

# **“New Brunswick: A Province Stuck in Time”: An Oral History of Abortion Clinic Managers from 1992 to the Present**

By Kathleen D. King

## **Abstract:**

While overall abortion access has increased across Canada since the decriminalization of abortion in 1988, New Brunswick does not fit within this mainstream national narrative. Since 1994, when the Fredericton Morgentaler Clinic was founded, access to abortion has remained limited in New Brunswick. This paper examines the lives of three abortion clinic managers from the founding of the clinic to the present using oral history interviews. Although there have been several attempts by the prochoice community to change access in New Brunswick, from the perspective of the clinic managers, New Brunswick has failed to progress due to conservative backlash from the media, politicians, and the medical community.

*Two abortion clinic escorts hold their hands in solidarity. A woman behind me wipes her tears using the back of her hand. I sit timidly in the Fredericton Morgentaler Clinic, surrounded by eager press as they crowd around Simone Leibovitch, the third clinic manager, and Dr. Julia Hughes, a UNB Law professor. Off to the side a man shakes his head in disbelief. On this day, April 10<sup>th</sup>, 2014, the Fredericton Morgentaler Clinic announces it is closing its doors in July.*

## **Introduction:**

Before the legalization of abortion, Canadian women suffered greatly from restrictive reproductive rights. The consequence of having illegal abortions was fatal in some cases, and many women were lucky if they survived the process.<sup>1</sup> Judy Burwell, the second clinic manager of the Fredericton Morgentaler Clinic, viewed her sister's story of an illegal abortion as an important part of abortion history. She noted:

*I mean when my sister was pregnant and didn't want to be, she was 18... When I saw how that turned out and when I reflected on it afterwards, I thought about how awful that was for her, being rushed to the hospital. She was bleeding where she had the abortion. And the friend who did the abortion said “you know, you'll have to take her to the hospital, and if my name comes up I'll lose my license, and I'll never practice again.” So you know, you had that added stress, she's bleeding out in the car, and she's got 400 dollars in her pocket, which I have to get because you know, we don't want her to go anywhere with 400 dollars in her pocket, and she's got to somehow tell*

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1 Childbirth by Choice Trust, ed. *No Choice: Canadian Women Tell Their Stories of Illegal Abortions*. (Toronto: Childhood by Choice Trust, 1998), 15-17.

*that she did this herself. Which she did. She said she did it herself. And they knew she was lying, but there was nothing they could do about it.*<sup>2</sup>

Because they had no access to abortion, many women across Canada chose to keep their unplanned children. An anonymous author who wrote into the Royal Commission on the Status of Women in 1967 noted, “I speak from experience – experience that has caused not only myself, but my three children a lot of pain. I had an unwanted child eight years ago – he is still unwanted – no matter how wrong or guilty I may feel in feeling this way. This child... has changed the course of five lives drastically. No child! And I repeat – no child should be brought into this world unwanted.”<sup>3</sup> Thus, for Canadian women the lack of accessibility to reproductive rights forced them to either perform desperate measures to terminate the pregnancy or keep unplanned and unwanted children.

In 1969, Pierre Trudeau reformed the law to allow for women to get an abortion for a “medically necessary” reason. However, disputes remained over the definition of “medically necessary”, and to further limit access, three doctors had to sign off for the procedure.<sup>4</sup> Additionally, while the law legalized performing some abortions, the reform did not decriminalize abortions. It was this desperate need for reproductive rights that led to the formation of the Canadian Association for Repeal of Abortion Law in 1974. Later changing its name to Canadian Abortion Rights Action League, or CARAL, it was founded after the imprisonment of Dr. Henry Morgentaler for performing abortions. Judy Burwell noted that because women were suffering and dying, this time period is viewed by abortion activists as “something worth fighting for.”<sup>5</sup> Thus, the severity of women’s restricted access fuelled the Canadian prochoice community to get involved with legal change.

In 1988, pro-choice activists celebrated the decriminalization of abortion across Canada. It was in this year that abortion rights activist Dr. Henry Morgentaler finally won his Supreme Court Case *Morgentaler et al. v. The Queen* for arguing that legal limits to abortion amounted to a violation of the Charter of Rights and Freedoms.<sup>6</sup> For the women who had to endure an illegal abortion, travel to the United States to get an abortion, or have an unwanted child, decriminalizing abortion symbolized a momentous change in women’s reproductive rights. Judy Burwell, the second abortion clinic manager in Fredericton remarked, “It was like, ‘Isn’t that great? Now we don’t have worry about that anymore...It was a cause for celebration, and without investigating what was really happening you just assumed things

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2 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

3 Vol, 9 file Letters of Opinion, RC3389, RCSW, LAC, quoted in Shannon Stettner, “He is still Unwanted”: Women’s Assertions of Authority over Abortion in Letters to the Royal Commission on the Status of Women in Canada,” *Canadian Bulletin of Medical History* 29, 1 (2012): 152.

4 Karine Richer, “Abortion in Canada: Twenty Years After R.v. Morgentaler,” *Law and Government Division*, Publication: September 24 2008: 2.

5 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

6 Weinrib, Lorraine Eisenstate, “The Morgentaler Judgement: Constitutional Rights, Legislative Intention, and Institutional Design,” *The University of Toronto Law Journal* 42, 1 (Winter 1992): 22, 25.

were working well.”<sup>7</sup> Yet, fighting for legalization did not end in 1988. While the Canada Health Act requires provinces to pay for all “medically necessary” procedures whether performed in hospitals or clinics, New Brunswick remains the only province that does not pay for women to get abortions at a clinic.<sup>8</sup> Thus, New Brunswick fails to fit within the mainstream “progressive” national narrative on abortion rights since decriminalization.

This paper uses oral history interviews with three abortion clinic managers: Allison Brewer, Judy Burwell, and Simone Leibovitch, to explain why New Brunswick has failed to make progress on access to abortion. It examines events since the clinic’s founding in 1992<sup>9</sup> and places New Brunswick within the national and international context of abortion history. Although the clinic managers have noted several attempts to ensure publically funded abortion, from their perspective, New Brunswick has failed to progress in abortion access because of conservative political, medical, and media resistance since decriminalization.

While many people in the pro-choice community contribute to activism, this paper focuses on the New Brunswick clinic managers to allow for in-depth examination of their perspectives on the challenges and continuity that the clinic has weathered since its foundation. Oral history provides insight on the perspective of events that traditional sources might not get at.<sup>10</sup> In their interviews the managers emphasize the stagnation of abortion rights in the province. This paper explores their stories and examines the particularly restrictive structure they have had to operate within.

When Allison Brewer was contacted by Dr. Henry Morgentaler in 1992 to run the Fredericton Morgentaler Clinic, Dr. Morgentaler had just bought a well-known piece of property in Fredericton called 88 Ferry, previously a gourmet restaurant.<sup>11</sup> Brewer admitted that she initially declined the position because she did not have any experience running a clinic. However, with Dr. Morgentaler’s reassurance that his clinic needed a passionate direction, she finally agreed.<sup>12</sup>

Brewer noted the challenges started before she was even involved in the clinic. In 1985, Dr. Morgentaler wrote to the legislature of New Brunswick citing his intentions to open a private clinic.<sup>13</sup> In response, the New Brunswick government enacted several legislative

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7 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

8 However, it should be noted that Prince Edward Island does not have an abortion clinic so the residents of Prince Edward Island rely on the services of the NB clinic when they cannot get a referral to a hospital who will provide an abortion. Additionally, Prince Edward Island does not pay for abortions done at the NB clinic. Fowler, Dawn, and Trouton, Konia, “Abortion Reporting Continue in Canada?,” *Canadian Journal of Public Health* 191, 5 (September/October 2000): 396-397.

9 Though the clinic was founded in 1994, for this paper I am using the date in which Allison Brewer, the first clinic manager got involved with the clinic.

10 Alessandro Portelli, “What Makes Oral History Different,” in *Oral History Reader*, 2nd Edition ed. Robert Perks and Alistair Thomson (London and New York: Routledge, 2006), 36.

11 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

12 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

13 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

challenges for the clinic and Dr. Morgentaler. Former Premier Richard Hatfield passed the first legislative obstruction to the clinic in 1985. Brewer recalls:

*Hatfield was such a neat man. He had brought in legislation to bar anything setting up any clinic. Because he [Dr. Morgentaler] had made his intentions known a bit earlier he was looking at New Brunswick, and what Hatfield did...in the wording was that it barred Dr. Henry Morgentaler from setting up a clinic in New Brunswick. And one of the things you can't do in legislation is name a specific individual. So that was easy. That was child play. And Hatfield would have known that....<sup>14</sup>*

However, while Hatfield's legislation served more as a clever political dodge, other legislative challenges were made that imposed strong legal barriers to the clinic. When Dr. Morgentaler bought the property, the real estate agent quickly went to the media with his intentions.<sup>15</sup> The confirmation of Dr. Morgentaler's purchase gave the province the opportunity to work quickly to set up legislation. In 1994, New Brunswick managed to change the Medical Service Payment Act so a private clinic could not have any of its finances funded by the province under its regulation 84-20. The legislation establishes that abortion will be paid by the province only if "the abortion is performed by a specialist in the field of obstetrics and gynaecology in a hospital facility approved by the jurisdiction in which the hospital facility is located and two medical practitioners certify in writing that the abortion was medically required."<sup>16</sup> In our interviews, Brewer reflects on the legislation sponsored at that time by then-MLA for Chatham New Brunswick and then-Premier of New Brunswick Frank McKenna:

*He set up a regulation in the New Brunswick Health Act, and that regulation says that there will be no funding for a free standing clinic in the province. So obviously Henry was able to set up the clinic, but he can't get funding there. That was the brilliance of Frank McKenna. That was the Machiavelli of Frank McKenna. It amazes me that even today no one has been able to break that, and tear it down. We are the only province in this country with a clinic that is not funded. It's a bit embarrassing when you think about it.<sup>17</sup>*

However, for the conservative New Brunswick politicians, restricting the clinic's funding was not enough. In 1994, New Brunswick amended the Medical Service Payment Act of New Brunswick to restrict abortion access only to hospitals. The New Brunswick College of Physicians and Surgeons then restricted Dr. Morgentaler's license so he could no longer perform abortions in the province. However, the Court of Queen's Bench withdrew this restriction stating it was beyond New Brunswick's provincial power to restrict abortions

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14 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

15 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

16 Government of New Brunswick. "New Brunswick Regulation 84-20 under the Medical Services Payment Act." Fredericton: Government of New Brunswick., 38.

17 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

to hospitals. The New Brunswick government then repealed the Court of Queen's Bench decision, and it was only in 1995, after the New Brunswick Appeal Court upheld the Court of Queen's Bench decision, that the New Brunswick government finally dropped the case.<sup>18</sup> Yet, while the court struck down the decision to restrict abortions to hospitals, restricting payment for abortions to the clinic remained. Thus, the restriction from Regulation 84-20 throughout the clinic's history remained unchanged since the clinic's founding and has been the biggest source of tension for the New Brunswick clinic managers.

Throughout the interviews the clinic managers often pondered why New Brunswick, or even Fredericton in particular, creates such a hostile environment for abortion rights. Simone Leibovitch, the third clinic manager, wondered whether the clinic would have been more successful in blue-collar Saint John.<sup>19</sup> However, Leibovitch noted the struggle for reproductive rights in general is difficult in New Brunswick. She noted :

*I mean there is struggle with reproductive rights everywhere. In New Brunswick it is like times 100. And why is it? I guess, that it is very conservative. People are afraid of it. They don't want to talk about it. Politicians won't go near it. And 100 000 dollars spent trying to preserve legislation ... that was enacted just to prevent women from having their procedures covered here.<sup>20</sup>*

The clinic has faced a backlash within the local community when any major changes have occurred. In 1998, the mall beside the clinic decided to expand and buy the clinic's building, forcing relocation. Finding a new site was not an easy process; not only were they restricted by by-laws on where they could go, many real estate agents would not sell them property.<sup>21</sup> The clinic faced controversy when it moved to its current location on Brunswick Street behind George Street Middle School, and beside St. Dunstan's Church. A *Daily Gleaner* editorial titled "Location of Abortion Clinic will not Serve in Anyone's Best Interest" noted:

*Ms. Brewer would like to keep the new location for the abortion clinic quiet out of respect for those who will use the clinic. We do not believe that will be possible. The high profile location is another example of the "in your face" attitude that is employed by these people and we know it will be a focus for attention and controversy. We feel it is unfortunate that Allison Brewer would be so insensitive to school children and their parents, as well as the Catholic parish of St. Dunstan's Church.<sup>22</sup>*

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18 Abortion Rights Coalition of Canada, "Clinic Funding- An Overview of the Political Situation," *ARCC* (August 2007): 1.

19 Interview, Simone Leibovitch, Fredericton, N.B., January 22nd, 2014.

20 Interview, Simone Leibovitch, Fredericton, N.B., January 22nd, 2014.

21 Interview, Allison Brewer, Halifax, N.S., January 25th, 2014.

22 "Location of the Abortion Clinic will Not Serve Anyone's Interests," *The Fredericton Daily Gleaner*, August 14, 1998. P. A6

The letter continues to state Mayor Brad Woodside, Fredericton's current mayor was displeased about the downtown location, but could not stop it because the clinic had followed the bylaw regulations.<sup>23</sup> In response to an article that supported the clinic one reader, Corinne Hearsay, wrote in a letter to the paper:

*She also states "hiding" a clinic from our youth is unfair and unrealistic. I would instead state that should a teen at George St. Junior High School have to have an abortion, then walking past that clinic every day is not only unfair but brutally insensitive. Knowing the amount of guilt and stress the majority of women experience, it is inconceivable to think that a young girl could concentrate on her studies, sitting beside the clinic that took her child.*<sup>24</sup>

While anti-choice commentators saw the clinic's proximity to the school as a danger, the clinic managers argued that it provided an opportunity to inform youth that there are much easier ways to manage birth control.<sup>25</sup> Hearsay's article also illustrates anti-choice sentiments in the 1990's that emphasized women's guilt after having an abortion. While it is true that having an abortion can be a difficult emotional process, not all women feel guilt about the procedure. As highlighted by many women's stories, abortions provide relief to women who are desperate to terminate their pregnancies.<sup>26</sup> The objections against the clinic and the relocation illustrate a disconnection of understanding women's desperation to not have an unwanted child. Additionally, the editorial illustrates what Brewer had to face just trying to run the clinic.

Brewer noticed a trend of anti-choice sentiments in the media in general. The editor of the local newspapers, *the Daily Gleaner*, was anti-choice. Brewer states:

*The late Tom Crawler, the editor of the Gleaner, was not supportive. Not supportive of feminism, not supportive of choice, or lesbian and gay rights. And he seemed to spend his time in his office writing homophobic editorials, like, homosexuals who get AIDS deserve to die, that type of homophobic. ...But there was one woman [who] came to do a full feature, and I gave her full access, no reason not to, and she came over. I answered her questions, and she printed her story, and all my words were taken out of context. It was my first encounter with how the media skews against you... There were pockets that were very anti-choice and very opinionated. So the Gleaner editorial position was anti-choice,"*<sup>27</sup>

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23 "Location of the Abortion Clinic will Not Serve Anyone's Interests," *The Fredericton Daily Gleaner*, August 14, 1998, A6

24 Corinne Hearsay, "Abortion Clinic location showed lack of insensitivity, forethought," *The Fredericton Daily Gleaner*, September 10, 1998, A7.

25 Interview, Judy Burwell, Fredericton, N.B., January 11th, 2014; Interview, Simone Leibovitch, Fredericton, N.B., January 22nd, 2014.

26 Beth Palmer, "Lonely, tragic, but legally necessary pilgrimages': Transnational Abortion Travel in the 1970's," *Canadian Historical Review* 92, 4 (2011): 637-638.

27 Interview, Allison Brewer, Halifax, N.S., January 25th, 2014.

However, not all New Brunswick residents thought that the clinic's relocation was controversial. Two other Gleaner readers responded with their own letters. Shelly Butler and Dr. Norman Ravvin wrote in *The Daily Gleaner* on September 1<sup>st</sup>, 1998 to comment on the paper's anti-choice commentary:

*As two people who recently moved to Fredericton from Toronto, we carry with us the memory of the destruction of that city's downtown Morgentaler clinic, which was a part of our neighbourhood. Your recent editorial concerning your opposition to the location of an abortion clinic in downtown Fredericton is disturbing for its suggestion that the clinic, its workers, and women who require its services are not welcome in this community... The idea that an abortion clinic must be hidden from the youth of Fredericton strikes us as unfair and unrealistic, as if these issues are not a part of our contemporary experience... You might consider that your editorial creates the kind of fear and lack of tolerance that provoked the actions taken against the Toronto clinic.*<sup>28</sup>

Not only did the authors support the clinic's location, the authors make a clear personal connection to the 1990 Toronto anti-choice bombing that destroyed Dr. Morgentaler's clinic. From the authors' perspective, if a bombing could happen in Toronto, then the security risks of putting a clinic in a very anti-choice environment were all too clear. This illustrates a heightened sense of insecurity among abortion providers across North America, and while New Brunswick activists might not have been in immediate danger, there was certainly a sense of alarm in the pro-choice community. Additionally, the letter helped highlight the rigid structure pro-choice activists faced while trying to improve access to abortion. The clinic's struggle to simply move emphasized the hostility of the anti-choice community in New Brunswick. Even Brewer noticed a heightened sense of anxiety in the new clinic's design. To Brewer, 88 Ferry was a comforting location, whereas the Brunswick Street clinic felt like "a bunker style."<sup>29</sup> The current clinic is square, and surrounded by a ramp surrounded by shatter proof glass. Thus, while there was some support available for the clinic, the atmosphere of fear heightened the difficulties of working within such a conservative atmosphere.

The pro-choice vs. anti-choice debate came to a head on the night the clinic reopened in 1998. George Street Middle School, located behind the clinic, shut down for the day. Clinic manager Allison Brewer noted how much that decision felt like a political statement at that time:

*I was just so angry at that decision. That seemed political to me. I couldn't see any reason. There was not going to be a safer place in Fredericton than that whole area,*

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28 Shelly Butler, and Dr. Norman Ravvin, "Abortion clinic need not be hidden away," *The Fredericton Daily Gleaner*, September 1, 1998, A6.

29 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

*the Regent and Brunswick area, there was police everywhere. The school had the audacity to close; it seemed like a real slap on the face. It was as if they wanted to make a point about the clinic being a dangerous place, being unsuitable for school-aged children, that it was sort of public hazard. By closing the school that day, I think that was what their intention was. I don't think they ever had any intention of protecting the children, I don't think that was in their minds at all. I still retain that until this day. ... It was good to have spoken out about that. And later I got a tacit apology from the principle, Nancy Row. I know she was supportive, but she was being pressured by other people to close the school that day.*<sup>30</sup>

This highlights the political tension in Fredericton regarding the clinic's opening. While some saw the clinic as an opportunity to educate youth about birth control and pregnancy, others maintained the belief that the clinic was a place where the "murder" of unborn children took place. It also illustrates the power the anti-choice movement had in swaying the community to side with them. Its ability to get a principal to cancel school stands in alarming contrast to the inability of the pro-choice movement to sway New Brunswick abortion politics.

Shortly after the clinic reopened security threats around North American increased. In New York state, Dr. Barnett Slepian was shot and killed in his home by anti-abortion protestors in October 1998. While Brewer was not overly concerned about protestors from New Brunswick causing that much violence, there always remained a concern about protestors coming from outside the province.<sup>31</sup> The possibility of threats continued, keeping the fear and tension alive for Brewer. In a *Globe and Mail* article "Deadly Risk For Being Pro-Choice," Brewer noted:

*"A heightened sense of awareness" -- those words have been echoing through my head since the Sept. 11 terrorism attacks in New York and Washington. But it wasn't the first time. In 1994, we opened Dr. Henry Morgentaler's Fredericton abortion clinic. Over the next five years that heightened sense of awareness became part of who I was. Words like "anthrax" were striking terror in my heart back when anti-choice terrorists were making their mark on the consciousness of every abortion clinic worker on the continent.*<sup>32</sup>

Brewer commented in her interview that she wrote this article because she was frustrated over people expressing fear over 911 terrorist's attacks when abortion providers have had to face grave danger from "home grown terrorists" for years.<sup>33</sup> However, even if

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30 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

31 Lisa Gregorie, "North American abortion centers on alert: Local Clinic doesn't feel a threat," *The Fredericton Daily Gleaner*, October 22, 1998, B1.

32 Allison Brewer, "Deadly Risks for Being Pro-Choice," *Globe and Mail*, November 8, 2001, <http://go.galegroup.com/ps/i.do?id=GALE%7CA30249639&v=2.1&u=fred46430&it=r&p=CPI&sw=w&asid=1e3f23fd179e4da51ce95a65ac660964> (accessed November 25, 2013).

33 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.



Brewer did not feel threatened by New Brunswick protestors in particular, she noted that the continuous “heightened sense of security” was one of the motivating factors for leaving the clinic, particularly because she started to fear the safety of her children.<sup>34</sup>

Anti-choice activists continued to advocate not paying for abortion access. According to the Canada Health Act all medically necessary procedures must be paid by the province. Yet, New Brunswick debated over whether abortion is “medically necessary.” To pro-choice activists the answer to whether abortion is medically necessary seems simple; Judy Burwell notes, “A woman doesn’t want to be pregnant, she needs an abortion to terminate the pregnancy. What’s not “medically necessary” about that?”<sup>35</sup> Additionally, Burwell noted she received calls from doctors who did not think their patient qualified for a “medically necessary” abortion. She noted this lack of support from medical doctors makes women think that in order to get a hospital abortion there has to be something seriously wrong either with the fetus or with them. Burwell stated “It’s just wrong to have that type of language, which confuses people.”<sup>36</sup> This echoes the debate before the decriminalization of abortion on the “medically necessary definition, illustrating that the same debate continued in New Brunswick well after 1988. While women technically had the right to abortion, the same arguments against abortion access in general were being used to prevent paying for it.

In 2000, Federal Health Minister Alan Rock threatened to sue New Brunswick for violating the Canada Health Act. Burwell described the resistance from New Brunswick residents to get taxpayers to pay for abortion, who would say:

*You know, ‘that’s too bad they are getting an abortion,’ and the other attitude is ‘Well you get in trouble, you have to fix it. So if you have to pay that’s too bad.’ ... But it’s people who don’t think about it. It’s not something that’s on anybody’s radar. You don’t think about abortion until it hits you, someone you know, someone in your family, your daughter. .. Because it’s difficult, because access is difficult, because you have to travel, and you have to pay \$700 or whatever.’<sup>37</sup>*

The irony of taxpayers not wanting to pay for abortions, but then having to pay thousands more to keep the pregnancy and raise the child is completely missed by conservative New Brunswick citizens. When asked what opposition the clinic gets, Burwell remarks: “... the reason they don’t want the clinic funded is because they don’t want their tax dollars being used to pay for abortion. Not with my tax dollars. That’s the opposition you mostly get here. ....” Thus, the conservative New Brunswick climate for the clinic managers remained an obstacle to the government funding abortions.

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34 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

35 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

36 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

37 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

Burwell's perspective can be confirmed by reviewing New Brunswick papers. One New Brunswick citizen, Clay Merrithew, wrote in the *Telegraph Journal* to express his anger at the possibility of abortion funding when other medical procedures are not covered under the provincial health care. He notes, "I guess an optional procedure really does take precedence over fundamental health care for all."<sup>38</sup> Peter Ryan, the executive director of the New Brunswick Right to Life Association, President of Campaign Life Coalition NB, and founder of the "Women's Care Centre"<sup>39</sup> wrote to the *Daily Gleaner* pleading with New Brunswick residents to defend the province's policy to not fund abortions:

*If ever there was a time for back bone and standing firm, this is it. We are faced with aggression against not only our rights, our way of life, our tax dollars, but the very lives of our province's children and mothers. We should not be intimidated... The bottom line is this: Our nation's government is demanding that we put a bounty on killing our people's children. It may penalize us for refusing -- the figure of \$500 per child has been raised. I say let us stand firm. Defend our rights in court if needed. But if it comes right down to it, let them exact their pound of flesh. Better suffer a fine than sell our soul as a people.*<sup>40</sup>

Ultimately, nothing ever came from Rock's proposal, leading to another disappointment for the pro-choice community of New Brunswick.

In 2003, Dr. Morgentaler launched his own lawsuit, "Morgentaler vs. New Brunswick," to force a repeal of Regulation 84-20. Dr. Morgentaler, like Health Minister Allan Rock, argued that the province was violating the Canada Health Act, along with Canada's Charter of Rights and Freedoms, by not paying for abortions at the clinic.<sup>41</sup> However, anti-choice groups and politicians continually stymied his efforts by stalling the case and challenging Dr. Morgentaler's standing to sue. When New Brunswick lost the first round, the government sought to appeal. Seven years later in 2009, the New Brunswick Court of Appeal ruled Dr. Morgentaler did have standing to challenge the New Brunswick government. However, the suit was never revived. The aging Dr. Morgentaler had already spent over \$1 million, and in 2013, he passed away, leaving little hope to find another plaintiff to continue the case. Simone Leibovitch argued that it would take someone with a lot of money to change the law in New Brunswick.<sup>42</sup> Thus, the resistance to public funding

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38 Clay Merrithew, "Put Hospital Access Before Abortion," *The New Brunswick Telegraph Journal*, December 28, 2000, A4.

39 The Women's Care Center at the time this letter was written would be known as the "Mother and Child Well Being Center."

40 Peter Ryan, "Better a fine than to sell our souls: Access to Abortion Not Guaranteed," *The Fredericton Daily Gleaner*, December 28, 2000, A7.

41 Richer, "Abortion in Canada..." 10-11.

42 Interview, Simone Leibovitch, Fredericton, N.B., January 22nd, 2014; In 2014, it was announced the case would be dropped because while Dr. Morgentaler had the money to keep the case going, the clinic did not have the financial means to continue the case as much of the funds from the clinic came from Dr. Morgentaler while he was still life. "Morgentaler Clinic Dropping Lawsuit Against New Brunswick

successfully blocked repeated attempts to change the law, and women continued to pay for their abortions.

In 2004, the anti-choice “Women’s Care Centre”, bought the house beside the clinic. Burwell did not see this as a “big deal” at the time.<sup>43</sup> Though both Burwell and Simone Leibovitch state that pro-choice people respect the right of anti-choice protestors to be there, they do note throughout their interviews that it is annoying to deal with them. Burwell questions why religion should be motivate opposition to abortion:

*...disagree if you wish, I don't care. If you are against it I sure hope you never have to have one. But don't interfere with something that someone has a right to do. It's a health issue, it is not a religious issue. When someone says I don't believe in abortion, you know my first thought is 'it's not a religion, you don't have to believe in it.' ...it's a medical procedure. ... that's why we have escorts.*<sup>44</sup>

Burwell and Leitovitch didn't see the anti-choice centre as frustrating or adding stress to their job; they viewed the anti-choice protestors as more of an annoyance.<sup>45</sup> However, the anti-choice clinic did create further constraints on the clinic.

In 2004, the same year the Women’s Care Centre opened, the Canadian Abortion Action League closed. The very next year, a new (unaffiliated) national political group formed, called the Abortion Rights Coalition of Canada (ARCC). In 2006, Lianne MacTavish, a Fredericton resident and ARCC member, wrote a report discussing why it was necessary to form ARCC. While Canadian for Choices continued CARAL’s educational and charitable role, there remained a need for a group that could lobby politically for abortion access. ARCC was founded to defend legal abortion rights and address the continuing abortion access issues, particularly in rural Canada. As MacTavish noted, “Women are routinely denied hospital abortions and every year more than 600 have to pay out of pocket for this health service at the Morgentaler Clinic.”<sup>46</sup> MacTavish also noted that the anti-choice movement has more money for resources. As a result, the decision was made to keep ARCC a virtual organization to reduce costs.<sup>47</sup>

Thus, not only is it difficult for women to pay for abortions, it is also difficult financially for pro-choice activist groups. In contrast, anti-choice groups continually get financial support from conservative and religious groups across New Brunswick and in Canada. Simone Leibovitch recalls being shocked when The Knights of Columbus purchased

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Government,” *The Canadian Press*, April 15, 2014. <http://www.ctvnews.ca/canada/morgentaler-clinic-dropping-abortion-lawsuit-against-n-b-government-1.1777049> (Accessed April 15, 2014).

43 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

44 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

45 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

46 Lianne MacTavish, “Virtual Activism and the Pro Choice Movement in Canada,” *Canadian Women Studies* 25, 3&4 (Summer 2006):121.

47 MacTavish, “Virtual Activism...” 124.

a \$50 000 ultrasound machine for the Women's Care Center in 2013.<sup>48</sup> Leibovitch noted "Whoever their PR people are, they're really good. And they have a lot of money. A lot more money than the pro-choice movement for sure. I think we all better be careful."<sup>49</sup> Thus, at least in financial resources, anti-choice groups receive far more support than pro-choice groups in New Brunswick and across Canada, making it difficult for the clinic to challenge the rigid conservative forces in New Brunswick.

In 2006, Susan Leger and Elizabeth Crouchman of the NB Right to Life Association, wrote the *Moncton Times and Transcript* to respond to pro-choice commentary in New Brunswick newspapers. The authors noted:

*On the day of the abortion there is more than one death . . . something dies within the woman as well. Many face a daily internal battle between condemning themselves and defending their choice. Just a few symptoms of post-abortion syndrome: self-destructive behaviour, lowered self-esteem, bouts of crying, anger/rage, depression, suicidal urges, nightmares, and flashbacks. Any wonder? She has just been robbed of part of the very essence of who she is in the name of "freedom."*<sup>50</sup>

Leger and Crouchman's article illustrates the continuity between the 1990's anti-choice perspectives on female post-abortion trauma, further evidenced by the fact the "Women's Care Centre" offers "abortion trauma" counselling.<sup>51</sup> Thus, in the mid 2000's, anti-choice sentiment continued to challenge the goal of the pro-choice community to view abortion as a necessary procedure that can be a source of relief to women.<sup>52</sup>

Not all editorials supported anti-choice claims. In 2006, reader Helen Rooney wrote into the *New Brunswick Telegraph Journal* responding to comments by Premier Lord and Health Minister Mr. Rouchaud that abortion access was not an issue in New Brunswick. She notes,

*Mr. Lord and the health minister do nothing to help improve the province's image as a backwater in the eyes of the country. New Brunswick is already the province with the highest rate of sexual assaults, one of the lowest conviction rates, one of the last provinces to allow gays to marry, and now the province with the most restrictive*

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48 Interview, Simone Leibovitch, Fredericton, N,B, January 22nd, 2014.

49 Interview, Simone Leibovitch, Fredericton, N,B, January 22nd, 2014.

50 Susan Leger and Elizabeth Crouchman, "Time to Stop Tragic Cycle Abortion Represents," *The Moncton Times & Transcript*, July 25, 2006, D7.

51 Women's Care Center, "Our Services," <http://womenscarecenter.ca/services.php> (Accessed January 13, 2014).

52 Romalis, Garson, "Why I do Abortions: Speech to the Morgentaler Symposium," *Reproductive Health Matters* 16, 31 (May, 2008): 66-68.

*abortion policy. It is time that our government take us out of the 19th century, not lead us back in it.*<sup>53</sup>

Rooney's commentary stressed how "backwards," this conservative province feels to pro-choice citizens.

Yet, some resistance to New Brunswick conservatism was not enough to change access to abortions. From the clinic managers' perspective, lack of awareness about poor abortion access remained a contributing factor for restrictive access in New Brunswick. Judy Burwell reflected on the need to continually re-educate politicians and the media:

*The media is really hard to deal with sometimes. Like the number of times I've had calls from the media, when something happens, where there is a big demonstration, the media calls and they aren't aware of what the problem is here. So you are constantly re-educating the media because they change. ... You are constantly re-educating politicians because they change every time there is an election. I've been in three meetings with Health Ministers, it's like banging your head against the wall. Two of them sat politely while we talked, we had doctors and other people with us. The third, if he could have slammed the door as we walked out, he would have.*<sup>54</sup>

Simone Leibovitch also mentioned that she did not feel any support in particular from any political party, noting "Definitely not the Conservatives, or Liberals, but sadly maybe NDP"<sup>55</sup> (the NDP has little influence in NB). Thus, whether or not the political parties support abortion access, no politician has been particularly motivated to repeal Regulation 84-20.

Additionally, Burwell mentioned a lack of interest from the media to get involved. In 2013, she invited the media to a preview of the National Film Board's movie "Status Quo: The Unfinished Business of Feminism," which exposed New Brunswick's restrictive access to abortion. The media replied that they were not interested in reporting on an access issue because it was not really a "news story."<sup>56</sup> Burwell also noted that every time the clinic had a public forum or event, the media said they had to go the anti-choice centre next door to get the "other side of the story." Burwell observed "That's not another side of the story, that's another point of view. It's not another side of the story because the story is about access to abortion."<sup>57</sup> Burwell's challenges dealing with the media are similar to those of each clinic manager since the clinic's founding.

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53 Helen Rooney, "Government: take N.B. out of 19th century," The New Brunswick Telegraph Journal, February 4, 2005, D7.

54 Interview, Judy Burwell, Fredericton, N.B., January 11th, 2014.

55 Interview, Simone Leibovitch, Fredericton, N.B., January 22nd, 2014.

56 Interview, Judy Burwell, Fredericton, N.B., January 11th, 2014.

57 Interview, Judy Burwell, Fredericton, N.B., January 11th, 2014.

In 2007, the international anti-choice “40 Days for Life,” campaign expanded its reach to Canada. Fredericton, New Brunswick is one of the locations for the annual protests. However, the new campaign was not the only way the abortion debate was heating up in North America. Only two years after 40 Days for Life came to Canada, Dr. Tiller, a late term abortion provider, was shot while at church in Kansas.<sup>58</sup> Judy Burwell wrote in the *Fredericton Daily Gleaner*: “The impact of his death will be felt throughout the U.S., Canada and beyond. It is a stark reminder of the risks abortion providers face on a daily basis. It is a stark reminder there are people who believe that murdering an abortion doctor is justified.”<sup>59</sup> While Burwell did not comment on Dr. Tiller in her interview, Brewer recalled the impact of the news. While she felt the violence had calmed down by 2014, she noted “I guess that isn’t entirely true... there was Dr. Tiller only four to five years ago. I had a lot of respect for that man.”<sup>60</sup> Thus, violence around North America was an important source of pressure placed on the clinic managers.

The clinic has also faced opposition from anti-choice medical professionals. Commenting on the challenge of getting doctors on the clinic’s side, Burwell noted, “We had allies like that, but then we had those crazy Barry’s – Dr. Tom Barry and Carolyn Barry. There was a huge side of the medical profession that was fighting against it. There were huge exaggerations; it was like we were killing babies over there. ...”<sup>61</sup> This continued under Burwell’s term as manager because not all doctors saw abortion as “medically necessary.”<sup>62</sup> In 2007, Dr. Tom Barry and Carolyn Barry wrote to the *Telegraph Journal*, expressing their views on abortion:

*“And let us all be honest: it is a BABY. Why is it in our society when it's a wanted pregnancy we have no trouble referring to "the baby," but when it's unwanted we often resort to terms like "fetus" or - worse - "clump of cells?" Is this not hypocrisy? Contemporary medical knowledge, honesty and ethics all require us to acknowledge that abortion kills a baby. All of which leads to this question: why would we want to adopt proposals that will predictably result in the violent, unnecessary death of hundreds more New Brunswick children? Why would we not be interested instead in proposals that extend better care for every mother and child during pregnancy?”<sup>63</sup>*

Clinic managers also have to worry about doctors’ interactions with patients. Burwell notes “We’ve had women [whose] doctor said if they had an abortion they would no longer

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58 Roxana Hegeman, “Abortion doctor gunned down in Church Controversial Police arrest suspect in Sunday’s Murder,” *The Fredericton Daily Gleaner*, June 1, 2009, A6.

59 Judy Burwell, “Tiller was committed Re: U.S. shooting death of Dr. George Tiller,” *The Fredericton Daily Gleaner*, June 9, 2009, C6.

60 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

61 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

62 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

63 Tom Barry, Carolyn Barry, “Which way: more babies or more abortions?” *Telegraph-Journal*, March 12, 2007, A5.

be their patient.”<sup>64</sup> There is even continuity from 1960 as doctors still cited mental illness as a reason for abortion, with this information remaining on the woman’s medical file.<sup>65</sup> Simone Leibovitch noted how hard it is to get doctors to work at the clinic because their doctor had been expelled from her practice after her colleagues found it too difficult to deal with the anti-choice protesters.<sup>66</sup> However, this was an improvement from when Brewer was clinic manager and they had to fly a doctor into New Brunswick to perform abortions.<sup>67</sup>

Even pro-choice doctors today remain unaware of the situation in New Brunswick. Leibovitch notes “I go to meetings like the National Abortion Federation, and we were like a blip, like there is this little province of New Brunswick where women actually have to pay for abortions and people are just astounded. And these are people in the pro-choice community. ...Even doctors doing abortions in Vancouver –there is a lot that they don’t even realize what is going on.”<sup>68</sup> Leibovitch illustrates that even today there is a disconnect between New Brunswick’s reproductive rights and abortion access elsewhere in Canada. The country’s vast size makes it difficult to keep communications open. While other provinces seek to maintain access, New Brunswick clinic managers struggle to just make abortion available.

In 2001, the “Canadian Centre for Bio Ethical Reform,” an anti-choice group from Calgary, was formed. One of their recent actions was to travel across Canada in 2012 in a caravan of trucks with pictures of aborted third trimester fetuses, an idea stolen from the 1970 Abortion Caravan organized by Canadian feminists to demand repeal of the 1969 abortion law.<sup>69</sup> Leibovitch notes that they lined the streets for two days from Regent to York with large 6ft by 8ft posters of late-term aborted fetuses.<sup>70</sup> The anti-choice protestors’ persistence illustrates the continuity between the 1990’s and the present day. Leibovitch notes that some aspects of the anti-choice campaign are getting even worse, because they use deception to make people think they are calling the clinic but when they arrive, they end up at the anti-choice centre.<sup>71</sup> Leibovitch said that anti-choice sentiments in New Brunswick remained strong because the clinic has found it difficult in the past to even get repair people to come to the building. Leibovitch recalled that Jean Coutu Pharmacy, the pharmaceutical supplier for the clinic, even once sent a taxi to drop off medications rather than show up in their own company car due to fear of anti-choice backlash.<sup>72</sup> Furthermore, anti-choice sentiments in New Brunswick cannot be identified just with an older generation. In 2012, the UNB anti-

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64 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

65 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

66 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.

67 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

68 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.

69 Barbara Freeman, “My Body Belongs to Me, Not the Government”: Anne Roberts, Kathryn Keate and the Abortion Caravan Publicity Campaign of 1970,” in *Beyond Bylines: Media Workers and Women’s Rights in Canada*, (Waterloo: Wilfred Laurier University Press, 2011), 124-126.

70 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.

71 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.

72 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.

choice group “Life-Link” became funded by the university, showing that all generations in New Brunswick are involved in anti-choice protesting.<sup>73</sup>

Each clinic manager observed that fighting for abortion rights in New Brunswick continues to be difficult and little or no change has been made since they started working at the clinic. Allison Brewer expressed frustration over the fact that access to abortion has not improved:

*I was there for five years managing the clinic itself, and in that amount of time, even though we were able to open the clinic, I think in a way we slowed things down. I think we let the province off the hook. Because we were there they didn't have to be all serious about providing abortion services. Outside the clinic, I don't there is any more access to abortion since I started in the early 1990's. Certainty, funding continues to be an issue, I don't think that's moved forward in all that time. That's quite a while to be stagnant.*<sup>74</sup>

Burwell, who continues to volunteer at the clinic when Leibovitch is away, shared a similar perspective about the lack of change in New Brunswick: though she remained optimistic about national activist organizations: “I’ve been here for 13 years and it hasn’t solved anything. I think you need an organization like ARCC and I think it’s with organizations like ARCC that change will come.”<sup>75</sup> While some clinic managers expressed hope that ARCC may bring about change, nevertheless all three clinic managers held the perspective that nothing has changed over the course of 20 years. This speaks volumes to the continued difficulties the pro-choice community faces.

Since abortion was legalized, academics and even pro-choice community members have viewed Canadian abortion rights as gradually improving. While there have been setbacks on a national level, such as the Toronto bombing in 1992, and attempts to restrict abortion laws in the federal Parliament, the narrative has been one of progress. Yet it is paramount that academics and activists realize that New Brunswick is still a “province stuck in time,” when it comes to abortion rights.<sup>76</sup>

While I initially began this research believing that the women would connect their own stories to how they became clinic managers; I did not come across this throughout my interviews. While all the clinic managers noted their pro-choice views, none actively sought out a career at the clinic. Additionally, despite the clinic managers’ dedication to their work and creating a safe space for women in New Brunswick, they did not view themselves as leaders. Since the clinic managers see that abortion access has not changed since 1992, this is not a surprising perspective.

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73 Heather McLaughlin, “UNB pro-life club accuses student council of prejudice,” *Daily Gleaner*, January 21, 2012, A1.

74 Interview, Allison Brewer, Halifax, N.S, January 25th, 2014.

75 Interview, Judy Burwell, Fredericton, N.B, January 11th, 2014.

76 Interview, Simone Leibovitch, Fredericton, N.B, January 22nd, 2014.



While newspapers and other conventional methods can help historians trace the abortion debate, they do not offer the same insights as the clinic managers themselves. Their interviews challenged many mainstream narrative perspectives. Not only does New Brunswick not fit within the national progressive narrative, but the clinic managers voiced surprising opinions: that the anti-choice groups had a right to set up beside them, the challenges of trying to explain to outsiders the difficulties New Brunswick faces, and the joy of working at the clinic.

By using the clinic managers' perspective, researchers can see that despite all the attempts to reform the law, New Brunswick has remained stagnant for a long time. Using oral history accounts allows historians to look at the insiders' perception of events. From their perspective, the pro-choice community has faced many challenges. From the medical community backlash, to politicians' lack of commitment to abortion politics, to media apathy, the clinic managers tried to work within a rigid conservative structure.

Despite the lack of progress in abortion access in New Brunswick, over the past 20 years the clinic has served over 10'000 New Brunswick, Prince Edward Island, and Nova Scotia women. Since 1994, the clinic has never turned down a patient and has funded over \$100,000 in helping women pay for their abortions. On April 10<sup>th</sup> 2014 the clinic announced that it is being forced to close its doors in July because of its inability to continue funding the clinic. Simone Leibovitch in the press conference said: "It breaks my heart to have to do this." Six hundred to seven hundred women rely on the clinic's services each year. When the clinic closes its doors, so will women's opportunity to access a safe legal abortion. Unlike other Morgentaler clinics that have closed because access to abortion was being adequately met in the hospitals, the New Brunswick Morgentaler Clinic is closing because the province of New Brunswick refuses to uphold Canadian law, which mandates abortions must be paid for by the province. The closing of the clinic's doors exemplifies the whole premise of this paper; that New Brunswick is truly a province "stuck in time."

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