

Government Documents Story

The Impact of Eugenics Policy on Marginalized Groups in the United States

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Introduction: A Brief Overview of Eugenics in the United States

In recent years, debates centered around the idea and phenomenon of discrimination existing or being built directly into our governmental system(s), which is commonly referred to as institutional racism/discrimination, have been increasing. We can see from the historical record of governmental documents, however, that at times throughout the history of the United States, government institutions have repeatedly passed and enforced legislation that is directed toward, and caused harm to specific groups of individuals based on their mental health status, status within the criminal justice system, or race.

The Merriam-Webster dictionary defines eugenics as “the practice or advocacy of controlled selective breeding of human populations (as by sterilization) to improve the population’s genetic composition”.¹ Typically, the subject of eugenics is brought up in the historical context of World War II, in association with genocide programs carried out during the Nazi regime. However, from the late nineteenth century through to the late 1970s, the United States engaged in the practice and promotion of eugenics through forced sterilization, with most sterilizations being done without the individual’s knowledge or consent. According to Alexandra Stern by 1913 most states had either passed sterilization laws or were in the process of passing laws that would allow sterilization based on the idea of eugenics to be carried out within their state.² Stern also notes that:

Its [the United States] sterilization laws actually informed Nazi Germany. The Third Reich’s 1933 “Law for the Prevention of Offspring with Hereditary Diseases” was modeled on laws in Indiana and California. Under this law, the Nazis sterilized approximately 400,000 children and adults, mostly Jews and other “undesirables,” labeled “defective.”³

The map in figure 1 shows the landscape of the United States in 1913 regarding sterilization legislation.

In the regions of the country where these sterilization laws were passed, the legislation targeted those suffering from mental illness, women, people of color, and other marginalized groups.

The Eugenics Movement in the U.S. Early Evidence of Forced Sterilization being Legalized

In 1907, Indiana became the first state to pass a sterilization law, the precursor to thirty-one more states passing their own legislation during this early period of the 20th century.⁴ With the passage of each state law for the legalization of forced sterilization, documentation that the proponents and supporters of eugenics had four main areas of focus; removal of mental illness and criminality from the population, promotion of the white race through continued segregation, eradication of undesirable traits, and overall population control.

Sterilization of Marginalized Persons

Sterilization of Individuals Diagnosed with Mental Illness

The primary goal of eugenics is to improve the genetic composition of the human population, by selectively eliminating what were considered undesirable traits.⁵ Since the Eighteenth Century, individuals who were diagnosed with, or who were perceived to have, mental illness were marginalized and often “removed” from regular society by being placed in various types of mental health institutions. Sterilization laws targeted these individuals by arguing that “feeble-mindedness” (a term used during the early 1920s) could not be allowed to continue through future generations.

One case illustrating this is that of Carrie Buck (1906-1983), a victim of rape that led to a pregnancy and the birth of a daughter. The state of Virginia labeled her “morally delinquent”

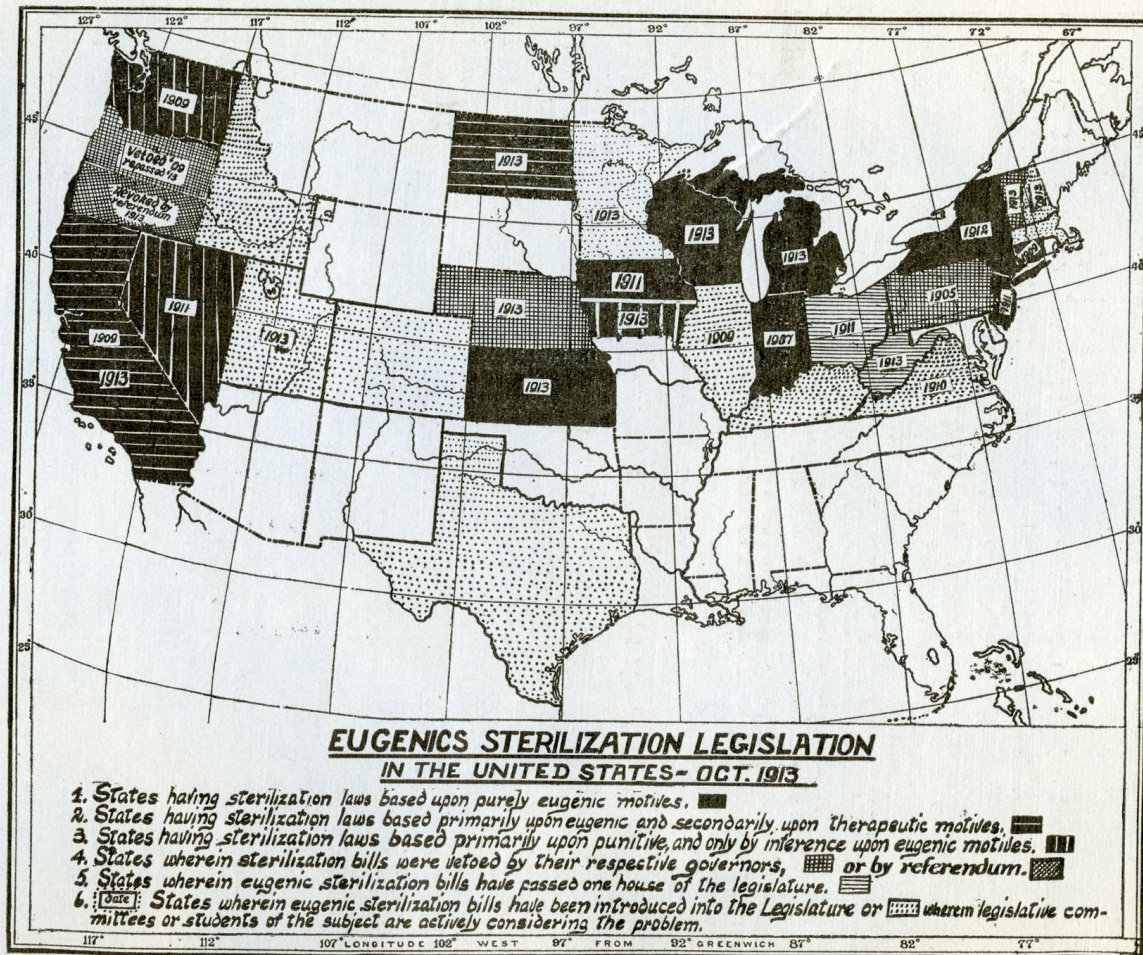


Figure 1. Map of eugenic sterilization laws by state. Source: Harry Hamilton Laughlin, "Map of Eugenic Sterilization Laws by State," OnView: Digital Collections & Exhibits Center for the History of Medicine at Countway Library, accessed April 25, 2022, <https://collections.countway.harvard.edu/onview/items/show/6230>.

for giving birth out of wedlock, gave her a diagnosis of being a "middle grade moron," and in 1924 confined her to the Virginia Colony for the Epileptic and Feeble-minded.⁶

The board of the Colony decided that Carrie should be their test case for the recently passed sterilization law in the state. The Virginia Sterilization Act of 1924 outlined the justification for sterilization of deemed to be mentally ill. The act stated:

Whereas, both the health of the individual patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives under careful safeguard and by competent and conscientious authority, and

Whereas, such sterilization may be effected in males by the operation of vasectomy and in females by the operation of salpingectomy, both of which said operations may be performed without serious pain or substantial danger to the life of the patient, and

Whereas, the Commonwealth has in custodial care and is supporting in various State institutions many defective persons who if now discharged or paroled would likely become by the propagation of their kind a menace to society but who if incapable of procreating might properly and safely be discharged or paroled and become self-supporting with benefit both to themselves and to society, and

Whereas, human experience has demonstrated that heredity plays an important part in the transmission of sanity, idiocy, imbecility, epilepsy and crime, now, therefore

1. Be it enacted by the general assembly of Virginia, That whenever the superintendent of the Western State Hospital, or of the Eastern State Hospital, or of the Southwestern State Hospital, or of the Central State Hospital, or the State Colony for Epileptics and Feeble-Minded, shall be of opinion that it is for the best interests of the patients and of society that any inmate of the institution under his care should be sexually sterilized, such superintendent is hereby authorized to perform, or cause to be performed by some capable physicians or surgeon, the operation of sterilization on any such patient confined in such institution afflicted with hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness or epilepsy; provided that such superintendent shall have first complied with the requirements of this act.⁷

The board chose her because she posed an apparent “menace,” and they argued that her lineage proved this as her mother was also an inmate at the colony. They recommended her for sterilization because that way she could not produce “socially adequate offspring.” The lawyer that she was assigned to appeal her sterilization, was a supporter of eugenics and worked for the state hospitals, wanted to take the appeal to the Supreme Court to help establish a national precedent in favor of sterilization.⁸ Their arguments, per the appeals document, stated that the procedure was unconstitutional at both the state and federal level because it did not provide due process, denied the petitioner and other inmates equal protection under the law, and imposed cruel and unusual punishment.⁹

When the Supreme Court of the United States agreed to hear the case of *Buck v. Bell* in April of 1927, they ultimately decide in favor of the state of Virginia and uphold their sterilization law, and the lower courts decisions to sterilize Carrie Buck. The final lines of the decision rendered by Justice Oliver Wendell Holmes read as follows:

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes.

Jacobson v. Massachusetts, 197 U. S. 11. Three generations of imbeciles are enough.¹⁰

Sterilization of Criminal Inmates

Historically, criminality has been viewed by society as a trait that not only is tied to mental illness but could be inherited. Many states have passed legislation aimed at imposing compulsory sterilization of their criminal population.

One example of this comes from the Supreme Court of Oklahoma. In 1935, the court ruled in favor of the *Habitual Criminal Sterilization Act*, which gave that state permission to force sterilization of inmates who had been convicted of three or more felonies.¹¹ Individuals did not have to be convicted of all these crimes within the state of Oklahoma, they just had to be serving their time in an Oklahoma prison.

Jack T. Skinner was sentenced to sterilization for his crimes in 1936, however, appealed this sentence to the Supreme Court of Oklahoma, which upheld his sentence.¹² He brought his case before the U.S. Supreme Court who decided, unanimously, in June of 1942 that Oklahoma’s Act violated the equal protection clause of the 14th Amendment.¹³ It is important to note, however, that this decision did not overturn the previous U.S. Supreme Court decision in the *Buck v. Bell* case, and only ended the small amount of punitive sterilization that was occurring in the United States during this time.

A Shift in Focus During the Latter Part of the 20th Century

Sterilization of African Americans

As the national conversation turned towards integration of races, there was also an increase in the number of African Americans, specifically African American women, being targeted by state-funded forced sterilization programs. Arguments in favor of eugenics to prevent the mixing of African Americans with White Americans was also taking place on the floor of the United States Senate.

The Congressional Record from January 17, 1938, provides a transcript of the discourse between Senators, and in particular the arguments from Democratic Senator Allen J. Ellender (1890-1972) of Louisiana who cites a book, “White America” (1923) by Earnest Sevier Cox. The passage the senator chose to read aloud to the Senate reads as follows:

While the future of the colored races is concerned so deeply with the purity of the white, we are not for a moment to consider it proper to permit their judgment to determine whether the white is to remain white.

This is a question for the white to decide, but it would seem that light from history on this matter ought to reach even the mind of the colored. The white man founded the cultures of Egypt and India and eventually interbred with his colored subjects, leaving a mixbreed population heir to the culture of the pure white. With what result? Arrested development. Stagnation. This is light from history that should penetrate the densest intellect. The African Negro was raised from a brutelike condition by white Egypt; what influence for good has mongrel Egypt had upon the Negro? The African Negro's knowledge of the present civilized arts has come from the pure whites of Europe, not from the mixbreed whites contiguous to his domain.

[. . .]

It may readily be seen that the Negro problem is a part of the greater problem of heredity. When eugenics seeks to eliminate the unfit and establish the fit it has for its purpose not the betterment of physical types merely, but the establishment of those types of greatest value to progressive civilization. A race which has not shown creative genius may be assumed to be an unfit type so far as progress in civilization is concerned and is a matter of concern for the eugenicist. Those who seek to maintain the white race in its purity within the United States are working in harmony with the ideals of eugenics. Asiatic exclusion and Negro repatriation are expressions of the eugenic ideal.¹⁴

This document shows that an elected representative to the federal government was openly supporting eugenics policy as a viable solution to prevent the mixing of races within the United States and supported the idea that individuals who are not white inherently possess a variety of undesirable traits that should not be permitted to contaminate the white race as a whole.

In North Carolina, where 7,600 people were forcibly sterilized from 1929 to 1973, the third highest number in the United States, Black women were sterilized at more than three times the rate of white women, and more than twelve times the rate of white men as desegregation efforts increased and mixing of individuals from different racial backgrounds became more likely.¹⁵

In 1970, a report was published by the Library of Congress Congressional Research Service, which mentions and highlights growing concerns about this topic. The report discusses genetic engineering in relation to human beings and quotes several scientists who bring up concerns about using eugenics principles

for the "improvement of mankind."¹⁶ McCullough goes on to state that "there is a great deal of concern being expressed about the procedures by which criteria will be selected for the identification and classification of 'desirable' traits."¹⁷

This did not, however, cause enough concern for these programs to be scrutinized or shut down, and in 1973 two minor aged African American sisters, Minnie Lee (12) and Mary Alice Relf (14), were involuntarily sterilized after their mother, who was illiterate, was deceived into thinking her daughters were receiving birth control shots agreed to their treatment.¹⁸ Once the young girl's parents discovered that they had been sterilized without their knowledge, they received assistance from the Southern Poverty Law Center and filed a lawsuit with the Federal District Court for D.C. The case was decided by the court in favor of the Relfs and resulted in the prohibition of the use of federal funds for involuntary sterilizations.¹⁹

Sterilization of Latino Americans

Mexican American immigrants were the targets of sterilization campaigns by the state of California during this time. Katherine Andrews details how Mexican American women were sterilized without knowledge or consent while they were giving birth in the hospital.²⁰ The case *Madrigal v. Quilligan* was a civil rights class action suit brought by ten Mexican American women who had been sterilized without their knowledge or consent. Although they argued that they had been coerced into signing consent forms during labor, and that they had not received appropriate counseling on the consequences of sterilization, the court ultimately ruled in favor of the Los Angeles County-USC Medical Center and decided that the consent given was valid and any misunderstanding was due language barriers and not proper consent protocol.²¹

This targeting of Latino peoples was not limited to the contiguous United States. Women in the territory of Puerto Rico were also targeted by the ongoing eugenics campaign in the United States. Andrews notes that between the 1930s and 1970s one third of the female population in Puerto Rico had been sterilized, making this the highest rate of sterilization in the work.²² The program in Puerto Rico was conducted differently from other places in the U.S., as it was actively promoted, and many women were convinced that it was the best form of birth control. Andrews states the following about the U.S. justification for the practice on the island:

Some argue that the pressure to increase sterilization procedures was a targeted practice to decrease the high level of poverty and unemployment. The government

blamed these issues on overpopulation on the island. The legalization of contraception in Puerto Rico and the Puerto Rican government's passage of a law allowing sterilization to be conducted at the discretion of a eugenics board both occurred in 1937. Soon after the legal change, a program endorsed by the U.S. government began sending health department officials to rural parts of the island advocating for sterilization. By 1946, postpartum sterilizations happened frequently in various Puerto Rican hospitals.²³

Sterilization of Native Americans

Native peoples of the United States were also targeted by government-sponsored sterilization and population control initiatives. Unlike African Americans, who were targeted by the states in which they lived, Native Americans were specifically being targeted by the federal government.

During the 1960s and 1970s the Indian Health Service (IHS) was conducting sterilizations without consent, and in some cases on minors as young as fifteen years old, without consent or with the knowledge of their parents. Some physicians with the agency even went so far in some cases as to mislead Native women into thinking that the sterilization procedure was reversible via a "womb transplant" at any time; even though a complete hysterectomy is a permanent sterilization procedure.²⁴

Native women and families also faced an additional problem during the 1970s in the United States. Social workers would go to their homes and convince them in various ways to give up their children so that they could be placed with non-native families who were told they would be able to adopt the children.²⁵ According to Sally J. Torpy, a Native woman named Serena was able to regain custody of her children, and was awarded damages, however, when she sued over the abuse of her reproductive rights, the jury did not offer the same level of empathy.²⁶ Her attorney's theory was that her living situation—she was an unwed mother and living with an African American man—caused the jury to disapprove, and they ruled that she had given consent to her sterilization procedure and acquitted the doctors who performed it.

In 1976 the United States Government Accountability Office (GAO) conducted an investigation which was aimed at determining if the Indian Health Service was abusing individuals' reproductive rights by performing sterilizations without consent. According to the GAO report:

We [They] found no evidence of IHS sterilizing Indians without a patient consent form on file, although

we did find several weaknesses in complying with HEW's sterilization regulations. The primary weaknesses related to (1) sterilization of persons under 21 years of age, (2) inadequately documenting what the Indian subjects were told before signing the consent form (largely attributable to the use of consent forms that failed to meet HEW standards), (3) lack of widespread physician understanding of the regulations, and (4) the lack of definitive requirements for informed consent when sterilizations are performed by contract doctors at contract facilities.²⁷

This report was criticized, by Democratic Senator James Abourezk (1931-) of South Dakota due to its limitations such as only investigating four out of twelve IHS areas; the implication being the GAO did not seek to find an accurate number when counting forced sterilizations.²⁸

However, due to this investigation, legislation was passed in 1978 in part 50 of Title 42 that required clearer procedures for obtaining consent of individuals who were to undergo sterilization procedures and ensured that any federal benefits would not be taken or revoked due to an individual refusing a sterilization procedure.²⁹

Conclusion

Today, the very thought of an individual undergoing a sterilization procedure without having given consent is considered a violation of someone's civil rights. However, while attempts have been made to see a federal ban on eugenics practices in the realm of population control and forced sterilizations, these attempts have been largely unsuccessful. The American Civil Liberties Union in the 1980s filed a complaint on behalf of 8,000 women who had been

sterilized in the Lynchburg Training School and Hospital as a part of Virginia's eugenics program. They asked the court to decide that these women's constitutional rights had been violated. However, the court deemed their rights had not been violated, even though the statute on sterilization of individuals with mental illness had been repealed, because *Buck v Bell* had previously upheld that it was constitutional.³⁰

Other measures by the federal government can also be seen as lackluster at best, such as Public Law 114-241 passed in 2016, which made it so payments individuals received as compensation under the Eugenics Compensation Act could not be considered taxable income.³¹

The United States has a history of starting eugenics programs, influencing eugenics ideals globally, and then keeping the evidence of these practices close to the vest. Throughout

our history, we have yet to pass federal legislation that eliminates the practice of eugenics. It continues to be an important topic of discussion even in the current social climate surrounding women's reproductive health and rights. The decision made by the U.S. Supreme Court on June 24, 2022 to overturn *Roe v. Wade* was discussed in an op-ed by Michelle Williams, Dean of Harvard T.H. Chan School of Public Health, in which she outlined how the Supreme Court opinion inaccurately frames reproductive health care like abortion and eugenics. Williams states:

The leaked draft of Justice Samuel Alito's majority opinion nodded approvingly to the discredited theory that those who promote access to birth control and abortion have a eugenicist motive to limit reproduction in Black communities. That is a gross distortion of both history and health care. Embedding this disinformation in a landmark Supreme Court decision will legitimize it—and, in the process, whitewash the vile history of eugenics in our country.

The eugenics movement has never been about giving women the right to choose when they're ready to bear children. On the contrary, it has been about ripping that autonomy from women deemed inferior, unworthy, irrelevant.³²

As reproductive rights continue to be discussed, debated, legislated, and decided by the three main branches of government and the people, historical information regarding all areas of this subject become increasingly important. By outlining the history of eugenics in the United States, this article can assist librarians who are conducting research on the legislation and policy history surrounding it and serve as a guide to others who are researching the legislative history of the topic.

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Notes

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