and private actors exercising state authority. The UN Special Rapporteur on Torture has repeatedly recognised that violations of sexual and reproductive health—including forced sterilisation—can amount to torture or ill-treatment when the elements of intent, severity, discriminatory purpose, and state involvement are present.[71]

### 6.1. From Act to Violation: The Core Causal Chain

For the lack of free, informed consent ⇒ violation of bodily integrity, privacy, autonomy; Consent is a communicative process requiring real capacity to understand and choose, sufficient time, and absence of pressure. Extracted "consent" (e.g., during labour, under anaesthesia, or based on misinformation) fails this standard.[72]
Additionally, severe pain + discriminatory purpose ⇒ inhuman treatment/torture; Performing an irreversible procedure to control fertility in stigmatised groups—without urgent therapeutic need and within public institutions—may meet the threshold of ECHR.[73]

69 Case No Pl. ÚS 52/23 (Constitutional Court of the Czech Republic, 24 April 2024) <https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/2024/Pl-52-23_AN_s_disenty.pdf > accessed 20 June 2025.

70 *TH v the Czech Republic* (n 30).

71 Mahmoud Ahmed Taha, *Childbirth between Legitimacy and Criminalization* (Dar Al-Fikr wal-Qanoon 2015) 19-20; Nathalie Antonios, 'Sterilization Act of 1924' *Embryo Project Encyclopedia* (2011) <https://embryo.asu.edu/pages/sterilization-act-1924> accessed 20 June 2025.

72 UNGA Res 61/106 (n 4) arts 17, 25; European Convention on Human Rights (ECHR), art 8 <https://www.echr.coe.int/european-convention-on-human-rights> accessed 20 June 2025.

73 UNGA Res 61/106 (n 4) art 3; ECHR (n 72) art 15.

Permanent loss of fertility ⇒ violation of family life; Sterilisation permanently constrains decisions about marriage and family life.[74]

Discriminatory legal frameworks (guardianship; sterilisation requirements) ⇒ inequality; Laws that allow substituted consent or require sterility for legal recognition are themselves causal agents of violation.[75]

Furthermore, deficient or concealed records ⇒ denial of effective remedy; Without records, proving lack of consent is nearly impossible, engaging the right to access medical files.[76]

Articles 12, 17, 23, 25, 15, and 5 of the CRPD collectively create a mutually reinforcing framework that outlaws forced sterilisation and rejects substituted decision-making in favour of supported decision-making, reflecting both causal and operational readings of the Convention. Similarly, the CRC, through Articles 3, 12, 19, and 24 and General Comment No. 9 on children with disabilities, condemns forced sterilisation of children and emphasises informed consent in line with the child's evolving capacities, while co-issued guidance with CEDAW (2014) explicitly frames forced sterilisation as a harmful practice. This normative framework is reinforced by ECHR jurisprudence: in *V.C. v. Slovakia* (2011) and *N.B. v. Slovakia* (2012), the European Court of Human Rights found violations of Articles 3 and 8 where sterilisation occurred without free, informed consent, in *K.H. and Others v. Slovakia* (2009) the Court recognized access to medical records as essential for private life and redress, and in *A.P., Garçon and Nicot v. France* (2017) the Court condemned sterilisation or irreversible treatment requirements for legal gender recognition under Article 8. Czech reforms and subsequent legislative adjustments illustrate how targeted legal measures can transform the causal pathway, shifting outcomes from abuse toward effective redress.

**Convergence across systems:**

Forced sterilisation is non-therapeutic—except in rare, immediate life-saving scenarios—and irreversibly destroys fertility, engaging CRPD Articles 15, 17, 23, and 25, CRC Articles 3, 12, 19, and 24, and ECHR Articles 3 and 8. Its common legislative cause lies in guardianship-based or court-ordered "consent" requirements and sterilisation preconditions for administrative recognition; its common procedural cause stems from deficient consent processes, including absence of cooling-off periods, pressure during labour, language barriers, and lack of alternatives; and its common structural cause arises from discriminatory stereotypes about capacity, sexuality, and social worth. Effective reform must explicitly identify and eliminate these legislative, procedural, and structural causes.

74 UNGA Res 61/106 (n 4) art 23; ECHR (n 72) art 8.

75 Committee on the Rights of Persons with Disabilities, 'General Comments' Nos 1, 3, 6 <https://www.ohchr.org/en/treaty-bodies/crpd/general-comments> accessed 20 June 2025.

76 *KH and Others v Slovakia* App 32881/04 (ECtHR, 28 April 2009) <https://hudoc.echr.coe.int/eng?i=001-92418> accessed 20 June 2025.

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# 7 DISCUSSION

## 7.1. The Right of Persons with Disabilities to Marry and Found a Family

The right to marry and found a family is a pillar of human dignity. Persons with disabilities face legal, social, and clinical barriers—from capacity rules and forced medical interventions (including forced sterilisation) to stereotypes about parental fitness. Internationally, ICCPR and CRPD[77] guarantee equal rights in marriage, parenthood, and adoption, with duties to provide appropriate support to parents with disabilities. CRPD[78] requires a shift from guardianship/substituted decision-making to supported decision-making, including for marriage and reproductive choices. Regional instruments[79] reinforce free and full consent, minimum age, and protection from discrimination. Effective realisation entails negative duties (abstaining from coercion) and positive duties (access to sexual and reproductive health services, reasonable accommodation, and support). Empirical literature shows higher rates of child removal from parents with intellectual disabilities due to bias and lack of support, underscoring the need for family support programs and individualised assessments rather than categorical exclusion. ECtHR jurisprudence[80] highlights how declarations of incapacity and guardianship impact family life and marriage.

## 7.2. The Right to Manage One's Sexual and Reproductive Life

Managing one's sexual and reproductive life encompasses comprehensive sexuality education; access to accurate information; non-discriminatory access to contraception, infertility treatment, antenatal/postnatal care, and STI/HIV services; respect for privacy and confidentiality; freedom from violence and coercion (including forced sterilisation, abortion, or contraception); universal accessibility; accountability; and the meaningful participation of persons with disabilities—especially women and youth—in policy design. CRPD Arts. 12, 23, and 25, together with WHO and UNFPA guidance, set the substantive and procedural standards. Evidence shows elevated exposure to violence among persons with disabilities, service access gaps, and, for some groups, higher risks of adverse pregnancy outcomes, pointing to the necessity of tailored care—not exclusion. States' negative obligations (non-interference) and positive obligations (enabling environments and supports) are engaged throughout.

77 UNGA Res 61/106 (n 4) art 23.
78 ibid, art 12 (and General Comment No 1).
79 e.g., the Arab Charter on Human Rights; the African Charter and Maputo Protocol.
80 Rosalind Pollack Petchesky, 'Reproduction, Ethics, and Public Policy: The Federal Sterilization Regulations' (1979) 9(5) The Hastings Center Report 29. doi:10.2307/3561518.

## 8 CONCLUSIONS

This paper demonstrates that contemporary human-rights frameworks converge on a central principle: irreversible medical interventions, including sterilisation, are legally and ethically justified only when undertaken with a person's free, prior, and informed consent. Analysis across the UAE, the Czech Republic, and the United States—contextualised within the CRPD, CRC, and ECHR—reveals that while international norms increasingly emphasise consent and individual autonomy, national implementation exhibits considerable variation in legislative clarity, procedural safeguards, and enforcement mechanisms.

In particular, the research highlights persistent legal and structural pathways—such as guardianship-based or court-ordered "consent" and sterilisation as a precondition for administrative recognition—that continue to place persons with disabilities and marginalised groups at risk of non-therapeutic sterilisation. Procedural shortcomings, including inadequate consent processes, coercive practices during labour or medical treatment, language barriers, and the absence of alternative support mechanisms, further exacerbate vulnerability. These are reinforced by structural stereotypes regarding capacity, sexuality, and social worth that underpin systemic discrimination.

Conversely, comparative jurisprudence—most notably from the decisions of the European Court of Human Rights and the Czech Constitutional Court—demonstrates that targeted legislative and judicial interventions can effectively disrupt the causal chain from abuse to redress, illustrating the potential for law to both prevent and remedy violations. Taken together, these findings underscore that safeguarding reproductive autonomy requires not only codified consent standards but also robust procedural protections, support for decision-making aligned with CRPD Article 12, and mechanisms to address historical harms, all grounded in empirical and doctrinal evidence.

The comparative analysis of the UAE, the Czech Republic, and the United States indicates that preventing non-therapeutic or coercive sterilisation demands the operationalisation of informed consent through a coherent combination of substantive, procedural, and institutional safeguards. Evidence from international instruments and domestic reforms demonstrates that jurisdictions articulating explicit prohibitions, specifying procedural conditions, and recognising supported rather than substituted decision-making achieve greater alignment with contemporary human-rights standards.

Across all jurisdictions, clarity of legal definition emerges as a key determinant of protection. Criminal and civil frameworks that explicitly define non-consensual sterilisation as unlawful, and that restrict any substituted consent to narrowly defined, immediately life-saving circumstances, correlate with stronger compliance with CRPD and ECHR standards—comparative experience, especially in the Czech Republic following

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*T.H. v. Czechia and Pl. ÚS 52/23* shows that legislative precision and transparent redress mechanisms enhance deterrence and victim access to remedies.

The study also finds that procedural safeguards—including standardised consent documentation, mandatory reflection periods, language and accessibility accommodations, and protection from coercive circumstances such as labour or anaesthesia—are critical in ensuring the validity of consent. Jurisdictions that institutionalise such measures, supported by data protection and privacy guarantees, tend to report a lower incidence of contested sterilisations.

Decision-making models remain a central axis of divergence. Systems that retain plenary guardianship or broad substituted-consent powers are associated with a higher risk of abuse. In contrast, frameworks implementing supported decision-making and communication facilitation, as endorsed under CRPD Article 12 and General Comment No. 1, more effectively preserve individual autonomy while maintaining medical integrity. The evidence thus supports a gradual transition from guardianship regimes toward supported decision-making structures, accompanied by appropriate training for health and judicial personnel.

The role of oversight and transparency also appears pivotal. Adequate protection is associated with registries for irreversible medical procedures, multidisciplinary ethics committees, and accessible complaint mechanisms. The Czech redress framework further illustrates that burden-shifting presumptions and extended limitation periods can facilitate accountability in cases where medical documentation is incomplete or withheld.

Finally, context-specific observations highlight the diversity of reform trajectories. In the UAE, existing general provisions on medical consent and criminal liability may evolve toward a dedicated sterilisation framework that integrates procedural guarantees and prohibits third-party consent, except in strictly defined emergencies. In the Czech Republic, ongoing harmonisation, informed by both European and domestic jurisprudence, reinforces the shift toward supported decision-making and transparent reporting of compensation outcomes. In the United States, the persistence of state-level variation underscores the need for a federal baseline on informed consent and procedural safeguards in all institutional contexts, including prisons, immigration facilities, and long-term care facilities.

Overall, the findings suggest that legal reform in this domain is most effective when it integrates explicit statutory prohibitions, procedurally robust consent mechanisms, independent oversight, and individualised support in decision-making, rather than relying solely on general principles of medical liability or professional ethics.

## REFERENCES

1. Abada HAM, *Birth Control, Birth Control, and the Extent of the State's Authority to Prevent Birth: A Jurisprudential Study* (Dar Al-Fikr Al-Jami'i 2011)
2. Aboelazm KS, 'Supreme Constitutional Court Review of the Legislative Omission in Egypt in Light of International Experiences' (2024) 10(17) Heliyon e37269. doi:10.1016/j.heliyon.2024.e37269
3. Aboelazm KS, 'The Constitutional Framework for Public Policy in the Middle East and North Africa (MENA) Countries' (2021) 7(3) International Journal of Public Law and Policy 187. doi:10.1504/IJPLAP.2021.118325
4. Aboelazm KS, 'The Judicial Constitutional Review for the Legislative Omission: A Comparative Study' (2025) 17(1) 'Krytyka Prawa: Niezależne Studia nad Prawem 316. doi:10.7206/kp.2080-1084.766
5. Abu Al-Nasr MM, *Disability and the Disabled: A Modern Perspective* (Arab Group for Training and Publishing 2014)
6. Ahmed HA, *Obligations of the Pregnant Woman Towards the Fetus between Criminalization and Preamble* (Dar Al-Nahda Al-Arabiya 1996)
7. Al Kubaisi FM, *Childbirth (Defining, Regulating, Increasing): A Comparative Study in Sharia and Law* (Dar Al Nawader 2012)
8. Al-Baz MA, *Birth Control Policy and Methods in the Past and Present* (Modern Age for Publishing and Distribution 1991)
9. Al-Husseini AA, *The State of Necessity and Its Impact on Criminal Liability: A Comparative Study* (Al-Halabi Legal Publications 2011)
10. Al-Miladi AMAQ, *From People with Special Needs: The Mentally Disabled* (University Youth Foundation 2006)
11. Al-Shazly FA, 'Legal Protection of Women's Right to Reproduction' (2009) 2(2) Journal of Law and Economic Research 129. doi: 10.21608/lalexu.2009.272217
12. Ali SF, *Psychology of People with Motor, Hearing, Visual, and Mental Disabilities* (Dar Al-Jami'a Al-Jadida 2010)
13. Antonios N, 'Sterilization Act of 1924' *Embryo Project Encyclopedia* (2011) <https://embryo.asu.edu/pages/sterilization-act-1924> accessed 20 June 2025
14. Atwaif M, 'Criminal Protection for the Disabled Child in Moroccan Legislation' (2015) 1(1) Criminal Justice Journal, Morocco 123
15. Awhab NM, 'Protection of the Disabled, Fetal and Adult: A Jurisprudential Study, Sterilization of the Disabled as a Model' (2017) 34(2) Journal of the College of Islamic and Arabic Studies for Boys, Al-Azhar University 2990

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16. Baer JA, 'The Rights of the Disabled' in Baer JA, *Equality under the Constitution: Reclaiming the Fourteenth Amendmen*t (Cornell UP 1983)

17. Bridges KM, 'White Privilege and White Disadvantage' (2019) 105(2) Virginia Law Review 449

18. Buckley LA, *Combatting Disability Harassment at Work: Human Rights in Practice* (Bristol UP 2022) 21. doi:10.2307/j.ctv2x00vrm.11

19. Cahn C, 'Justice Delayed: The Right to Effective Remedy for Victims of Coercive Sterilization in the Czech Republic' (2017) 19(2) Health and Human Rights Journal 9

20. Elliott L, 'Victims of Violence: The Forced Sterilization of Women and Girls with Disabilities in Australia' (2017) 6(3) Laws 8. doi:10.3390/laws6030008

21. Fakhoury S, *Pregnancy Regulation Using Modern Scientific Means* (Dar Al Ilm Lil Malayeen 1984)

22. Friedman PR, 'Human and Legal Rights of Mentally Retarded Persons' (1977) 6(1) International Journal of Mental Health 50.

23. Frohmader C and Ortoleva S, 'The Sexual and Reproductive Rights of Women and Girls with Disabilities' (ICPD International Conference on Population and Development Beyond 2014, July 2012)

24. Ghazal AFA, *The Psychology of Disabilities: Theories and Treatment Programs* (Dar Al-Ma'rifa Al-Jami'a 2016)

25. Hansen R and King D, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America* (CUP 2013)

26. Haque OS and Stein MA, 'COVID-19 Clinical Bias, Persons with Disabilities, and Human Rights' (2020) 22(2) Health and Human Rights 285

27. Jastaniyeh HMH, 'Medical Precautions for Marriage: A Jurisprudential Study' (2016) 33 Journal of the Saudi Jurisprudence Association 257

28. Khater M and others, 'The Role of Assistive Technology in Reinforcing the Rights of Persons with Disabilities to Employment from a Legal Perspective' [2025] International Journal of Law and Management. doi:10.1108/IJLMA-04-2025-0151

29. Laughlin HH, *Eugenical Sterilization in the United States* (Psychopathic Laboratory of the Municipal Court of Chicago 1922)

30. Mahdi AR, *Explanation of the General Rules of the UAE Penal Code Compared to Egyptian Law* (UAE University Publications 1989)

31. Malatesta C, 'America's Sterilization Laws: An Essential Guide' (MA thesis, Rutgers, State University of New Jersey 2017). doi:doi:10.7282/T3ZS309W

32. Moneim Nour MA, *Medical Social Work and Rehabilitation* (Cairo Modern Library 1973)

33. Murdock CW, 'Sterilization of the Retarded: A Problem or a Solution?' (1974) 62(3) California Law Review 917. doi:10.2307/3479751

34. Novotný L, 'Illegal Sterilisation in the Czech Republic' (2024) 76(8) Europe-Asia Studies 1185

35. Patel P, 'Forced Sterilization of Women as Discrimination' (2017) 15(38) Public Health Reviews 1. doi:10.1186/s40985-017-0060-9

36. Petchesky RP, 'Reproduction, Ethics, and Public Policy: The Federal Sterilization Regulations' (1979) 9(5) The Hastings Center Report 29. doi:10.2307/3561518

37. Ravnbøl CI, 'The Human Rights of Minority Women: Romani Women's Rights from a Perspective on International Human Rights Law and Politics' (2010) 17(1) International Journal on Minority and Group Rights 1

38. Scott ES, 'Sterilization of Mentally Retarded Persons: Reproductive Rights and Family Privacy' (1986) 5 Duke Law Journal 806. doi:10.2307/1372669

39. Sifris R, 'Involuntary Sterilization of HIV-Positive Women: An Example of Intersectional Discrimination' (2015) 37(2) Human Rights Quarterly 464

40. Soohoo C and Diaz-Tello F, 'Torture and Ill-Treatment: Forced Sterilization and Criminalization of Self-Induced Abortion' in Center for Human Rights and Humanitarian Law, *Gender Perspectives on Law and Torture: Law and Practice* (American University Washington College of Law 2021) 279

41. Stote K, 'The Coercive Sterilization of Aboriginal Women in Canada' (2012) 36(3) American Indian Culture and Research Journal 117. doi:10.17953

42. Taha MA, *Childbirth between Legitimacy and Criminalization* (Dar Al-Fikr wal-Qanoon 2015)

43. Wang Z and others, *In Communities We Trust: Institutional Failures and Sustained Solutions for Vaccine Hesitancy* (Gerald R Ford School of Public Policy University of Michigan 2021) doi:10.7302/21935

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# АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

## ПРИМУСОВА СТЕРИЛІЗАЦІЯ ОСІБ З ІНВАЛІДНІСТЮ: МІЖНАРОДНІ ЗОБОВ'ЯЗАННЯ ТА НАЦІОНАЛЬНА ПРАКТИКА – ПОРІВНЯЛЬНЕ ДОСЛІДЖЕННЯ

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АНОТАЦІЯ

***Вступ.*** *Це дослідження, що присвячене вивченню правового регулювання примусової стерилізації осіб з інвалідністю, здійснене на основі порівняльного аналізу ситуації в Об'єднаних Арабських Еміратах, Чеській Республіці та Сполучених Штатах Америки, а також оцінене відповідно до міжнародних норм у сфері прав людини, зокрема Конвенції про права осіб з інвалідністю (CRPD). На відміну від більшої частини наявної літератури, яка повторює встановлені заборони, ця стаття підкреслює існування правових прогалин, які дозволяють проводити стерилізацію без особистої згоди, зокрема зважаючи на дозвіл третьої сторони в ОАЕ, згоду опікунів та судове схвалення в Чеській Республіці, а також значні розбіжності між штатами США.*

***Методи.*** *Використовуючи описово-аналітичну порівняльну методологію, у дослідженні системно розглядаються конституційні, законодавчі та судові тексти, також було інтегровано судову практику з прав людини. Стаття спирається на звіти ООН та неурядових організацій для оцінки практичного застосування. Результати демонструють три оригінальні внески: (1) визначення причинно-наслідкового зв'язку між режимами опіки та продовженням практики примусової стерилізації; (2) викриття часткової невідповідності засобів правового захисту, таких як Закон Чехії про компенсацію жертвам, у вирішенні системних порушень; та (3) пропозиція конкретної політичної бази, що передбачає період відстрочки, надання згоди представником, спрощені процедури отримання згоди, національний реєстр та механізми відшкодування.*

***Результати та висновки.*** *У дослідженні було розвинуто дискусію, яка виходить за межі нормативного осуду, щоб запропонувати дієвий план реформ. У ньому стверджується, що захист репродуктивної автономії вимагає універсальної та чіткої заборони стерилізації без вільної та усвідомленої особистої згоди, заміни опіки системами підтримки рішень та виключення вимог щодо стерилізації з адміністративних процесів, таких як юридичне визнання статі. Інтегруючи порівняльні дані з практичними інструментами політики, дослідження пропонує новий шлях для узгодження національного законодавства з Конвенцією про права осіб з інвалідністю та посилення підзвітності у захисті репродуктивних прав.*

***Ключові слова.*** *Примусова стерилізація; люди з інвалідністю; надання згоди представником; тілесна недоторканність; опіка.*