

WOMEN'S RIGHTS AND THE JUDICIARY: WHO DECIDES? A CASE OF FORCED STERILIZATION IN BRAZIL

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ABSTRACT: In 2017, the prosecutor of Mococa, a small town in São Paulo, Brazil, filed a request to have Ms. Janaina Quirino sterilized arguing that she was poor, drug-dependent and already had five children who she could not care for. In fact, the prosecutor stated that Ms. Quirino “*does not demonstrate any discernment to evaluate the consequences of a gestation*” and as such the Municipality must conduct the tubal ligation, *even if such procedure is conducted against her will*. Based on those arguments, the judge granted the request, and, in March 2018, Ms. Quirino was compulsorily sterilized. Ms. Quirino never met or spoke with the judge; the judge simply relied on the statement by the medical staff, the social worker and the prosecutor who were all in agreement regarding the need to sterilize her. She was too poor, too black, too drug-dependent, too woman for her opinion to count. In this paper, I intend analyze the role of the judiciary and its apparatus in light of Boaventura de Sousa Santos’ Epistemologies of the South framework, studying why Ms. Quirino’s opinion did not count when making a decision over her body, and reviewing how historical oppressions worked interconnectedly to deny her humanity. To that end, I first review the legal case, including the motions by the prosecutor, the Municipality, the recommendations of the social workers and medical staff, and the judge’s decisions as well as the legal arguments presented. Second, I contextualize forced sterilization globally, recognizing that Ms. Quirino’s is not a new nor an isolated case, much less a Brazil exclusive phenomenon. In fact, as discussed in the paper, sterilization has been a common practice throughout the world for over a century. Lastly, I apply the Epistemologies of the South framework to analyze Ms. Quirino’s case to understand the role of the judiciary and the entire judicial apparatus and propose an extension to Santos’ work in the search of alternatives to ensure and protect human women’s rights.

KEYWORDS: Epistemologies of the South; Forced sterilization; Intersectionality; Judiciary; Women’s rights.