In the last few decades, the trespass torts, with their recognition of the importance of personal autonomy, bodily integrity, self-determination and dignity, have become important tools for providing justice to survivors of systemic disadvantage, discrimination, and harm. Thus, one of the more rewarding and difficult sections of our torts course focuses on using the trespass torts to protect individual autonomy and dignity. After learning about the general principles of the trespass torts, especially the law's requirement that there be consent to any form of bodily interference, we look more particularly at medical battery, sexual wrongdoing and unlawful sterilization by state officials.

One of the sterilization cases we discuss is *Muir v. Alberta*, a case brought by Leilani Muir against the government of Alberta for battery and false imprisonment for confining her to the Provincial Training School for Mental Defectives from 1955, when she was 10 years old, until 1965, and for sterilizing her without her knowledge or consent at the age of fourteen. We use a number of pedagogical tools to look at this case. We read both "the case" - excerpts from the decision regarding Muir's claim and the quantum of damages for the confinement and battery - and Professor Gerald Robertson's expert witness report to the Court on the eugenics movement and its influence on the province's *Sexual Sterilization Act*.

Simply reading texts that describe experiences and realities, particularly written from places of privilege such as the Bench and academia, "risks distancing ... readers from the issues and thereby failing to engender empathy for the marginalized." In line with the growing use of film as text and the power of images on audiences, we resort to another text, the documentary film *The Sterilization of Leilani Muir*. The viewing experience is an intimate one as we ask students to watch the film on their own, or in small groups in the library's viewing room. This is partly to allow them to deal with emotions that tend to arise from seeing the documentary for the first time.

The documentary and expert report provide important historical and social background about the broader context of Ms. Muir's confinement and sterilization. Namely, that it was rooted in the eugenics movement, whose proponents believed that the human race could be “improved” by controlling who could reproduce. This belief underpinned the sterilization legislation enacted in both Alberta and British Columbia to prevent people with “undesirable” characteristics from procreating to ensure they did not pass on their “disabilities” to future generations. The legislation and sterilization of persons perceived to be living with disabilities

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3 The province admitted liability in battery for the unlawful sterilization.


6 Produced by the North West Center, National Film Board, 1996, Montreal, Canada.

persisted notwithstanding the existence of scientific evidence at that time that the “undesirable” characteristics were not hereditary. Such a perspective was clearly a project in social engineering to create the “perfect” human race and society and a mechanism for oppressing marginalized people. As both the Robertson report and the documentary show, people who were marginalized and who lacked social power - women, First Nations and Metis, immigrants and people of eastern European heritage, poor people and people living in government-run institutions - were much more likely to have the legislation applied to them. For these people, procreation was not a matter of personal autonomy whereby individuals can make their own decisions about reproduction without state interference. Rather, it became a privilege that the state selectively bestowed on those considered to be deserving of shaping society and who could determine future generations.

*The Sterilization of Leilani Muir* is particularly powerful in that it weaves the history of the eugenics movement with Ms. Muir's personal history, and her search for justice through her court action. Much of this information is present in the written texts, but the documentary adds another dimension to the story telling; Ms. Muir is able to speak to us in her own voice. The images and voices give us the opportunity to humanize her and the others who were sterilized by the state. The visual images and the viewing intimacy combine to provide "an entry point into the lives of people on the margins [and allow the audience to empathize with them] in ways that are not possible with the use of text only." The documentary leaves a much more lasting impression on students than might otherwise have been the case if we read only the conventional texts.

We use the Muir documentary as a way of challenging hegemonic processes about teaching and learning law. However, more importantly, we use the documentary to infuse a human element into a very difficult case. We often try to remind our students and ourselves that the cases we study are personal and painful for the people involved. Yet, the way in which law is taught, particularly in first year, with its focus on finding the general principles or ratios to take away from cases, often means abstracting the legal subjects from their lived experiences. As a result, we often lose sight of their humanity or victimization. Moreover, we often find ourselves deleting difficult or disturbing facts from the edited versions of the cases we assign partly to protect our students and partly to protect the victims from repeated exposure and re-victimization. However, by so doing, we often reinforce the abstraction that is perceived to be central to legal analysis. Using the Muir documentary allows us to break away from that “norm” and offer students a rare glimpse into the lives of survivors that is often lacking in law school classrooms. It also shows the struggles that survivors go through in deciding to take on the perpetrators of violence and injustice against them, the trial process, limitations of litigation and compromises that survivors have to make in order to achieve some justice.

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8 Adjin-Tettey et al., *supra* note 5 at 9.