

ABORTION RIGHTS ACTIVISM IN CANADA: 1970 TO 1988

In 1969, a year before the Caravaners made their impressive mark on Canadian history, Dr. Henry Morgentaler opened an illegal abortion clinic in Montreal. Like the Caravaners, Morgentaler also rejected the concept of Therapeutic Abortion Committees (TACs) that accompanied Canada's update to its criminal abortion law. While the Caravaners and other women's liberationists collectively organized for change, Morgentaler quietly transformed his family practice in Montreal into an abortion clinic, where he openly violated the law by terminating pregnancies for women upon request. Morgentaler's decision to publicize his actions led to his arrest, incarceration, and legal battles that spanned the next 20 years and ultimately decriminalized abortion in 1988. Although this historic ruling is credited in his name, the *Morgentaler Decision* is a collective victory. As we sketch the history of feminist activism that occurred between the 1970 Abortion Caravan and 1988, we thus tell a story of collaboration and alliance. It is a story about how feminists of one era picked up and learned from where others left off. In this spirit of strategic alliance and ongoing struggle, we turn now to collective organizing in Quebec and Ontario, which defined Canadian abortion rights movement in the 1970s and '80s and provide the necessary background for the position papers that follow.



PHOTO CREDIT: [Judy Blankenship](#)

QUEBEC

In 1969, Canada's *Criminal Code* was amended to permit hospital-based abortions, provided a panel of three doctors—a Therapeutic Abortion Committee (TAC)—agreed continued pregnancy endangered a woman's health or life. Feminists denounced this reform, because it would cause continued harm. They pointed out the injustice of having a committee of doctors who had never met the woman deciding whether the abortion she wanted was necessary. They also pointed out that hospitals were not required to set up TACs. If desperate enough, women would therefore terminate unwanted pregnancies

by their own hand or by those of unlicensed laypeople, which would lead to continued suffering, injury, and even death.

As feminists of the era set up referral services and transported women to the U.S. to obtain abortions, physicians across the country engaged in civil disobedience by providing illegal but medically-safe abortions in their own clinics. Morgentaler was very public his actions, which led police to raid his Montreal clinic in 1970. He was arrested and released, and in the three years it took his case to go to court, he maintained his practice. Morgentaler grew restive in the interim, and when *Roe v Wade* (1973) legalized abortion in America, he published an article in the *Canadian Medical Association Journal* about the vacuum suction curettage method that he had pioneered for use in clinic settings. That year, he also public announced that he had performed over 5000 abortions and arranged for a television crew to film him performing an abortion in his clinic. When this footage aired nationally on Mother's Day, he was speedily brought to trial.

Morgentaler was tried on three separate occasions in Quebec from 1973–6, and at each of them he pled necessity defence – arguing that the circumstances of women's lives compelled him to break the law. His mantra—"No jury will convict me."—continually proved true, as predominantly male working-class French Catholic juries refused to issue guilty verdicts. Quebec judiciaries did reverse Morgentaler's first acquittal, however, and sentenced him to 18 months in prison, which was unprecedented in the history of commonwealth justice. In response to public outrage, the federal Liberals passed the 1975 *Morgentaler Amendment*, which has since forbid appeals courts from substituting jury acquittals with convictions. Soon after, the newly-elected Parti Quebecois declared that Canada's criminal abortion law was no longer enforceable in the province. Fortunate to organize during Quebec's era of secularization and sovereignty, Morgentaler trained many more abortion providers and feminists opened a series of publicly-funded woman-run clinics – leading Montreal to become known as the mecca for safe abortion care in North America in the 1970s.

Quebec's legacy of community health centres (CLSCs) and Centres de sante des femmes continues to the present day. The province still has the highest number of abortion providers compared to those in English-speaking Canada, and therefore the greatest access to abortion care.



PHOTO CREDIT: Antoine Desilets

ONTARIO

The gains made by Morgentaler and feminists in Quebec in the 1970s inspired women's liberationists in Ontario. They realized they could challenge the constitutionality of Canada's criminal abortion law if they found a doctor who was willing to open clinics outside the province and generated enough public support for the clinic. Workers from the Immigrant Women's Health Centre, the Birth Control and VD Information Centre, and the Hassle Free Clinic coalesced in 1982 to form the Ontario Coalition for Abortion Clinics (OCAC). OCAC organized alongside the national political advocacy group the Canadian Abortion Rights Action League (CARAL), with the explicit purpose of setting up clinics in outside Quebec to overturn Canada's federal abortion law. Feminist leaders such as [Carolyn Egan](#), [Linda Lee Gardner](#), [Judy Rebick](#), and [Norma Scarborough](#) knew the 1969 law was fundamentally flawed and had to change, and that campaigns such as the the 1970 Abortion Caravan had begun to generate public support toward this effort.

Morgentaler was invited to set up a clinic in Toronto, which he did in 1983 with the direct intention of working with OCAC and CARAL challenge the federal *Criminal Code*. Within a year, the clinic raided, but because of the strength of the movement-building that had been taking place, Ontario jurors acquitted Morgentaler and fellow doctors Robert Scott and Leslie Smoling. When a retrial was ordered, his lawyers escalated the case to the Supreme Court of Canada. On 28 January 1988, Justices upheld his original acquittal and invalidated section 251 of the *Criminal Code* that prohibited abortion. They did so on the grounds that the country's criminal abortion law denied women their section 7 right to life, liberty and security of person, under the recently-established *Canadian Charter of Rights and Freedoms*.

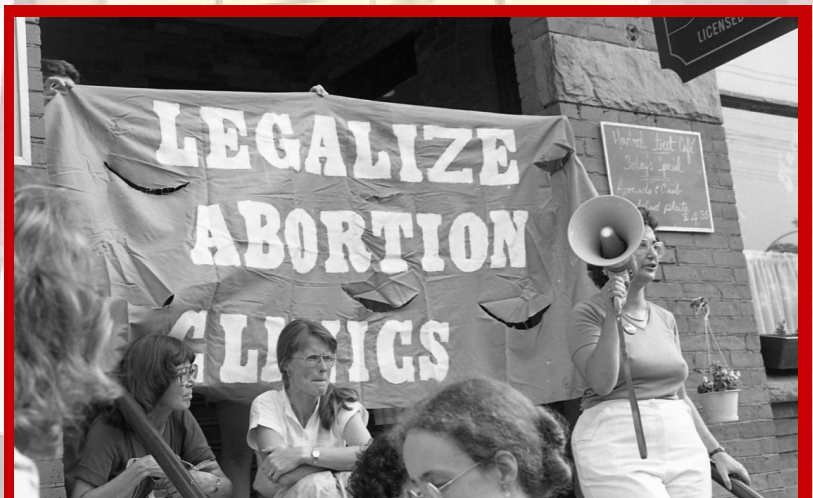


PHOTO CREDIT: [Judy Blankenship](#)

As Morgentaler's case made its way through the Ontario and Supreme courts throughout the '80s, CARAL and OCAC continued to build a visible mass movement around the Toronto clinic. OCAC, in particular, organized demonstrations and marches, working to build awareness of the broad issues at stake in the struggle for abortion access. They argued that the federal law was racist and class biased, as many racialized, Indigenous, working-class, rural, and young people could not easily access abortion. By widening the definition of "choice" to include access to safe and effective birth control services, decent jobs, paid parental leave, child care, the right to live openly regardless of sexuality, an end to coerced sterilization, and employment equity, they showed Canadians that abortion was one of many interdependent struggles. liberation. Modelling

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their campaign after their sisters' in Quebec, OCAC also built alliances with a wide range of progressive groups. Activists from trade union, faith-based, LGBTQ, student, Indigenous, and people of colour community groups joined them in the streets to defend the clinic and spoke about their abortion experiences.

Canadian abortion rights activists' commitment to broad-based movement building shifted the balance of power in Canada forever. When the Supreme Court overturned the criminal abortion law on 28 January 1988, it was a collective victory won by hundreds of thousands across the country, which continues to be heralded by pro-choice activists in this country and around the world today.



PHOTO CREDIT: [Barrie Davis](#)

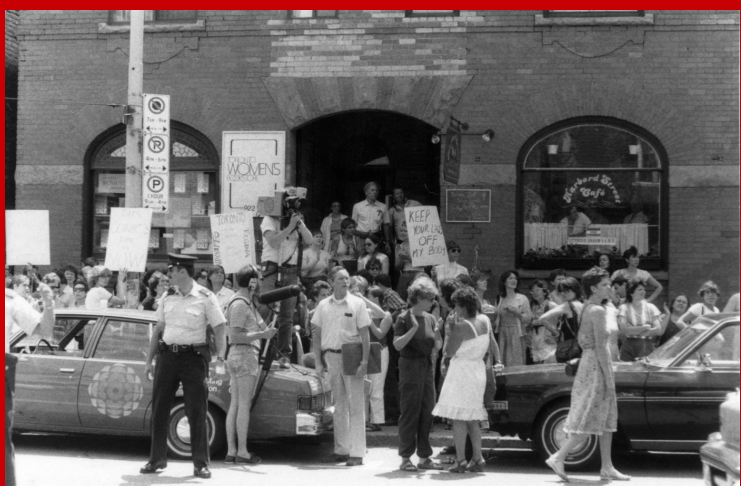


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**FREE DR. MORGENTALER
DROP THE CHARGES
REPEAL ANTI-ABORTION LAW**

Saturday, June 15
2:00 pm Rally Medical Sciences Auditorium
King's College Circle, U. of T.
3:30 pm March to City Hall

Speakers to include Dr. Henry Morgentaler

contact TORONTO C'TEE TO DEFEND DR. MORGENTALER Box 186, Stn F, Toronto 863-9999

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LEARN MORE

- Read Shannon Stettner's "A Brief History of Abortion in Canada" in [*Without Apology: Writings on Abortion in Canada*](#).
- Read Carolyn Egan's article "Reproductive Justice and the Campaign to Overturn the Federal Abortion Law" in [*Abortion and the Struggle for Reproductive Justice*](#).
- Read Judy Rebick's book [*Ten Thousand Roses: The Making of a Feminist Revolution*](#).
- Read Catherine Dunphy's biography [*Morgentaler: A Difficult Hero*](#).

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