

II. PRACE DROBNE I MATERIAŁY

KRYSTIAN K. JABŁOŃSKI

Instytut Nauk Prawnych Polskiej Akademii Nauk, Polska
Institute of Law Studies of the Polish Academy of Sciences, Poland
e-mail: k.jablonski@dydaktyka.inp.pan.pl
<https://orcid.org/0009-0006-1935-1080>

Forced sterilization in the state of California from 1909 to 1979: A historical and legal analysis

Introduction

In the history of the United States, the phenomenon of forced sterilization, particularly in the context of the state of California, emerges as one of the most controversial and instructive chapters in history, intertwining the fields of law, ethics, medicine, and social policy. Over the period from the beginning of the 20th century to the end of the 1970s, eugenic policies were implemented under the guise of “improving” the genetic composition of the population. In reality, this translated into unimaginable suffering of thousands of people, frequently unaware of the fact or under coercion, who were subjected to sterilization procedures. The introduction and subsequent implementation of these actions was based on broad scientific and ideological foundations, which, despite existing controversies, were accepted by the intellectual and political elites of the time as a method of achieving a “better” society. This acceptance, and even promotion, of eugenic ideology marks the context in which California emerges as a particularly significant case study.¹

¹ E. Black, *Eugenics, and the Nazis – the California connection* [in:] O.K. Obasogie, M. Darnovsky (eds.), *Beyond Bioethics: Toward a New Biopolitics*, Berkeley 2018, p. 53.

Eugenic ideology, promoting the ideas of “improving” the genetic makeup of the population, found particularly fertile ground in the United States where it developed not only in theory but was also met with practical application. California, in this context, serves not only as a backdrop for the implementation of the eugenic practices but, above all, as the place where these practices were adopted on the most organized and extensive scale, becoming a leader in the field of compulsory sterilizations.²

The focus on California as the primary area of analysis is not coincidental. This state, due to its leading role in eugenic practices, offers a unique perspective on the complexity of the issue, enabling a deeper understanding of the impact of eugenic ideology on American society. Moreover, the intensity and scale of sterilization practices carried out in California make this state particularly interesting for the analysis of the ethical, legal, and historical aspects of forced sterilization. Indeed, it is this state that holds the dubious record of forced sterilizations, particularly between 1909 and 1953. Moreover, it was one of the last states to repeal these laws.³

The analysis of these aspects in the context of California not only reveals the complexity of the problem but also highlights the state’s specificity in implementing this ideology. The decision-making, executive, and legal procedures that underpinned eugenic ideology require detailed examination, especially in the context of the regulations and jurisprudence of the time. Legal regulations specific to California, compared to other states, underscore the role this state played in shaping the eugenic policy at the national level. Federal and state jurisprudence, including key court cases, not only had a significant impact on sterilization practices but also on how these practices were perceived and evaluated from a legal and ethical perspective.

It is worth mentioning that the actions of eugenicists from the USA (including California) turned out to be the main basis for the Nazis in Germany. As James Q. Whitman noted, Nazi Germany displayed a notable fascination with eugenics in the United States in the 1930s. In addition to being influenced by Henry Ford’s mass production of automobiles and Hollywood’s marketing strategies, as well as American eugenic practices, the Nazi regime also sought insights from American discriminatory laws and legal practices.⁴ Stefan Kühl’s investigations shed light on the fervent embrace of Nazi eugenic practices by American proponents of eugenics. These individuals actively collaborated with German experts in disciplines like law and medicine, and all the while they displayed a keen interest in the evolving strategies of eugenic intervention in Germany. The extensive coverage of the Nazi eugenics program by the American media significantly contributed to the dissemination of

² P. Levine, *Eugenics: A Very Short Introduction*, New York 2017, pp. 4–8.

³ J. Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare (Gender and American Culture)*, Chapel Hill 2005, p. 108.

⁴ J.Q. Whitman, *Hitler’s American Model: The United States and the Making of Nazi Race Law*, Princeton 2017, pp. 10–13.

the eugenic principles within the nation, thus nurturing an environment supportive of the expansion of eugenics within the United States⁵. It can be said that German students have outgrown their US mentors.

In light of the above, the Nuremberg Trials and the post-war development of human rights represent a pivotal moment in changing the narrative around eugenics and forced sterilization, not only at an international level but also in the American context, with California as a significant point of reference. The Doctors' Trial at Nuremberg, contributing to the creation of the Nuremberg Code, imposed ethical frameworks for future human research, emphasizing the need to protect the dignity and rights of individuals. In the context of Californian eugenic practices, these global shifts in the perception of human rights and medical ethics take on particular significance, forming a foundation for critical analysis and assessment of past actions.⁶

The history of forced sterilization in California from 1909 to 1979 offers an important perspective on the complex relationships between science, law, ethics, and social policy. Through an in-depth analysis of this issue, it is important not only to understand the mistakes of the past but also to recognize their long-lasting impact on the contemporary discussions concerning human rights, medical ethics, and the role of the state in regulating scientific and medical professions. Reflecting on the history of forced sterilization in California is therefore crucial for establishing an informed position on fundamental human values and preventing similar abuses in the future.

The article investigates the historical and legal perspectives of forced sterilization in California from 1909 to 1979. How past actions and practices have contributed to the current state of affairs in which we now live is of high importance to understanding how we should shape our legal and, by extension, societal lifestyle in general. The ruminations in this paper are based on source documents and case law. Furthermore, it carries out a comparative analysis of California case law in order to point out the unique and common features of these practices on a relatively large number of jurisdictions.

In response to the need for better reader orientation and deeper understanding of the methodology, this article will employ a clearly defined historical-legal approach. This method will allow for a detailed analysis and comprehension of both the historical and legal context of forced sterilization in California. The analysis will begin with an in-depth review of California's legislation regarding eugenic sterilization,

⁵ S. Kühl, *The Nazi Connection: Eugenics, American Racism, and German National Socialism*, New York 2002, pp. 50–61.

⁶ N. Ball, *Eugenics through the Eyes of Nobel Laureates: Involvement in the Intentional Improvement of Man's Inheritable Qualities from 1905–2010* [in:] A. Loewenau, K. Lucyk, F.W. Stahnisch (eds.), *Proceedings of the 21st History of Medicine Days at the University of Calgary*, Newcastle Upon Tyne 2015, pp. 110–112.

followed by an examination of U.S. Supreme Court jurisprudence, which influenced sterilization practices at both the federal and state levels. Subsequently, the article will focus on detailed discussions of cases concerning sterilization abuse from the 1970s, such as the Relf and Madrigal cases, which were pivotal in shaping health law and policy. The final section will examine the role of eugenic organizations in California, such as the Human Betterment Foundation, which played a significant role in promoting and implementing eugenic ideologies. Adopting this methodology will not only provide a clear presentation of the material but also allow for a deeper analysis and understanding of the complex relationships between law, ethics, and medical practices in the context of eugenics.

The historical and legal analysis of forced sterilization in California from 1909 to 1979 aims to address several key questions. Firstly, what were the causes, consequences, and legal context of forced sterilization in California? Secondly, what lessons can we draw from this dark chapter of history? The present analysis seeks to understand the legal and social mechanisms that allowed such practices to occur as well as to highlight the profound consequences for the victims and their families. By examining these aspects, the article aims to provide a comprehensive understanding of the historical and legal underpinnings of forced sterilization and to contribute to the ongoing discourse on human rights and medical ethics.

1. The genesis of eugenics and compulsory sterilization in the USA and worldwide: scientific and ideological foundations

1.1. The origins and global impact of eugenics: historical contexts and ethical debates

Eugenics, as a scientific discipline and social movement, has its roots in the late 19th century, although its origins date back to much earlier times when theories about the possibility of “improving” human genetics through controlled breeding were first formulated. Therefore, it appealed to a wide spectrum by employing attractive slogans regarding sexuality and the development of humanity⁷. Over the years, eugenics evolved, attracting the attention of scientists, politicians, and wider social circles both in the United States and around the world.

Positive eugenics encourages the reproduction of individuals with genetic traits considered beneficial, offering support and financial incentives. These measures may also include support in treating hereditary diseases and combating alcoholism. Conversely, negative eugenics aims to limit the reproduction of individuals with genotypes considered undesirable, such as hereditary diseases. These strategies high-

⁷ W. Kline, *Building a Better Race: Gender, Sexuality and Eugenics*, Berkeley 2005, pp. 13–14.

light differences in approach to promoting genetic health and eliminating negative genetic traits in the population.⁸

Concepts resembling eugenic selection can be found as far back as ancient Greece. Plato advocated for controlled reproduction, where the best men and women would unite with the state's approval to produce the finest offspring.⁹ The works of Thomas Malthus, an English economist and demographer, significantly influenced later eugenic thinking. Malthus argued that the human population tends to grow faster than the means of subsistence, consequently leading to poverty and famine.¹⁰

The genesis of eugenics is closely linked with innovations in genetics and heredity, and its foundations were laid down by Francis Galton in the second half of the 19th century. Galton, inspired by his cousin's work on evolution and natural selection, Charles Darwin, began to explore the possibility of consciously shaping human genetic traits. In 1883, he introduced the term "eugenics," derived from Greek, meaning "well-born," and proposed promoting traits which were considered desirable through appropriate reproductive selection.¹¹

In the United Kingdom, eugenics found fertile ground in the early 20th century. However, the adoption of eugenic ideas in British society and politics was not as radical as in some other countries. Despite this, 1913 saw the establishment of the Eugenics Society, which promoted eugenic ideas of population control and genetic heritage improvement. Although the UK never introduced legislation on the scale of that of the United States or Germany, debates and publications on eugenics influenced discussions on health and social policy, especially in the context of birth control and public health.¹²

The eugenics movement gained much greater popularity thanks to the support of scientists, universities, and significant financial backing from wealthy sponsors, such as the Rockefeller and Carnegie families, who saw eugenics as a means to improve society. The Protestant Church in some cases also supported eugenic ideas, considering them a method to promote the moral and physical health of the population.¹³

Simultaneously, in Europe, eugenic ideas were developed and adapted to local socio-political contexts. In Germany, influenced by the work of Alfred Ploetz and

⁸ K. Marulewska, *Eugenika w świetle idei postępu. Rozważania wokół fundamentów filozoficznych*, "Dialogi Polityczne" 2008, no. 10, pp. 63–84.

⁹ Platon, *Państwo*, transl. W. Witwicki, Kęty 2003, pp. 112–115, 160.

¹⁰ T. Malthus, *An Essay on the Principle of Population*, London 1798, pp. 78–83; <http://www.esp.org/books/malthus/population/malthus.pdf> [accessed on 7.02.2024].

¹¹ D. Wilson, *Genetics, Crime and Justice*, Cheltenham 2015, pp. 10–12.

¹² The British Mental Deficiency Act 1913 was one of the first pieces of legislation to reflect eugenic ideas. This act introduced provisions regarding the identification, supervision, and institutionalization of persons deemed "mentally deficient." The text is available at <https://education-uk.org/documents/acts/1913-mental-deficiency-act.html> [accessed on 16.02.2024].

¹³ D.J. Flynn, *A Conservative History of the American Left*, New York 2008, p. 148.

his racial theory, eugenics took on a particularly dangerous form, becoming one of the foundations of Nazi ideology.¹⁴

Eugenics was also adopted on a massive scale in Japan and to a limited extent in Brazil and Mexico (mainly in theory). However, this does not change the fact that even in these circles the theories became popular.¹⁵

After World War II, eugenics, as a concept, became a subject of controversy and ethical reflection, while its practices were often criticized as violations of human rights. Despite this, some of its ideas were transformed and adopted into more ethical and scientific fields, such as medical genetics, focusing on the detection and therapy of genetic diseases and on improving the genetic health of the population overall.¹⁶

In contemporary times, medical genetics offers opportunities for diagnosing and treating a wide range of genetic disorders, representing significant progress for the benefit of humanity. However, the development of gene editing techniques, such as the CRISPR-Cas9 method, raises questions about the ethical aspects of intervening in the human genome.

1.2. Global eugenics activities and legislation: examples and impact

In the history of the 20th century, eugenics – the science of improving human heredity through the control of reproduction – found its reflection in the legislation of various countries. The idea of improving the genetic quality of the population by limiting the reproduction of people with undesirable genetic traits gained supporters worldwide, which translated into a series of controversial laws. These regulations, although differing in scope and methods, often relied on similar arguments concerning the protection of public health and the prevention of suffering. Many of these actions were later recognized as violating human rights and became the subject of ethical and historical debates.

In Germany, the Nazi government enacted the *Gesetz zur Verhütung erbkranken Nachwuchses* (Law for the Prevention of Hereditarily Diseased Offspring) in 1933, legalizing the compulsory sterilization of individuals deemed to be carriers of hereditary diseases such as schizophrenia, alcoholism, or epilepsy. This was part of

¹⁴ M. Conroy, *Nazistowska eugenika: Prekursorzy, zastosowanie, następstwa*, transl. V. Dobosz, Katowice 2021, pp. 17–21.

¹⁵ M. Zaremba Bielawski, *Higieniści. Z dziejów eugeniki*, transl. W. Chudoba, Wołowiec 2014, pp. 124–125, 166–167.

¹⁶ N. Roll-Hansen, *Some Thoughts on Genetics and Politics. The Historical Misrepresentation of Scandinavian Eugenics and Sterilization* [in:] H.I. Petermann, P.S. Harper, S. Doetz (eds.), *History of Human Genetics: Aspects of Its Development and Global Perspectives*, Berlin 2017, pp. 165–170.

a broader Nazi eugenics program aimed at “purifying” the Aryan race. However, this was merely a prelude to the infamous T4 program.¹⁷

Sweden first adopted the Sterilization Act in 1934, which allowed for voluntary and compulsory sterilization to “improve the population’s quality.” These regulations enabled the sterilization of thousands of people until the 1970s, reflecting a widely held belief in the possibility of social engineering through reproductive control.¹⁸

In Japan, the National Eugenics Law was introduced for the first time during the war (in 1940), and it was subsequently changed by a new law – The Eugenic Protection Law of 1948 (later changed to The Maternal and Child Health Law in 1996) – which allowed the sterilization of individuals with hereditary diseases as well as the termination of pregnancies for eugenic reasons. The sterilization program was part of an effort to limit population growth and to improve the “genetic quality” of the nation.¹⁹

In the Canadian region of Alberta, the Alberta Sexual Sterilization Act (1928) allowed the forced sterilization of people deemed mentally ill. A similar law also existed in the province of British Columbia, reflecting local eugenics initiatives.²⁰

Finland passed the Sterilization Act in 1935, which initially promoted voluntary sterilization until subsequent amendments were introduced. In Denmark, the Sterilization Act of 1929 allowed voluntary and compulsory sterilization to prevent the transfer of genetic and mental diseases, demonstrating the widespread presence of eugenics in health and social policies of various countries. Norway also implemented eugenics laws with its Sterilization Act of 1934. Czechoslovakia is a particularly interesting example as the Romani population was sterilized there during the communist period.²¹

In South America, eugenics gained theoretical acceptance and garnered considerable scholarly attention. Brazil emerged as a prolific contributor to eugenic discourse, as evidenced by a plethora of scientific publications surpassing those of many nations where forced sterilization policies were implemented. Similarly, Mexico exhibited a favourable disposition towards eugenic principles. However, in practice, the radical implementation of forced sterilization did not materialize in Latin American states. Instead, legislative measures which were primarily focused

¹⁷ J. Malczewski, *Eutanazja. Gdy etyka zderza się z prawem*, Warsaw 2012, pp. 68–69.

¹⁸ M. Zaremba Bielawski, *Higieniści...*, pp. 19–23, 30–34.

¹⁹ K. Molik, *Pomiędzy prawem a systemem Ie – aborcja w Japonii*, “Wrocławskie Studia Erazmian-skie” 2018, vol. 12, pp. 197–198.

²⁰ D. Hędzelek, *Sterylicacja ludzi ze względów eugenicznych w kanadyjskich prowincjach Alberta i Kolumbia Brytyjska* [in:] M. Musielak (ed.), *Konteksty społeczno-kulturowe zdrowia i medycyny*, vol. 4: *Wybrane aspekty sterylizacji ludzi ze względów eugenicznych, medycznych i społecznych*, Poznań 2009, pp. 116–120.

²¹ M. Domańska, *Grupa jednostek jako podmiot poszukujący ochrony w postępowaniu przed ETPC. Koncepcja ochrony praw grup wrażliwych*, “Studia Prawnicze” 2019, no. 1, pp. 38–39.

on restricting immigration were introduced, thus representing a more restrained approach to eugenic policies in the region.²²

These examples, although they do not constitute a comprehensive list, reveal how eugenics was adopted in various national contexts, often on the basis of scientific and social theories that were later criticized from the perspective of contemporary ethical standards and human rights. Reflecting on these practices and laws is essential for understanding how past approaches to public health and social policy can influence contemporary discussions concerning genetics, ethics, and human rights. One should also keep in mind that eugenics was not limited only to forced sterilization. For example, in Germany and the USA, the so-called prevention was used by prohibiting marriages and providing marriage counseling.²³

1.3. Development of eugenics and forced sterilization in the United States

The United States legal system's receptivity to eugenics legislation was shaped by a blend of intellectual, cultural, and legal factors. The era's strong belief in the power of science and technology to address societal issues positioned eugenics as a scientifically valid solution, aligning well with the Progressive Era's reformist zeal for societal improvement through government intervention. This period also witnessed the evolution of the legal system as it incorporated new scientific ideas with substantial institutional and public health support which perceived eugenic measures as a way to enhance societal well-being by preventing disease, poverty, and crime. Additionally, key judicial decisions legitimized eugenics by framing sterilization laws as a necessary public welfare measure. Cultural factors, including optimism about America's destiny coupled with anxieties over immigration and racial purity, further fuelled the acceptance and integration of eugenics into American law and policy, making it a prominent legal and social strategy during this transformative period.²⁴

Thomas C. Leonard and Douglas C. Baynton both provide critical insights into how eugenics was intertwined with the Progressive Era's broader reform agenda in the United States, reflecting deep-seated racial, gender, and disability prejudices. Leonard highlights how Progressive reformers, advocating for social efficiency and scientific management, implemented eugenic policies such as segregation, immigration restrictions, and compulsory sterilization, purportedly to enhance national

²² N. Stepan, *The Hour of Eugenics: Race, Gender, and Nation in Latin America*, New York 1991, pp. 165–175.

²³ E. Klee, *Auschwitz. Medycyna III Rzeszy i jej ofiary*, transl. E. Kalinowska-Styczeń, Krakow 2011, pp. 124–130.

²⁴ M. Willrich, *The Two Percent Solution: Eugenic Jurisprudence and the Socialization of American Law, 1900–1930*, "Law and History" 1998, vol. 16, no. 1, pp. 63–70, 90–98, 105–111.

health and productivity. These reformers viewed themselves as societal engineers, employing Darwinian principles to prune the human population of those deemed unfit.²⁵ On the other hand, Baynton focuses on the impact of eugenic thinking on immigration policies, illustrating how individuals with disabilities were categorized and excluded as defects, seen as threats to the social and genetic fabric of the nation.²⁶ These perspectives demonstrate that the eugenics movement was not just a scientific aberration but a mainstream component of the Progressive Era's policies, aimed at crafting a 'better' society through the exclusion and suppression of those labelled as different. This melding of scientific racism with social policy reveals a darker side of the Progressive Era, emphasizing the need to understand these historical underpinnings to fully grasp the ongoing implications of such ideologies in contemporary discussions on race, gender, and disability rights.

The eugenics movement in the United States, which gained momentum at the beginning of the 20th century, found its ideological roots in the works of scientists such as Charles Davenport and Harry H. Laughlin. Their establishment of the Eugenics Record Office at Cold Spring Harbor in 1910 became a milestone for the eugenics movement in America, contributing to the scientific and social legitimization of eugenic ideas. Davenport, a geneticist and biologist, deeply believed in the possibility of "improving" the human race through controlled reproduction, while Laughlin, as the superintendent of the office, was involved in developing and promoting eugenic legislation. This activity had a direct impact on shaping American eugenic policy, particularly on the practice of compulsory sterilization. They propagated the belief that society could be cleansed of traits considered undesirable, such as hereditary diseases, mental disabilities, or criminal behaviour, by preventing the reproduction of individuals with these traits.²⁷

Madison Grant, a sociologist and anthropologist, went even further with his eugenic proposals in his influential work entitled "The Passing of the Great Race" from 1916. He maintained that there exists a hierarchy of human races, with the Nordic race at its apex due to its supposed exceptional physical and intellectual traits. Grant argued that the protection of this racial purity was essential for the future of Western civilization, which had a direct impact on the immigration policy of the United States.²⁸

²⁵ T.C. Leonard, *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era*, Princeton 2016, pp. 91–100.

²⁶ D.C. Baynton, *Defectives in the Land: Disability and Immigration in the Age of Eugenics immigration*, Chicago 2016, pp. 104–106, 120–126.

²⁷ M. Moros Peña, *Lekarze Hitlera. Zbrodnicza medycyna*, transl. J. Kowalczyk, Warsaw 2019, pp. 42–46.

²⁸ M. Grant, *The Passing of the Great Race*, London 1922, pp. 223–233.

The impact of these ideas was widely felt not only in the realm of immigration policy but also in racial segregation practises, which were scientifically justified by the eugenic theories. Adopting these premises, numerous American states introduced legislation allowing for the compulsory sterilization of individuals deemed unsuitable for reproduction, with the aim of improving the genetic quality of the population.²⁹

The implementation of forced sterilization began in Indiana in 1907, which pioneered the legalization of the practice. Then, within a few decades, many other states passed similar legislation. In total, by the 1930s, 30 states introduced eugenic regulations.³⁰ Below are some examples.

In Virginia, the Sterilization Act of 1924, supported by the 1927 case of *Buck v. Bell*, introduced the possibility of sterilization of individuals suffering from “hereditary” forms of madness which are recurrent, idiocy, imbecility, feeble-mindedness, or epilepsy.³¹

In Michigan and Iowa, eugenics laws were enacted in 1914 and 1911 respectively, demonstrating the rapid spread of eugenic ideologies in the United States. In Iowa, several individuals, mostly women,³² were sterilized under the decision of the Eugenics Board, while the eugenics program in Michigan included promoting birth control and family planning.³³ Oregon and South Dakota implemented their sterilization laws in 1917, illustrating that the eugenics movement also influenced the northwestern and midwestern states of the USA.³⁴ In 1929, North Carolina introduced new sterilization regulations and thus replaced the law from 1919. The new legislation, titled Act to Provide for the Sterilization of the Mentally Defective and Feeble-Minded Inmates of Charitable and Penal Institutions of the State of North Carolina, aimed to update and refine the state’s approach to sterilization practices.³⁵ It expanded the criteria for sterilization as it became required not only

²⁹ P.T. Merricks, *Religion and Racial Progress in Twentieth-Century Britain: Bishop Barnes of Birmingham*, Oxford 2017, pp. 10–17.

³⁰ R. Hansen, D. King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America*, New York 2013, p. 77.

³¹ Virginia Sterilization Act of 3/20/1924, <https://dnlc.cshl.edu/view/11213-Virginia-Sterilization-Act-of-3-20-1924.html> [accessed on 18.02.2024].

³² A. Vogel, *Regulating Degeneracy: Eugenic Sterilization in Iowa, 1911–1977*, “The Annals of Iowa” 1995, vol. 54, no. 2, pp. 119–117.

³³ B. Mceuen, *A Program of Race Betterment: The Emergence and Evolution of Eugenic Ideas in Michigan*, Detroit 2022, pp. 173–180; https://digitalcommons.wayne.edu/cgi/viewcontent.cgi?article=4641&context=oa_dissertations [accessed on 20.02.2024].

³⁴ M.A. Largent, *Breeding Contempt: The History of Coerced Sterilization in the United States*, New Brunswick 2011, p. 72.

³⁵ The text of the Act to Provide for the Sterilization of the Mentally Defective and Feeble-Minded Inmates of Charitable and Penal Institutions of the State of North Carolina in digitized form: <https://digital.ncdcr.gov/Documents/Detail/public-laws-and-resolutions-passed-by-the-general-assembly-at-its-session-of-...1929/1952786?item=2039001> [accessed on 3.02.2024].

for the improvement of the mental, moral, or physical condition of patients, but it also could be carried out in the interest of public welfare.³⁶

In some U.S. states and territories, like Alaska or Hawaii, compulsory sterilization laws were not enacted due to a variety of reasons. Alaska and Hawaii's geographical isolation and smaller populations may have diminished the perceived need for such measures. The eastern state of Massachusetts was an interesting case for a different reason. Despite being one of the centers of the eugenic movement and population control discussions, it has never adopted legislation enabling compulsory sterilizations.³⁷

A different case is that of the southern states, such as Texas. During the first four decades of the 20th century, the states in the South, such as Texas, were less enthusiastic about eugenics and forced sterilization. This was related to the general specificity of the southern states, which were less populated, more rural, homogeneous, and attracted fewer immigrants. White Anglo-Saxons and French bloodlines dominated in the area. Family ties were also stronger. Notably, eugenics found less acceptance in communities with strong social and familial ties.³⁸ Eugenicists in Texas, despite raising alarm about internal enemies, such as the poor and the intellectually maladjusted, did not achieve success in their campaign for sterilization laws. State lawmakers considered several bills, but none of them passed. Instead of sterilization, the focus was on other means of control, such as restrictions on the right to marry and vote, reflecting a broader strategy of managing social problems without resorting to sterilization. The emphasis on eugenics laws and restrictions on the right to vote stemmed from similar concerns and reinforced each other. However, this did not convince the legislators to adopt such drastic measures like forced sterilization.³⁹

Ladd-Taylor's analysis reveals that Minnesota's eugenics policies were integrated into the state's broader social welfare programs aiming to reform the poor through mechanisms that controlled and surveilled populations considered "feebleminded." These policies were not only about preventing reproduction but were also deeply intertwined with child welfare and public health initiatives. The state's interventions, which included compulsory institutionalization and sterilization, were justified by a perceived need to improve the collective health and economic efficiency of the population, thus reflecting a local adaptation of eugenic thinking that prioritized the management of social dependence over racial purification. The legal and insti-

³⁶ E. Black, *Wojna przeciw słabym. Eugenika i amerykańska kampania na rzecz stworzenia rasy panów*, transl. H. Jankowska, Warsaw 2004, p. 589.

³⁷ M. Zaremba Bielawski, *Higieniści...*, pp. 87–96.

³⁸ E.J. Larson, *Sex, Race, and Science: Eugenics in the Deep South*, Baltimore 1995, pp. 5–11.

³⁹ B. Friauf, M. Phillips, *A Serviceable Villain: Eugenics, The Fear of the "Underman," and Anti-Democratic Discourse in Texas Thought and Culture, 1900–1940*, "East Texas Historical Journal" 2017, vol. 55, pp. 7–13, 23–27.

tutional frameworks in Minnesota, such as the 1917 Children's Code and the sterilization bureau established in 1925, facilitated these interventions under the guise of protecting societal welfare. These laws overwhelmingly targeted women and they also served as a reflection of broader societal norms that scrutinized and regulated female behavior under the pretext of eugenics. By contextualizing Minnesota's policies within the broader national eugenics movement, Ladd-Taylor effectively broadens our understanding of how eugenics was applied across the United States, emphasizing that local factors significantly shaped the implementation and impact of these controversial policies. This is another example of differences in state policy.⁴⁰

The impact of eugenics on American politics and legislation was far-reaching. The Immigration Act of 1924, often referred to as the Johnson-Reed Act, was directly inspired by the eugenic ideology. This legislation established immigration quotas that favoured immigrants from desired countries of Northern and Western Europe and it aimed to protect the purity of the American population from ethnic and racial groups considered to be inferior.⁴¹

After World War II, eugenics began to be increasingly criticized, especially after the revelation of Nazi crimes, which were motivated by a similar ideology. In the USA, social and legal movements, such as the civil rights movement, began to question the morality and ethics of eugenic practices, but the practices themselves were not discontinued until the 1970s.

2. Legal and historical aspects of forced sterilization in California

2.1. Eugenic ideologies, key figures, and organizations

California, one of the leading academic centres in the United States, saw the emergence of prominent eugenic scientists, including Samuel J. Holmes, Edward A. Ross, Lewis Terman, Joseph LeConte, and David Starr Jordan. Their work not only contributed to the development of eugenic ideas among students and researchers but also influenced public opinion and policy. LeConte and Jordan exerted particular influence on the academic community by promoting the ideas of evolution and using science to solve social problems, while also supporting policies favouring stricter immigration control. Their actions had a lasting impact on the development of scientific and societal discourse regarding eugenics in California and beyond. Fur-

⁴⁰ M. Ladd-Taylor, *Fixing the Poor: Eugenic Sterilization and Child Welfare in the Twentieth Century*, Baltimore 2017, pp. 7–15, 117–126.

⁴¹ C.L. Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship*, London 1998, pp. 123–127.

thermore, their advocacy for eugenics intersected with broader societal trends, such as the Progressive Era's emphasis on scientific management and social control. This convergence of scientific thought and social reform efforts propelled eugenic ideas into the mainstream and shaped policies that sought to regulate human reproduction and immigration on the basis of genetic fitness and racial purity.⁴² An aversion towards immigrants as well as segregation into better or worse categories (which included, among others, Mexicans) also played a significant role in these endeavors.⁴³

The Human Betterment Foundation (HBF), founded by E.S. Gosney in 1928 in Pasadena, California, was a key organization in the history of American eugenics. It worked to promote and implement eugenic sterilization programs with the aim of genetically "improving" the population by eliminating traits considered undesirable. HBF engaged leading scientists, doctors, and philanthropists in its activities; it published reports and studies which were supposed to scientifically justify eugenic practices. One of the most controversial aspects of HBF's activities was its influence on the development of eugenics beyond the United States. As indicated by the Foundation's annual report from 1935, HBF's work played a significant role in shaping the views of a group of intellectuals, who supported Hitler, in their eugenics program implementation. One of the sources the influence were scientific publications and reports, such as *Sterilization for Human Betterment*.⁴⁴ HBF also argued for the benefits of sterilization for society and encouraged its wider application. Collaborating with leading figures, it had a significant impact on the development of eugenics. After Gosney's death in 1942, the foundation was dissolved, which ended the organization's activities. HBF's activity in California, by combining its scientific precision with ideological commitment, serves as an example of how eugenic theories in academic discourse permeated political practices and ultimately influenced some of the most tragic chapters in human history.⁴⁵

Paul Popenoe, originally a traditional eugenicist and a prominent figure in the California eugenics movement, played a significant role in transforming eugenic ideologies into what is now known as marriage counseling.⁴⁶ As director of the Human Betterment Foundation, Popenoe used the foundation's resources to promote eugenic sterilization policies and ideology under the guise of scientific progress and social improvement. His efforts helped shape public perceptions and policies regarding

⁴² J.W. Sokolik, *Leading the race: eugenics in California, 1896–1945*, San Marcos 2013, pp. 24–26; <https://digital.library.txst.edu/server/api/core/bitstreams/940dfac8-d8c3-4f35-8915-2d52b5f8f389/content> [accessed on 20.02.2024].

⁴³ N. Lira, *Laboratory of Deficiency: Sterilization and Confinement in California, 1900*, Berkley 2022, pp. 16–20.

⁴⁴ R. Hansen, D. King, *Sterilized by the State...*, pp. 25, 68–79, 84, 101, 128.

⁴⁵ E. Black, *Wojna przeciw słabym...*, pp. 330–332.

⁴⁶ *Ibidem*, pp. 224, 624, 627, 611.

reproductive rights and marriage counseling in the early to mid-20th century. This transformation of eugenic thought into marriage counseling practices highlighted the complex interaction between scientific authority and social norms.⁴⁷

There were divergent opinions on eugenics in the legal and scientific communities. Roscoe Pound of Harvard Law School argued for legal and social reforms supporting eugenics,⁴⁸ while Felix Frankfurter, although not expressing his position directly, avoided discussing the topic.⁴⁹ In turn, Clarence Darrow strongly criticized eugenics as he considered it to be absurd and dangerous extremism. Furthermore, he expressed his scepticism towards the scientific and ethical foundations of the movement.⁵⁰

There were also differences of opinion within the spheres of medicine and biological sciences. For example, Martin Barr, director of a centre for people with intellectual disabilities, promoted sterilization as a way to limit the spread of traits considered undesirable.⁵¹ In turn, Thomas Hunt Morgan, winner of the Nobel Prize in genetics, initially supported eugenics, but later, as a result of his research, he questioned its scientific basis and became a critic of the movement.⁵² Herbert Spencer Jennings, an American zoologist and geneticist, also expressed his opposition to eugenics and emphasized the lack of moral and scientific justification for such practices.⁵³

2.2. Eugenics and forced sterilization laws

An analysis of the ethical, legal, and historical aspects of forced sterilization, especially in the context of California, reveals a complex interplay between scientific ambitions, legal frameworks, and moral considerations. The enactment of eugenics-based legislation in California not only reflects the scientific spirit of the early 20th century but also highlights the profound ethical dilemmas and human

⁴⁷ Z. Heisler, *Creating a Sterile Reputation for Eugenics: The Human Betterment Foundation from 1926–1944*, New York 2015, http://efaidnbmnnnibpcajpcglclefindmkaj/https://barnard.edu/sites/default/files/inline-files/ZoeHeisler_Creating%20a%20Sterile%20Reputation%20for%20Eugenics_2015.pdf [accessed on 1.05.2024], pp. 56–65.

⁴⁸ J. Simon, *The Criminal Is to Go Free: The Legacy of Eugenic Thought in Contemporary Judicial Realism about American Criminal Justice*, "Boston University Law Review" 2020, vol. 100, pp. 799, 813–815.

⁴⁹ R.M. Mennel, C.L. Compston (eds.), *Holmes and Frankfurter: Their Correspondence, 1912–1934*, Durham 1996, pp. XIX–XXI.

⁵⁰ P.A. Lombardo, *Three generations, no imbeciles: eugenics, the Supreme Court, and Buck v. Bell*, Baltimore 2010, pp. 180–185.

⁵¹ E. Black, *Wojna przeciw słabym...*, p. 120.

⁵² N. Ball, *Eugenics through the Eyes of Nobel Laureates...*, pp. 107–110.

⁵³ A. Bashford, P. Levine (eds.), *The Oxford Handbook of the History of Eugenics*, New York 2010, pp. 9–13.

rights violations resulting from such policies. The legislative journey, marked by the implementation of various legal acts, paints a picture of a society grappling with the idea of “improving” the genetic makeup of the population at the cost of personal tragedies and violations of individuals’ fundamental freedoms.

Although disability figured prominently as a big motivator, both anti-Mexican racism as well as fear of delinquency heightened support for eugenic sterilization in the state. Latinx history cannot be separated from the passing of sterilization laws in California. The racial underpinnings of sterilization practices existed in the state. They were particularly highlighted by the process of targeting that part of the population which had Mexican roots under eugenics policies. Furthermore, diagnoses of feeble-mindedness and institutionalization as tools to enforce racial hierarchies were employed there. The implementation at institutions, like the Pacific Colony, involved forced labor and sterilization, which were justified by racially biased assessments that framed these individuals as threats to societal health.⁵⁴ The analysis of how eugenics intersected with issues of gender, sexuality, and race shows that societal moral fears were often projected onto women’s bodies, with eugenic laws being used to control women’s reproductive rights and enforce societal norms about motherhood and sexual behavior. These laws frequently led to sterilization based on judgments of perceived sexual deviance. This research collectively illustrates that California’s sterilization laws were not purely concerned with genetic improvement or public health but they were also intricately linked with broader societal concerns regarding race, gender, and morality. These laws acted as instruments designed to uphold social order, disproportionately impacting marginalized groups under the pretense of scientific objectivity and rationality.⁵⁵

The Sterilization Act, adopted by the state of California on January 1, 1909, initiated one of the most controversial legal solutions in the history of the United States.⁵⁶ It also enabled the forced sterilization of individuals placed in state institutions, such as psychiatric hospitals and penal institutions. Not only was it the third such regulation in the USA, the act was also a manifestation of widespread actions based on the ideology of eugenics, aimed at limiting the spread of hereditary mental illnesses and predispositions to criminality through reproductive control.⁵⁷ The statutory provisions were based on the assumption that sterilization would not only benefit individual persons by preventing them from passing on undesirable genetic traits to their offspring but it would also positively affect the welfare of society

⁵⁴ N. Lira, *Laboratory of Deficiency...*, pp. 16–21.

⁵⁵ W. Kline, *Building a Better Race...*, pp. 122–128.

⁵⁶ A.M. Stern, *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America*, Oakland 2016, pp. 182–187.

⁵⁷ R. Hansen, D. King, *Sterilized by the State...*, pp. 78–88.

as a whole by reducing the burden associated with caring for individuals deemed to be genetically burdened. Under the provisions of the 1909 Sterilization Act in California, the groups designated for sterilization were defined relatively broadly, thus allowing for a wide spectrum of the institutionalized population to be covered by the sterilization procedure. The main target groups, according to the act, were individuals in state institutions for the mentally ill as well as criminals who were identified as having hereditary predispositions to mental illnesses, intellectual deficits, or tendencies towards criminality.⁵⁸

The act specifically pointed to individuals suffering from mental illnesses, epilepsy, severe mental disorders, such as idiocy or imbecility, and to individuals addicted to alcohol or drugs who could pass these predispositions onto their offspring. The “criminals” category was defined just as broadly as it encompassed not only individuals convicted of serious crimes but also those deemed morally or socially “undesirable” from a eugenic evaluation standpoint. According to the letter of the law, the sterilization process required obtaining formal consent from the governing board of the institution, which in theory was supposed to provide a certain level of protection against abuses. However, in practice, the decisions pertaining to sterilization were often made without full knowledge or consent of the person directly concerned. Moreover, the criteria for sterilization eligibility were interpreted ambiguously and subjectively by the medical and administrative staff. Eligibility for sterilization was based on loosely defined premises regarding mental health and behaviour, thus opening the door to arbitrary decisions and abuses and often leading to the violation of the fundamental human rights of the individuals in question. While analysing the statutory provisions, it is essential to emphasize their imprecision and the broad scope of discretion granted to the institutions responsible for their enforcement. Such a legal approach not only permitted but indeed it favoured eugenic practices by simultaneously overlooking fundamental ethical principles.⁵⁹

The 1913 amendment to the sterilization law in California removed the requirement for the patient and family to express their consent, consequently allowing the sterilization of a broad group of individuals without their consent. The criteria included individuals with mental disorders, recidivists convicted of serious sexual crimes or other acts indicative of moral degeneracy, and those classified as idiots, with parental or guardian consent required in case of minors. These changes enabled doctors, directors of hospitals, and prisons to enforce the practice of sterilization

⁵⁸ M. Watters, *Eugenic Sterilization in California in the 1920s and 30s: The Human Betterment Foundation's Study on the Effects of Sterilization*, New Haven 2012, p. 6, 11, 22, 25; <https://hsh.m.yale.edu/sites/default/files/files/2012-watters.pdf> [accessed on 4.02.2024].

⁵⁹ A. Wellerstein, *States of Eugenics: Institutions and Practises of Compulsory Sterilization in California* [in:] S. Jasanoff (ed.), *Reframing Rights: Bioconstitutionalism in the Genetic Age*, Cambridge 2011, pp. 33–45.

unprecedentedly. They increased the number of procedures carried out exponentially and provided legal protection against accusations.⁶⁰

The 1917 amendment to California's sterilization law, specifically Chapter 489, made critical changes to the legal framework regarding the sterilization of individuals in state care. This amendment expanded the scope of the original law of 1909, further clarified by the 1913 amendment, to include a broader category of individuals for potential sterilization. The categories explicitly mentioned in the amendment include inmates of state hospitals for the insane, residents of the Sonoma State Home, convicts in state prisons, and those classified as idiots; it specifically targeted individuals with mental diseases believed to be inherited, various degrees of feeble-mindedness, people exhibiting sexual perversions or significant deviations from normal mental states as well as those suffering from syphilitic diseases. A pivotal change introduced by this amendment was the provision allowing the State Commission in Lunacy, at its discretion and after a detailed examination of each case, to authorize the sterilization of these individuals before their release or discharge from care. Significantly, this sterilization could proceed with or without the consent of the patient, thereby legalizing the procedure under these circumstances and shielding the commission, its members, and any participating individuals from civil or criminal liability. This marked a significant shift towards more authoritarian control over reproductive rights, reflecting the era's eugenic ideologies aimed at preventing the transmission of perceived hereditary defects to future generations.⁶¹

California's sterilization laws focused on the state's particular attention to institutionalized populations where diagnoses such as 'feeble-mindedness' and 'idiocy' were frequently employed. These terms were not merely clinical descriptions but were laden with moral and social judgments. Moreover, they were often correlated with deep-seated prejudices against certain racial, economic, and disabled groups. By expanding on how these diagnoses were used to justify sterilizations, one can uncover a broader pattern of how eugenic legislation perpetuated societal discrimination. And while states like Virginia and North Carolina also implemented eugenic laws, their application often targeted different segments of the population, reflecting regional biases and socio-political landscapes unique to those areas. This discussion provides a clearer picture of the intersection between medical diagnoses and eugenic ideology, highlighting the importance of examining the underlying biases that informed these policies.

Relatively recently, a decision has been made to compensate these individuals. Although the official sterilization program ended in 1979, the history of sterilization

⁶⁰ Text of the amendments (ACT 346 – June 13, 1913); https://archive.org/stream/hennings-general01cali/henningsgeneral01cali_djvu.txt [accessed on 20.02.2024].

⁶¹ J.W. Sokolik, *Leading the race...*

in California dates back to the early 20th century when the state developed one of the most aggressive sterilization programs in the country. Between 1909 and 1979, doctors in Californian prisons and hospitals, acting with state authorization, conducted over 20,000 sterilizations, which constitutes one-third of the total number of such procedures carried out in the USA.⁶²

3. Gradual rejection of eugenics paradigm and approach, development of Human Rights, and consequences

3.1. The Nuremberg trials and the development of human rights

The Nuremberg trials, which took place from December 1946 to August 1947, represent a pivotal moment in the world's reaction to the horrific acts perpetrated by the Nazi leaders during World War II. These trials included 24 members of the Nazi medical community, including notable figures such as Karl Brandt and Gerhard Rose, who were accused of involvement in barbaric medical tests which had been carried out on inmates in concentration camps.⁶³

The trials thoroughly investigated the Nazi government's forced sterilization initiative, which was a key aspect of the accusations against doctors like Karl Brandt. Brandt, who served as Hitler's personal doctor and held a high-ranking position in the Nazi medical hierarchy, was deeply involved in implementing these policies. His trial and subsequent sentencing for his role in the sterilization program marked a significant moment of accountability for the regime's crimes and it shed light on the severe violations of fundamental human rights and medical ethics. The forced sterilization program formed a part of the Nazis' wider eugenics strategy aimed at purifying the Aryan race by eliminating individuals considered genetically or racially undesirable.⁶⁴

Robert Servatius mentioned the analogy between German and American experiments, citing similarities in the subject of research conducted by doctors from both countries. He presented three scientific papers that analysed the results of experiments on volunteers and conscription refusers. The first article by MacCallum, published in 1944 in the *Lancet*, concerned an experiment in which various substances, such as feces, urine, or serum, were administered to volunteers with rheumatoid arthritis. The second article, published in 1945 in the *Journal of the American Medical Association (JAMA)*, discussed the comparison of two types of

⁶² Ibidem, pp. 1–2.

⁶³ P. Madajczyk, *Rozliczenie z eugeniką i higieną rasową po zakończeniu II wojny światowej* [in:] M. Musielak, K.B. Głodowska (eds.), *Medycyna w cieniu nazizmu*, Poznań 2015, pp. 101–102.

⁶⁴ V. Spitz, *Doctors from Hell: The Horrific Account of Nazi Experiments on Humans*, Boulder 2005, pp. 191–197.

hepatitis. The third article, which appeared in 1945 in *The American Journal of the Medical Sciences*, also involved a study of volunteers related to viral hepatitis. Both experimental studies aimed to understand the mechanisms of disease and the effects of various substances on the human body. For the first time, it became clear that democratic countries also behave unethically, which deepened the discussions also in the context of eugenics.⁶⁵

In light of the Hippocratic Oath, which mandates physicians to uphold the highest ethical standards, the Nuremberg trials underscored not only the breaches of specific principles but also emphasized that establishing ethical norms in medical research was imperative. Although the Hippocratic Oath is an ancient pledge, it remains relevant and serves as a constant reminder to physicians of their duty to adhere to ethical principles across all aspects of medical practice. Consequently, modifications to the oath were deemed necessary post-war.⁶⁶

The trials serve as a powerful lesson on the outcomes of unbridled and ruthless scientific pursuits, highlighting the ongoing need to prioritize ethical concerns in medical studies. Their impact remains relevant in present-day dialogues concerning the morality of human experimentation, emphasizing the continuous push for fairness and responsibility in light of unprecedented atrocities. The charges and ongoing legal discussions not only emphasized the seriousness of the offenses but also the importance of holding individuals accountable in the unwavering quest for fairness.

The establishment of the International Military Tribunal in Nuremberg in 1945⁶⁷ was a pivotal moment in addressing the war crimes committed by the Nazi leaders during World War II. The tribunal laid the groundwork for holding individuals accountable for crimes against humanity and peace and it set a precedent in international law for prosecuting war crimes. In response to the atrocities witnessed during the war, the American and British Medical Associations together with the World Medical Association drafted the Nuremberg Code in 1947. This code aimed to protect participants in medical experiments by emphasizing the importance of voluntary consent, minimizing risks, and ensuring clear scientific objectives.⁶⁸

One of the key principles of the Nuremberg Code is the requirement for participants to have full awareness of the nature of the study as well as the potential risks and benefits before consenting to participate. Additionally, it mandates that experiments must be scientifically justified and conducted with the utmost care

⁶⁵ B. Halioua, *Human Experiments on Hepatitis During the Nuremberg Doctors' Trial*, "Japanese Journal of Gastroenterology and Hepatology" 2021, no. 6, pp. 1–6.

⁶⁶ S. Kanniyakonil, *The Fundamentals of Bioethics: Legal Perspectives and Ethical Approaches*, Kottayam 2007, pp. 38–45.

⁶⁷ The statute was published in Poland as a bill (Journal of Laws 1947, No. 63, item 367), <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19470630367> [accessed on 15.02.2024].

⁶⁸ M. Moros Peña, *Lekarze Hitlera...*, pp. 358–360.

to minimize harm to participants. The Nuremberg trials highlighted the unethical practices of coerced sterilization by the Nazis, which were condemned as severe violations of human rights and medical ethics.⁶⁹

Building upon the Nuremberg Code, the Helsinki Declaration was introduced in 1964 to further protect participants in medical research. This declaration stressed the importance of informed consent, confidentiality, and scientific integrity in research involving human subjects. It has undergone several revisions to adapt to the advancements in medicine and technology as well as to reflect the ongoing efforts to uphold ethical standards in medical research.⁷⁰

Furthermore, the International Covenant on Civil and Political Rights, adopted in 1966, reinforced these principles within international law. This covenant emphasized the protection of privacy, bodily integrity, and voluntary consent in medical research, ensuring that individuals' rights are respected and enforced.⁷¹

Together, these documents serve as essential safeguards for individuals involved in medical experiments. They aim to prevent abuses as well as to uphold the principles of human dignity and ethical conduct in research. Moreover, the documents represent significant milestones in the development of international legal and ethical standards for medical research and continue to influence contemporary discussions and practices in the field.

In the judgment of *Von Hannover v Germany* (2004), the European Court of Human Rights emphasized the importance of protecting private life, as guaranteed by Article 8 of the European Convention on Human Rights. Although a direct reference to the Nuremberg Code was not made in this case, the judgment emphasizes the importance of respecting individual rights, which is also the essence of the documents in the context of human research.⁷² In the case of *United States v. Stanley*, the Supreme Court considered the issue of unethical administration of LSD to Sergeant James B. Stanley without his consent, which sparked a debate about ethical standards in human experimentation, while recalling the principles of the Nuremberg Code concerning voluntary consent and protection of research participants. Both cases indicate that, whether in the context of privacy protection or the ethics of human experimentation, international and national jurisprudence refers to the Nuremberg

⁶⁹ The Nuremberg Code is available on the website of the Polish-German Mental Health Association: <https://p-ntzp.com/files/07Kodeks.pdf> [accessed on 15.02.2024].

⁷⁰ The Declaration of Helsinki (2013 version) is available at <https://nil.org.pl/dzialalnosc/osrodki/osrodek-bioetyki/etyka-w-badaniach-naukowych/1553-deklaracja-helsinki> [accessed on 16.02.2024].

⁷¹ S. Sikorski, *Administracja ochrony zdrowia w Polsce – między świadczeniem a reglamentacją*, Warsaw 2021, pp. 206–208.

⁷² The judgment in the case of *Von Hannover v. Germany*, application no. 59320/00, <https://www.courts.ca.gov/documents/S147999.pdf> [accessed on 2.02.2024].

Code, thus emphasizing its enduring significance for the protection of human rights and dignity.⁷³

Reactions of Americans, particularly those in California (the change occurred slowly), to the Nuremberg Trials were instrumental in shaping subsequent efforts to address the injustices perpetuated by the eugenic policies. The revelation of Nazi atrocities, including unethical medical experiments and coercive sterilizations, profoundly influenced American public opinion and reshaped legal perspectives. This heightened historical consciousness spurred on the initiatives in California to confront its complicity in eugenic practices by implementing reparations and formally recognizing the state's violations of human rights.⁷⁴

The indicated changes in both jurisprudence and legislation at the international level resulted in states having to partially relinquish unlimited sovereignty in law and move away from legal naturalism.⁷⁵ The result was a gradual departure from eugenic practices and greater care and respect for human rights. In the state of California, although eugenic practices were not abandoned for several dozen years, they eventually died out in 1979.

3.2. Case law on involuntary sterilization at the federal level and in the state of California

Case law and doctrine at both the federal and state levels illustrate the evolution of legal and social approaches in California regarding reproductive rights, informed consent, and discrimination. They reflect the dialogue concerning autonomy, rights, and the role of the state and medical institutions in personal health decisions. Below, the most important court decisions at various levels, including state and federal, that have shaped the doctrine will be discussed.

In 1927, in the case of *Buck v. Bell*, the United States Supreme Court, led by Oliver Wendell Holmes Jr., affirmed the constitutionality of compulsory sterilization by arguing that it serves the greater good, and cited the *Jacobson v. Massachusetts* (1907)⁷⁶ ruling regarding mandatory vaccinations. Holmes concluded his argument by stating that “three generations of imbeciles are enough.” This decision, based on

⁷³ The judgment in the case of *United States v. Stanley*, 483 U.S. 669, <https://supreme.justia.com/cases/federal/us/483/669/> [accessed on 1.02.2024].

⁷⁴ M. Rigas, *American Eugenics: A History of its Evolution from Public Health Initiative to Scientific Racism, Historical Memory, and Modern Genetics*, “Concept, the Journal of Contemporary Community Education Practice Theory” 2012, vol. 36, <https://concept.journals.villanova.edu/index.php/concept/article/view/791/644> [accessed on 2.05.2024].

⁷⁵ A. Bieńczyk-Missala, *Zapobieganie masowym naruszeniom praw człowieka. Międzynarodowe instytucje i instrumenty*, Warsaw 2018, pp. 66–70.

⁷⁶ The judgment in *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), <https://supreme.justia.com/cases/federal/us/197/11/> [accessed on 7.02.2024].

a precedent involving compulsory vaccinations, emphasized the role of the society in requiring citizens to make sacrifices for the common good. However, from the perspective of contemporary ethical standards and human rights, this verdict is criticized for violating individual rights. The Court reached its decision by a majority vote, with seven other justices supporting it: William Howard Taft, George Sutherland, Willis Van Devanter, James Clark McReynolds, Edward Terry Sanford, Harlan Fiske Stone, and Louis Dembitz Brandeis. The only justice who opposed this decision was Justice Pierce Butler. However, he did not provide a separate opinion explaining his opposition. The lack of a formal justification for his dissent makes it difficult to precisely determine his reasons for opposing the verdict.⁷⁷ Speculation suggests that his opposition may have stemmed from personal beliefs, possibly related to his Catholic faith, which opposed sterilization.⁷⁸

The decision in the *Skinner v. Oklahoma* (1942) case is a significant moment in the history of the legal discourse on compulsory sterilization. This ruling marks a turning point in comparison to the earlier *Buck v. Bell* (1927). In *Skinner's* case, the U.S. Supreme Court, led by Justice William O. Douglas, changed its stance, recognizing that the compulsory sterilization of individuals convicted of crimes violates the principle of equal protection under the law guaranteed by the 14th Amendment to the United States Constitution. This decision reversed the previous law and focused on the constitutional basis for protecting individual rights, ensuring equal protection under the law. The justices also emphasized the importance of safeguarding fundamental civil rights, such as the right to procreation, and the risk of arbitrary and discriminatory application of the eugenic practices. This ruling is considered groundbreaking because it highlights the risk of abuses of state power in the field of eugenics and the need to ensure equal treatment of all citizens, regardless of their criminal history.⁷⁹

The *Perez v. Sharp* (1948) ruling issued by the California Supreme Court in 1948 held significant importance in the context of the history of eugenics and racial discrimination in the United States. Andrea Perez and Sylvester Davis attempted to marry but were denied due to a ban on interracial marriages, which was rooted in eugenic practices. This 4–3 majority decision declared that such a ban violated the United States Constitution, recognizing marriage as a fundamental right and deeming restrictions based on discrimination unconstitutional. The judges who delivered

⁷⁷ The judgment in *Buck v. Bell*: 274 U.S. 200 (1927), <https://supreme.justia.com/cases/federal/us/274/200/> [accessed on 7.02.2024].

⁷⁸ Ł. Machaj, *Buck versus Bell, czyli eugenika w Sądzie Najwyższym Stanów Zjednoczonych*, “Acta Universitatis Wratislaviensis” 2009, vol. 34, p. 423.

⁷⁹ The judgment in the case of *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942), <https://supreme.justia.com/cases/federal/us/316/535/> [accessed on 8.02.2024]

this decision played a pivotal role in initiating legal changes and combating racial discrimination in the USA. The ruling invalidated the California statute, citing it as too vague and in violation of the Fourteenth Amendment by restricting marriage solely based on race. Justice Douglas Edmonds argued that the statute also infringed on religious freedom, while Justice Jesse Carter criticized the statutes as products of ignorance and prejudice. In contrast, Justice John W. Shenk dissented, asserting that anti-miscegenation laws were legal when enacted. This landmark decision paved the way for future legal challenges against racial discrimination and segregation in the United States.⁸⁰

Loving v. Virginia (1967) was a landmark decision by the U.S. Supreme Court that deemed state laws prohibiting interracial marriages as inconsistent with the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution. The ruling extended this protection nationwide, explicitly stating that no state could impose restrictions on marriage based on race. The Supreme Court affirmed that the right to marry is a fundamental human right, essential to human existence and survival, and that any limitations on this right based on racial classifications are unacceptable.⁸¹ This decision not only ended the era of anti-miscegenation laws in the United States but also set a significant precedent for marriage equality, later cited in decisions regarding same-sex marriages, such as *Obergefell v. Hodges* (2015). In the context of *Perez v. Sharp* (1948), *Loving v. Virginia* (1967) was a natural next step towards expanding legal protection to all forms of marriage by emphasizing the principle that marriage is a fundamental right which cannot be restricted by arbitrary legal barriers based on race or, as it has been decided later, gender of the partners.⁸²

Relf v. Weinberger (1973) was a federal case involving the forced sterilization of two young African American sisters that had nationwide implications, including for California, and led to increased scrutiny and regulation of sterilization procedures. In his opinion, Judge Gesell pointed out the lack of a legal basis for funding the sterilization of intellectually disabled individuals through federal programs. The ruling emphasized that sterilization is an irreversible procedure and should only be undertaken with the informed and voluntary consent of the patient, which is impossible in the case of intellectually disabled individuals. Therefore, the court ordered changes to the relevant federal regulations to ensure that all sterilizations

⁸⁰ The judgment in the case of *Relf v. Weinberger*, L. A. No. 20305. in Bank. Oct. 1, 1948, <https://law.justia.com/cases/california/supreme-court/2d/32/711.html> [accessed on 23.02.2024].

⁸¹ The judgment in the case of *Loving v. Virginia*, 388 U.S. 1, 1967, <https://supreme.justia.com/cases/federal/us/388/1/> [accessed on 30.04.2024].

⁸² The judgment in the case of *Obergefell v. Hodges*, 576 U.S. 644, 2015, <https://supreme.justia.com/cases/federal/us/576/644/> [accessed on 30.04.2024].

funded by the federal government are voluntary and based on the informed decision of the patient.⁸³

The case of *Madrigal v. Quilligan* (1978) involved a complaint by ten Mexican-American women who were coercively sterilized at Los Angeles County-University of Southern California Medical Center between 1971 and 1974 without their informed consent. The court dismissed their claims by indicating that the procedures were conducted in good faith, while simultaneously overlooking the impact of language and cultural barriers on the patients' understanding of consent.⁸⁴ Highlighting the issue of forced sterilization among impoverished and minority women, this case led to regulatory changes regarding sterilization consent and increased societal awareness about the population control practices' impact on reproductive rights. The decision emphasized the continuation of the eugenic and forced sterilization practices within modern healthcare systems, particularly against marginalized groups, prompting legal and policy reforms to protect their reproductive rights and ensure consent is fully informed and voluntary. This shows that even at the time abuses on ethnic grounds still existed. The USA was not the only country that pursued this type of policy against the Latino population.⁸⁵

The case of *Riese v. St. Mary's Hospital and Medical Center* (1987), although not addressing eugenics directly, has indirect connections to the broader context of patient rights and their capacity to make decisions in medical matters, which is of significant importance in the discussions on the topics of eugenics and sterilization. In the past, the eugenic practices often relied on the assumption that certain groups of people (e.g., individuals with intellectual disabilities or mental illnesses) should not reproduce and could be subjected to sterilization without their consent or understanding of the procedure. Such actions were justified by the "social good" or "improving the genetic pool" of humanity. The decision in the *Riese* case emphasizes the importance of respecting the autonomy and rights of people with mental illnesses, which is crucial in the context of historical abuses of eugenic practices. It highlights that even individuals with mental disabilities have the right to control their treatment, which directly contradicts the eugenic notion of imposing control and restrictions by the state or medical institutions without considering individual rights and freedoms⁸⁶.

⁸³ The judgment in the case of *Perez v. Sharp*, 372 F. Supp. 1196 (D.D.C. 1974), <https://supreme.justia.com/cases/federal/us/316/535/> [accessed on 9.02.2024].

⁸⁴ M. Maya, *The Story of Madrigal v. Quilligan: Coerced Sterilization of Mexican-American Women*, "University of San Francisco Law Research Paper" 2018, no. 4, pp. 1–16, <https://ssrn.com/abstract=3134892> [accessed on 26.02.2024].

⁸⁵ V.L. Ruiz, *From Out of the Shadows: Mexican Women in Twentieth-Century America*, New York 2008, pp. 110–116.

⁸⁶ The judgment in the case of *Riese v. St. Mary's Hospital and Medical Center*. No. A034048, December 16, 1987, <https://www.law.justia.com/cases/california/court-of-appeal/3d/209/1303.html> [accessed on 23.02.2024].

In re Marriage Cases (2008) – a landmark decision by the California Supreme Court that legalized same-sex marriages in California – the court emphasized a broader theme of personal autonomy and non-discrimination. Although it was not directly related to the topic of sterilization, it contributed to solidifying the importance of respecting personal freedoms.⁸⁷

The evolution of case law in California regarding forced sterilization reveals significant regional specificities and impacts on reproductive rights, informed consent, and discrimination. California's pioneering role in the implementation of the eugenic sterilization laws underscores the state's influence on national practices and policies. Landmark cases such as *Madrigal v. Quilligan* highlight the particular vulnerability of minority groups in California, especially Mexican-American women, to coercive sterilization practices. These cases illuminate the broader societal and institutional biases that permeated the state's healthcare and legal systems. Furthermore, the state's response to these injustices, including recent legislative efforts and compensation programs, reflects a growing acknowledgment of past wrongs and a commitment to rectifying them. The case law in California thus serves as a crucial lens through which to understand the interplay of legal, social, and ethical considerations in the realm of reproductive rights, demonstrating both the historical abuses and the ongoing efforts to ensure justice and autonomy for all individuals.

3.3. California's attempts to right the wrongs

California's response to its eugenic legacy, influenced by the legal precedents set at Nuremberg, emphasizes a broader shift in how societies address past injustices and the importance of legal and moral accountability. This transition is marked by a commitment to rectify historical wrongs through reparative measures, thus reflecting a societal growth that recognizes the profound impact of the eugenic ideologies on individuals' lives.⁸⁸

Surely, there cannot be any other examples that will be presented in this context but those of the victims and of their tragedies. Minelva Orozco, a young Mexican girl diagnosed with a severe intellectual disability, was prepared for sterilization despite her parents' strong opposition. The operation was delayed for many years due to the family's resolute efforts to protect her reproductive rights. Manuela Morales was labelled as mentally deficient, while her family were also portrayed negatively;

⁸⁷ The judgment in the case of *In re Marriage Cases*, No. 4365, <https://www.courts.ca.gov/documents/S147999.pdf> [accessed on 23.02.2024].

⁸⁸ M. Galt, *From Prevention to Protection: Policy, Practice and Pitfalls of Surgical Sterilization in California, 1910–Present*, Oxford 2019, pp. 162–165, <https://efaidnbmnnnibpcajpcglclefindmkaj/https://radar.brookes.ac.uk/radar/file/1f881fbb-d34a-47b4-8e3e-e21c380adf84/1/Galt2019Prevention.pdf> [accessed on 2.05.2024].

consequently, it reinforced stereotypes about minorities and justified sterilizations as necessary to prevent perceived social threats. Rosa Acosta was forcibly sterilized under the pretext that it was in her and society's best interest, reflecting the negative biases towards Mexican women's sexuality and reproductive autonomy. These cases illustrate the profound impact of eugenic practices on individuals of Mexican descent in California and they also highlight their steadfast resistance, often supported by external authorities, such as the Mexican consulate or religious leaders.⁸⁹

Today, forced sterilization might appear to be a relic of a bygone era. However, there is a nuanced continuation of such practices in contemporary times, albeit in different forms. There are programs that, rather than coercing outright, incentivize women to undergo sterilization procedures by offering monetary compensation. This method of encouragement raises complex ethical questions, particularly when it targets vulnerable populations, including those in economically disadvantaged situations or within institutional settings such as prisons.⁹⁰

California faced challenges with sterilization practices in prisons for years. The efforts to address these issues culminated in the enactment of Senate Bill 1135 (SB 1135), which was spearheaded by Senator Jackson and its co-authors in February 2014. This legislation aims to curb sterilization abuses by outlawing it as a birth control method, except under medically necessary circumstances. It establishes requirements for informed consent, psychological evaluations, medical oversight, and mandates annual reporting on sterilizations. Furthermore, it introduces protection for whistleblowers. The bill was signed into law on September 25, 2014. The enactment of SB 1135 underscores the commitment to safeguarding inmates' reproductive rights, preventing coerced sterilization as well as enhancing transparency and accountability in healthcare services.⁹¹

The establishment of the Forced or Involuntary Sterilization Compensation Program in California, enacted by Stats. 2021, Ch. 77, Sec. 21, effective July 16, 2021, marks a significant milestone in addressing historical injustices. The program acknowledges and compensates survivors of coercive sterilization practices by providing a form of restitution for the harm inflicted by the state-sponsored sterilization under the eugenics laws between 1909 and 1979, and in correctional facilities after 1979. Consequently, it represents a step towards healing and justice for all the affected individuals.⁹²

⁸⁹ N. Lira, A.M. Stern, *Mexican Americans and Eugenic Sterilization: Resisting Reproductive Injustice in California, 1920–1950*, "Aztlán: A Journal of Chicano Studies" 2014, vol. 39, pp. 9–11, 23–29.

⁹⁰ M. Sandel, *Czego nie można kupić za pieniądze. Moralne granice rynku*, transl. A. Chromik, K. Michalski, Warsaw 2012, p. 57.

⁹¹ The text of the Senate Bill No. 1135: http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1101-1150/sb_1135_bill_20140626_amended_asm_v96.htm [accessed on 20.02.2024].

⁹² Health and Safety code: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=1.6.&article [accessed on 20.02.2024].

This bill constitutes a formal acknowledgment and rectification of historical injustices. Furthermore, it addresses the systemic misuse of sterilization that impacted thousands,⁹³ including immigrants who were victims of forced sterilization as a result of patterns of racial discrimination.⁹⁴ As a result of research into the extensive data on sterilizations in Californian institutions between 1919 and 1952, researchers emphasize the necessity of recognizing and compensating the surviving victims. As of 2016, it was estimated that around 831 individuals who were subjected to these practices may still be alive. Due to the approach of other states, such as North Carolina and Virginia, which have established compensation programs for their sterilization victims, California is urged to consider similar reparations. This perspective reinforces the ongoing need for societal accountability and the role of public health in rectifying past abuses.⁹⁵

The audit reports concerning the sterilization of women in California, prepared by the California State Auditor, indicate that prisons provided a critical examination of the practices and procedures which had been implemented for the sterilization of female prisoners between 2005–06 and 2012–13. These reports unearthed significant irregularities in the processes used to obtain informed consent from the inmates and in the administrative procedures that were supposed to govern such sensitive interventions. Specifically, the findings indicate that some sterilization procedures were carried out without obtaining proper consent from the patients, thereby breaching the fundamental ethical requirement of informed consent which is pivotal in medical ethics and patient rights. Additionally, it was discovered that some of these procedures had directly violated the established protocols which, in turn, suggests a systemic failure to adhere to the legal and ethical standards designed to protect the rights and well-being of prisoners.⁹⁶

This shows that the legacy of eugenics is well-established and alive to this day. Despite the fact that the rights of women and prisoners continue to be violated, many ameliorating measures have been implemented and, on a global scale, things are evidently moving in the right direction.

⁹³ N.L. Novak, N. Lira, K.E. O'Connor, S.D. Harlow, S.L.R. Kardia, A.M. Stern, *Disproportionate Sterilization of Latinos under California's Eugenic Sterilization Program, 1920–1945*, "American Journal of Public Health" 2018, no. 108(5), pp. 611–613.

⁹⁴ M. Kaniecki, N.L. Novak, S. Gao, N. Lira, T.A. Treviño, K. O'Connor, A.M. Stern, *Racialization and Reproduction: Asian Immigrants and California's Twentieth-Century Eugenic Sterilization Program*, "Oxford Academic" 2023, no. 102, pp. 724–725.

⁹⁵ A.M. Stern, N.L. Novak, N. Lira, K. O'Connor, S. Harlow, S. Kardia, *California's Sterilization Survivors: An Estimate and Call for Redress*, "American Journal of Public Health" 2017, vol. 107, no. 1, pp. 51–54.

⁹⁶ Sterilization of Female Inmates, Sacramento, June 2014: <https://www.auditor.ca.gov/pdfs/reports/2013-120.pdf> [accessed on 3.05.2024].

3.4. Ethical and moral discussions about eugenics and forced sterilization in the historical, legal, and medical context

The discussion on eugenics and forced sterilization extends beyond the confines of historical retrospection as it emerges as a significant topic in ethical, legal, and medical debates. On the one hand, these practices were viewed as tools to achieve a better society. On the other, they represented serious violations of human rights and ethical principles.

In the legal-ethical context, those actions raise questions about the limits of state intervention in the lives of citizens. Professor Martha Nussbaum, known for her work on the theory of justice and ethics, emphasizes the importance of dignity and personal autonomy in the context of medical interventions. She argues that any form of forced sterilization, even under the guise of social good, constitutes a violation of the fundamental values, such as freedom and choice.⁹⁷

The works of Diane B. Paul, Hamish G. Spencer, and Nathaniel Comfort provide in-depth analyses of the enduring influence of eugenics on the post-World War II medical genetics, each of them offering a distinct perspective. Paul and Spencer discuss how the outdated eugenic ideas persisted in shaping genetics research and policies, even after eugenics fell out of favor. They highlight the eugenic ideologies which subtly persist under new scientific rationalizations.⁹⁸ Nathaniel Comfort emphasizes the continuity of eugenic thought in modern genetics in his writings and research. He argues that early geneticists and bioethicists, while distancing themselves from eugenics publicly, indirectly perpetuated its goals through genetic technologies and screenings that aimed to improve human heredity.⁹⁹ Both bodies of work reveal that eugenic principles were not eradicated but rather transformed and integrated into the science of genetics, thus influencing the field's development and ethical frameworks. Paul and Spencer focus on intellectual continuities and policy influences, whereas Comfort provides a broader view of the cultural and institutional embedding of the eugenic ideologies in genetics.

From a human rights perspective, eugenics and forced sterilization have been criticized by many thinkers and activists. Professor Amartya Sen, a Nobel Prize laureate in economics, highlights the importance of the freedom of choice and autonomy as key elements of well-being and social justice. Sen emphasizes that eugenic practices violate these principles by restricting individual freedom and promoting discriminatory treatment based on genetic characteristics.¹⁰⁰

⁹⁷ M.C. Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership*, Harvard 2009, pp. 390–400.

⁹⁸ D.B. Paul, H.G. Spencer, *The hidden science of eugenics*, "Nature" 1995, vol. 374, pp. 302–304.

⁹⁹ N. Comfort, *Polyhybrid Heterogeneous Bastards: Promoting Medical Genetics in America in the 1930s and 1940s*, "Journal of the History of Medicine and Allied Sciences" 2006, vol. 61, pp. 15–27.

¹⁰⁰ A. Sen, *Rationality and Freedom*, Cambridge 2004, pp. 492–499.

Dr. Harriet A. Washington, a medical ethicist and author, has extensively researched and documented the history of medical ethics, eugenics, and forced sterilization in the context of American medical history. She examines in detail how these practices were used for population control and considered tools for genetic “improvement” of the population, highlighting their negative impact on minority communities as well as the human rights violations. In *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*, Washington provides an in-depth analysis of the medical experiments conducted on African Americans, including eugenic practices and forced sterilization. Her book serves as an important contribution which facilitates understanding of the history of eugenics and forced sterilization by showing their ethical and social consequences.¹⁰¹

Professor Michael J. Sandel of Harvard University, a recognized thinker in the areas of human rights, eugenics, and forced sterilization, focuses on the ethical challenges of biotechnology and genetic engineering. In his reflections on the topic, he emphasizes how the pursuit of genetic perfection can threaten basic values such as dignity and equality. Furthermore, Sandel argues that progress in genetics requires constant consideration of ethics and morality, which are central to human identity and community. His analysis constitutes an important voice in the debate on the impact of new technologies on ethics and human rights, especially in the context of eugenics and forced sterilization. He also mentions the differences between old and new eugenics.¹⁰² Rebecca M. Kluchin mentions that there is a new formulation of eugenics, which is referred to as neo-eugenics. Forced sterilization has been replaced by voluntary contraception and the prevention of unwanted pregnancies.¹⁰³

Conclusions

Reflection on the history of eugenics and forced sterilization in California, within the broader context of United States history, leads to a series of academic conclusions. From an interdisciplinary analysis encompassing law, ethics, medicine, and social policy, the following conclusions can be drawn.

The case of California highlights the complexity of the ethical and social dilemmas associated with eugenic practices. It demonstrates how scientific and ide-

¹⁰¹ H.A. Washington, *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*, New York 2008, pp. 392–400.

¹⁰² M.J. Sandel, *Przeciwko udoskonalaniu człowieka. Etyka w czasach inżynierii genetycznej*, transl. O. Siara, Warsaw 2020, pp. 13–31, 61–66.

¹⁰³ R.M. Kluchin, *Fit to Be Tied: Sterilization and Reproductive Rights in America, 1950–1980*, New Brunswick 2009, pp. 10–13.

ological assumptions can be instrumentally used to justify human rights violations. This necessitates an ongoing reflection on the ethical boundaries of science and its application in social policy.

The history of sterilization in California underscores the importance of legal frameworks in regulating medical practices. It reveals a gap between legislative intentions and their implementation, pointing to the need for mechanisms of control and accountability that would serve as protection against abuses. The analysis shows how deeply ideologies can penetrate public policy and medical practices, thus shaping decisions that affect individual lives. This emphasizes the need for a critical approach to the ideological assumptions underlying state interventions. The case study of California illustrates the long-term consequences of forced sterilization for victims and for the society as a whole. It indicates the need for the development of reparative strategies and compensation for those affected. Furthermore, it highlights the importance of work in memory of those affected as well as the significance of historical education to avoid repeating past mistakes.

The history of eugenics and forced sterilization directly relates to the contemporary debates on gene editing, reproductive medicine, and other genetic interventions. This contributes to the considerations concerning the moral and ethical frameworks of these technologies, thus emphasizing the importance of protecting individual rights and preventing genetic discrimination.

The conducted analysis provides a deeper understanding of the forced sterilization practices in California between 1909 and 1979 as well as their impact on the development of law and society. The article reveals how the eugenic ideologies permeated public policy and medical practices and consequently led to human rights violations. Comparing the California case law with other jurisdictions not only allows one to identify region-specific factors which contributed to the development and perpetuation of the eugenic practices, but also to understand the universal legal and social mechanisms behind forced sterilization.

The conclusions stemming from the reviewed data should raise awareness of the complex history of eugenics and forced sterilization and highlight the importance of protecting individual rights in medical and legal contexts. They offer a unique perspective that can be used to shape future policies and practices as well as to contribute to the global discussion on the topics of medical ethics and human rights. As delineated above, the consequences for thousands of people were catastrophic, at best resulting in permanent mutilation, and so it was necessary to create over time mechanisms to prevent history from repeating itself.

In considering the legal and ethical aspects of compulsory sterilization in the United States, it is crucial to include a comparative perspective. Analysing and comparing the legislation of other states where similar practices were implemented can shed more light on the diversity of approaches and the intensity of their application.

For example, comparing the regulations of California with those of North Carolina, where sterilizations also took place, highlights the differences in judicial procedures and qualification criteria for those subjected to these procedures. Expanding this analysis will allow for a deeper understanding of how regional contexts influenced the implementation of eugenic policies and their long-term consequences for the society. It seems essential to continue research in this direction, which could contribute to a more comprehensive treatment of this issue in the scholarly literature on the subject.

The overturning of *Roe v. Wade* (1973) and the implications of *the Dobbs vs. Jackson Women's Health Organization* (2022) decision are essential to help one to recognize how historical practices such as forced sterilization can inform our understanding of contemporary anti-abortion laws and the ongoing threats to birth control legality. The historical context of forced sterilization in America showcases the long-lasting impact of legislating reproductive rights and the potential consequences of restricting such freedoms today. Moreover, while comparing these issues, it is noteworthy that Poland, under its previous status as part of the Soviet Union, did not engage in forced sterilization as a state-endorsed eugenics practice, unlike the eugenic policies historically observed in the U.S. This contrast helps to highlight the difference in the ideological underpinnings and outcomes of reproductive policies in both countries. Moreover, it facilitates and enriches our comprehension of how state control can manifest itself through such practices.

The issue of sterilization is relatively unknown in the Polish public domain, which highlights the need for further research and education in this field. Understanding the history of forced sterilization in California can contribute to a better understanding of similar practices around the world and their long-term social and legal consequences. It can also strengthen the global debate on human rights and ethics in medicine.

REFERENCES

Legal acts

Act to provide for the sexual sterilization of inmates of State institutions in certain cases (Virginia Sterilization Act of 3/20/1924), <https://dnalc.cshl.edu/view/11213-Virginia-Sterilization-Act-of-3-20-1924.html>.

Act to Provide for the Sterilization of the Mentally Defective and Feeble-Minded Inmates of Charitable and Penal Institutions of the State of North Carolina, <https://digital.ncdcr.gov/Documents/Detail/public-laws-and-resolutions-passed-by-the-general-assembly-at-its-session-of-...1929/1952786?item=2039001>.

Declaration of Helsinki (2013 version), <https://nil.org.pl/dzialalnosc/osrodki/osrodek-bioetyki/etyka-w-badaniach-naukowych/1553-deklaracja-helsinska>.

Health and safety code, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=1.6.&article.

Mental Deficiency Act 1913, <https://education-uk.org/documents/acts/1913-mental-deficiency-act.html>.

Nuremberg Code, <https://p-ntzp.com/files/07Kodeks.pdf>.

Senate Bill No. 1135, http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1101-1150/sb_1135_bill_20140626_amended_asm_v96.htm.

Statute of the International Military Tribunal in Nuremberg, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19470630367>.

Text of the amendments (ACT 346 – June 13, 1913), https://archive.org/stream/hennings-generall01cali/henningsgenerall01cali_djvu.txt.

Judgements

The judgment in *Buck v. Bell*: 274 U.S. 200 (1927), <https://supreme.justia.com/cases/federal/us/274/200/>.

The judgment in *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), <https://supreme.justia.com/cases/federal/us/197/11/>.

The judgment in the case of *In re Marriage Cases*, No. 4365, <https://www.courts.ca.gov/documents/S147999.pdf>.

The judgment in the case of *Loving v. Virginia*, 388 U.S. 1, 1967, <https://supreme.justia.com/cases/federal/us/388/1/>.

The judgment in the case of *Obergefell v. Hodges*, 576 U.S. 644, 2015, <https://supreme.justia.com/cases/federal/us/576/644/>.

The judgment in the case of *Perez v. Sharp*, L. A. No. 20305. in Bank. Oct. 1, 1948, <https://law.justia.com/cases/california/supreme-court/2d/32/711.html>.

The judgment in the case of *Relf v. Weinberger*, 372 F. Supp. 1196 (D.D.C. 1974), <https://supreme.justia.com/cases/federal/us/316/535/>.

The judgment in the case of *Riese v. St. Mary's Hospital and Medical Center*. No. A034048, December 16, 1987, <https://law.justia.com/cases/california/court-of-appeal/3d/209/1303.html>.

The judgment in the case of *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942), <https://supreme.justia.com/cases/federal/us/316/535/>.

The judgment in the case of *United States v. Stanley*, 483 U.S. 669, <https://supreme.justia.com/cases/federal/us/483/669/>.

The judgment in the case of *Von Hannover v. Germany*, application no. 59320/00, <https://www.courts.ca.gov/documents/S147999.pdf>.

Documents

Sterilization of Female Inmates, Sacramento, June 2014, <https://www.auditor.ca.gov/pdfs/reports/2013-120.pdf>.

Studies

- Ball N., *Eugenics through the Eyes of Nobel Laureates: Involvement in the Intentional Improvement of Man's Inheritable Qualities from 1905–2010* [in:] A. Loewenau, K. Lucyk, F.W. Stahnisch (eds.), *Proceedings of the 21st History of Medicine Days at the University of Calgary*, Newcastle Upon Tyne 2015.
- Bashford A., Levine P. (eds.), *The Oxford Handbook of the History of Eugenics*, New York 2010.
- Baynton D.C., *Defectives in the Land: Disability and Immigration in the Age of Eugenics* immigration, Chicago 2016.
- Bieńczyk-Missala A., *Zapobieganie masowym naruszeniom praw człowieka. Międzynarodowe instytucje i instrumenty*, Warsaw 2018.
- Black E., *Eugenics and the Nazis – the California connection* [in:] O.K. Obasogie, M. Darnovsky (eds.), *Beyond Bioethics: Toward a New Biopolitics*, Berkeley 2018.
- Black E., *Wojna przeciw słabym. Eugenika i amerykańska kampania na rzecz stworzenia rasy panów*, transl. H. Jankowska, Warsaw 2004.
- Bredbenner C.L., *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship*, London 1998.
- Comfort N., *Polyhybrid Heterogeneous Bastards: Promoting Medical Genetics in America in the 1930s and 1940s*, "Journal of the History of Medicine and Allied Sciences" 2006, vol. 61, pp. 15–55.
- Conroy M., *Nazistowska eugenika: Prekursorzy, zastosowanie, następstwa*, transl. V. Dobosz, Katowice 2021.
- Domańska M., *Grupa jednostek jako podmiot poszukujący ochrony w postępowaniu przed ETPC. Koncepcja ochrony praw grup wrażliwych*, "Studia Prawnicze" 2019, no. 1, pp. 27–47.
- Flynn D.J., *A Conservative History of the American Left*, New York 2008.
- Friauf B., Phillips M., *A Serviceable Villain: Eugenics. The Fear of the "Underman," and Anti-Democratic Discourse in Texas Thought and Culture, 1900–1940*, "East Texas Historical Journal" 2017, vol. 55, pp. 7–46.
- Galt M., *From Prevention to Protection: Policy, Practice and Pitfalls of Surgical Sterilization in California, 1910–Present*, Oxford 2019.
- Grant M., *The Passing of the Great Race*, London 1922.
- Halioua B., *Human Experiments on Hepatitis During the Nuremberg Doctors' Trial*, "Japanese Journal of Gastroenterology and Hepatology" 2021, no. 6, pp. 1–6.
- Hansen R., King D., *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America*, New York 2013.
- Heisler Z., *Creating a Sterile Reputation for Eugenics: The Human Betterment Foundation from 1926–1944*, New York 2015.
- Hędzielek D., *Sterylicacja ludzi ze względów eugenicznych w kanadyjskich prowincjach Alberta i Kolumbia Brytyjska* [in:] M. Musielak (ed.), *Konteksty społeczno-kulturowe zdrowia i medycyny*, vol. 4: *Wybrane aspekty sterylizacji ludzi ze względów eugenicznych, medycznych i społecznych*, Poznań 2009.
- Kaniecki M., Novak N.L., Gao S., Lira N., Treviño T.A., O'Connor K., Stern A.M., *Racialization and Reproduction: Asian Immigrants and California's Twentieth-Century Eugenic Sterilization Program*, "Oxford Academic" 2023, no. 102, pp. 706–729.

- Kanniyakonil S., *The Fundamentals of Bioethics: Legal Perspectives and Ethical Approaches*, Kottayam 2007.
- Klee E., *Auschwitz. Medycyna III Rzeszy i jej ofiary*, transl. E. Kalinowska-Styczeń, Krakow 2011.
- Kline W., *Building a Better Race: Gender, Sexuality and Eugenics*, Berkeley 2005.
- Kluchin R.M., *Fit to Be Tied: Sterilization and Reproductive Rights in America, 1950–1980*, New Brunswick 2009.
- Kühl S., *The Nazi Connection: Eugenics, American Racism, and German National Socialism*, New York 2002.
- Ladd-Taylor M., *Fixing the Poor: Eugenic Sterilization and Child Welfare in the Twentieth Century*, Baltimore 2017.
- Largent M.A., *Breeding Contempt: The History of Coerced Sterilization in the United States*, New Brunswick 2011.
- Laron E.J., *Sex, Race, and Science: Eugenics in the Deep South*, Baltimore 1995.
- Leonard T.C., *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era*, Princeton 2016.
- Levine P., *Eugenics: A Very Short Introduction*, New York 2017.
- Lira N., *Laboratory of Deficiency: Sterilization and Confinement in California, 1900*, Berkley 2022.
- Lira N., Stern A.M., *Mexican Americans and Eugenic Sterilization: Resisting Reproductive Injustice in California, 1920–1950*, "Aztlán: A Journal of Chicano Studies" 2014, vol. 39, pp. 9–34.
- Lombardo P.A., *Three generations, no imbeciles: eugenics, the Supreme Court, and Buck v. Bell*, Baltimore 2010.
- Machaj Ł., *Buck versus Bell, czyli eugenika w Sądzie Najwyższym Stanów Zjednoczonych*, "Acta Universitatis Wratislaviensis" 2009, vol. 34, pp. 421–427.
- Madajczyk P., *Rozliczenie z eugeniką i higieną rasową po zakończeniu II wojny światowej* [in:] M. Musielak, K.B. Głodowska (eds.), *Medycyna w cieniu nazizmu*, Poznań 2015.
- Malczewski J., *Eutanazja. Gdy etyka zderza się z prawem*, Warsaw 2012.
- Malthus T., *An Essay on the Principle of Population*, London 1798.
- Marulewska K., *Eugenika w świetle idei postępu. Rozważania wokół fundamentów filozoficznych*, "Dialogi Polityczne" 2008, vol. 10, pp. 63–84.
- Maya M., *The Story of Madrigal v. Quilligan: Coerced Sterilization of Mexican-American Women*, "University of San Francisco Law Research Paper" 2018, no. 4, pp. 1–16.
- Mceuen B., *A Program of Race Betterment: The Emergence and Evolution of Eugenic Ideas in Michigan*, Detroit 2022.
- Mennel R.M., Compston C.L. (eds.), *Holmes and Frankfurter: Their Correspondence, 1912–1934*, Durham 1996.
- Merricks P.T., *Religion and Racial Progress in Twentieth-Century Britain: Bishop Barnes of Birmingham*, Oxford 2017.
- Molik K., *Pomiędzy prawem a systemem Ie – aborcja w Japonii*, "Wrocławskie Studia Erazmińskie" 2018, vol. 12, pp. 195–206.
- Moros Peña M., *Lekarze Hitlera. Zbrodnicza medycyna*, transl. J. Kowalczyk, Warsaw 2019.
- Musielak M., *Sterylicacja ludzi ze względów eugenicznych w Stanach Zjednoczonych, Niemczech i w Polsce (1899–1945). Wybrane problemy*, Poznań 2008.

- Novak N.L., Lira N., O'Connor K.E., Harlow S.D., Kardia S.L.R., Stern A.M., *Disproportionate Sterilization of Latinos Under California's Eugenic Sterilization Program, 1920–1945*, "American Journal of Public Health" 2018, no. 108 (5), s. 611–613.
- Nussbaum M.C., *Frontiers of Justice: Disability, Nationality, Species Membership*, Harvard 2009.
- Paul D.B., Spencer H.G., *The hidden science of eugenics*, "Nature" 1995, vol. 374, pp. 302–304.
- Platon, *Państwo*, transl. W. Witwicki, Kęty 2003.
- Rigas M., *American Eugenics: A History of its Evolution from Public Health Initiative to Scientific Racism, Historical Memory, and Modern Genetics*, "Concept, the Journal of Contemporary Community Education Practice Theory" 2012, vol. 36, <https://concept.journals.villanova.edu/index.php/concept/article/view/791/644>.
- Roll-Hansen N., *Some Thoughts on Genetics and Politics. The Historical Misrepresentation of Scandinavian Eugenics and Sterilization* [in:] H.I. Petermann, P.S. Harper, S. Doetz (eds.), *History of Human Genetics: Aspects of Its Development and Global Perspectives*, Berlin 2017.
- Ruiz V.L., *From Out of the Shadows: Mexican Women in Twentieth-Century America*, New York 2008.
- Sandel M., *Czego nie można kupić za pieniądze. Moralne granice rynku*, transl. A. Chromik, K. Michalski, Warsaw 2012.
- Sandel M.J., *Przeciwko udoskonalaniu człowieka. Etyka w czasach inżynierii genetycznej*, transl. O. Siara, Warsaw 2020.
- Schoen J., *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare (Gender and American Culture)*, Chapel Hill 2005.
- Sen A., *Rationality and Freedom*, Cambridge 2004.
- Sikorski S., *Administracja ochrony zdrowia w Polsce – między świadczeniem a reglamentacją*, Warsaw 2021.
- Simon J., *The Criminal Is to Go Free: The Legacy of Eugenic Thought in Contemporary Judicial Realism about American Criminal Justice*, "Boston University Law Review" 2020, vol. 100, pp. 787–815.
- Sokolik J.W., *Leading the race: eugenics in California, 1896–1945*, San Marcos 2013.
- Spitz V., *Doctors from Hell: The Horrific Account of Nazi Experiments on Humans*, Boulder 2005.
- Stepan N., *The Hour of Eugenics: Race, Gender, and Nation in Latin America*, New York 1991.
- Stern A.M., *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America*, Oakland 2016.
- Stern A.M., Novak N.L., Lira N., O'Connor K., Harlow S., Kardia S., *California's Sterilization Survivors: An Estimate and Call for Redress*, "American Journal of Public Health" 2017, vol. 107, no. 1, pp. 50–54.
- Vogel A., *Regulating Degeneracy: Eugenic Sterilization in Iowa, 1911–1977*, "The Annals of Iowa" 1995, vol. 54, no. 2, pp. 119–143.
- Washington H.A., *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*, New York 2008.
- Watters M., *Eugenic Sterilization in California in the 1920s and 30s: The Human Betterment Foundation's Study on the Effects of Sterilization*, New Haven 2012.

- Wellerstein A., *States of Eugenics: Institutions and Practises of Compulsory Sterilization in California* [in:] S. Jasanoff (ed.), *Reframing Rights: Bioconstitutionalism in the Genetic Age*, Cambridge 2011.
- Whitman J.Q., *Hitler's American Model: The United States and the Making of Nazi Race Law*, Princeton 2017.
- Willrich M., *The Two Percent Solution: Eugenic Jurisprudence and the Socialization of American Law, 1900–1930*, "Law and History" 1998, vol. 16, no. 1, pp. 63–111.
- Wilson D., *Genetics, Crime and Justice*, Cheltenham 2015.
- Zaremba Bielawski M., *Higieniści. Z dziejów eugeniki*, transl. W. Chudoba, Wołowiec 2014.

FORCED STERILIZATION IN THE STATE OF CALIFORNIA FROM 1909 TO 1979: A HISTORICAL AND LEGAL ANALYSIS

Abstract

This historical and legal analysis examines the phenomenon of forced sterilization in California between 1909 and 1979, a period marked by the implementation of eugenic policies aimed at improving the genetic composition of the population. Through a detailed examination of the legal frameworks, key court cases, and the socio-political context, this study reveals how eugenic ideology gained acceptance, which led to the sterilization of thousands of individuals under the guise of societal betterment. The analysis delves into the ethical, legal, and historical dimensions of these practices and it highlights the role of California as a focal point in the broader national and international discourse on eugenics and human rights. The gradual rejection of eugenic ideology as well as the shift towards recognizing and compensating victims reflect a critical reassessment of the past injustices and underscore the importance of ethical considerations in medical and legal practices.

Keywords: forced sterilization, eugenics, California, legal analysis, human rights