

Eugenics and Reproductive Justice in North Carolina

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ABSTRACT

The reproductive rights of North Carolinians, African American women in particular, have been severely diminished over the course of US history. The eugenics program established by the state in the early 1900s led thousands of North Carolinian African American women to be sterilized without their consent. The effects of the program continue today, as the surviving victims are unable to procreate due to the irreversibility of the procedure. States such as North Carolina and Virginia have attempted to provide some semblance of an apology for these atrocities in the form of financial payments. However, not all of those who were involuntarily sterilized qualified to receive reparations, and only two of the numerous states that participated in eugenic practices have attempted to aid victims. Also of concern is that involuntary sterilizations are still taking place in the United States, even though North Carolina's eugenics program ended in 1977. In California, 148 female prisoners were involuntarily sterilized between 2006 and 2010, but the governor of this state passed a bill in 2014 to stop such sterilizations. Even though such legislation and the Affordable Care Act have attempted to protect and broaden the reproductive rights of Americans, numerous problems continue to restrict reproductive freedoms, including complex consent forms.

Keywords: reproductive justice, eugenics, African American women, North Carolina, sterilizations

Introduction

Throughout the history of the United States, women and people of color have been discriminated against in a number of ways. These two groups have had their political rights and their basic human rights infringed upon. With this knowledge, it is clear that African American women have been discriminated against on account of being both African American and women. From the early to mid-1900s, North Carolina was one of many states that implemented a eugenics program that sought to take away people's right to reproduce. Both women and African Americans were two particular groups affected by this program. While the state has formally ended this program and paid reparations to some of those who were involuntarily sterilized, there are still a number of ongoing issues that work to limit the reproductive freedom of some US citizens, particularly that of African American women, in the current day. These include unwarranted sterilizations in prisons, as well as consent forms that are too complex for many of those who undergo the procedure to fully comprehend. Legislators must take action in order to protect individuals and allow them the reproductive justice they deserve.

In examining sterilization and the history of this practice in the US, it is important to first determine what exactly is meant by the term “reproductive justice.” The term “reproductive rights” has often been associated with a woman’s right to have an abortion. However, this is not all that the term applies to. Charlotte Rutherford (1991) states that people in the US should embrace a new definition for this term, a definition that encompasses a woman’s ability to make her own informed choice about what she wishes to do concerning her reproductive health while having access to adequate health care. Rutherford further argues that this new definition should involve a woman’s ability to have the freedom to make whatever choice she wishes, whether it be “terminating unplanned and unwanted pregnancies [or] delivering healthy babies under healthy circumstances” (1991, 255–56). Reproductive justice, then, also applies to rights around the practice of sterilization, in the current day and historically.

Eugenics in North Carolina

A major issue that one must confront when discussing reproductive justice for North Carolinian African American women is that of eugenics. Eugenics is the act of “improving a society’s gene pool through reducing populations of people with negative traits” (Lou 2014). Eugenic programs began to gain in popularity in the early 1900s due to the United States’ Supreme Court ruling in *Buck v. Bell* in 1927. This case involved Carrie Buck, a “feeble minded” woman whose condition, according to the majority opinion written by the Supreme Court, had been present in her family’s last three generations (Cornell Law School n.d.). She was committed to a mental institution in Virginia, the state that had passed a law allowing the reproductive sterilization of institutionalized individuals for the “health of the patient and the welfare of society” (Cornell Law School n.d.). The law also required a hearing to be held to determine whether or not sterilization was necessary before the procedure could actually be implemented. Buck’s lawyers argued that this law was a violation of her right to due process of the law. The Supreme Court, however, ruled that this law was not a violation of the Constitution, because the hearing had to take place and months of observation were required, in order for the procedure to be done (Oyez n.d.). Thus, sterilizations mandated by the state were constitutional according to the Supreme Court. Justice Holmes stated that, in his opinion, “Three generations of imbeciles are enough” (Cornell Law School n.d.). Following the Court’s ruling in *Buck v. Bell*, sterilization laws were passed or extended in many states across the country (Scott 2015, 6).

In 1929, North Carolina was the seventeenth of 33 states to pass a sterilization law that gave authorization to all administrative heads of institutions in the state to sterilize any “mentally defective or feeble-minded inmate or patient thereof” (Kaelber 2014). The first law was overturned by the United States Supreme Court, but in 1933, North Carolina created a formal Eugenics Board made up of five state officials who oversaw sterilizations in the state (Klein 2012, 422). These five members included “the commissioner of the Board of Charities and Public Welfare, the secretary of the State Board of Health, the chief medical officer of a state institution for the feeble-minded or insane... the chief medical officer of the State Hospital at Raleigh, and the attorney general” (Learn NC, n.d.). As stated in a release by the North Carolina Eugenics Board, one of the purposes of this program was “to decrease breeding among the undesirable stocks” (Brown 1938, 5). Among such “undesirable stocks” was any person who was a “mentally diseased, feeble-minded, or epileptic inmate or patient of the State or county institutions, or... resident of a county” in North Carolina (Brown 1938, 8). It is important to note here that the admission of an individual as a patient to such an institution did not necessarily mean that she or he belonged there nor that such a diagnosis was applicable (Kaelber 2014). One

particularly interesting aspect of the North Carolina eugenics program is that local welfare officials were given the ability “to submit sterilization petitions for their clients,” thus making it more likely for a welfare recipient to undergo a sterilization procedure (Price and Darity 2010, 264). This program continued until it was abandoned in 1977, but by the end of the program’s tenure, roughly 7,600 North Carolinians had been involuntarily sterilized. However, it was not until April of 2003 that the sterilization law was actually overturned by the North Carolina Senate (Kaelber 2014).

Of particular interest to this paper’s focus are the statistics regarding the North Carolinians who were sterilized under this program. Even though the purpose of the program was stated as discussed above, when one takes into account the numbers of minorities who were sterilized, it is clear that there was more of an underlying motivation on the part of the North Carolina Eugenics Board to sterilize specific groups of people. For example, 85 percent of the total number of people sterilized were women; 80 percent of those who were sterilized between 1950 and 1960 alone were African American men and women both (Klein 2012, 422). Between July 1946 and June 1969, the highest number of sterilization procedures were performed in Mecklenburg County (485 procedures), and Guilford County had the second highest number of procedures completed during this time period, with 167 sterilizations ordered (Office of Justice for Sterilization Victims n.d.). During the 1950s and 1960s, 63 percent of all sterilization victims in North Carolina were on welfare (Klein 2012, 423). This program therefore developed into somewhat of an “American genocide” in order to “control the reproduction of women on welfare” so that the state could save money (Carmon 2014). As Johnnie Tillmon stated in her 1972 article, “Welfare is a Women’s Issue,” women on welfare during this period were “not supposed to have any sex at all... You give up control of your body. It’s a condition of aid. You may even have to agree to get your tubes tied... just to avoid being cut off welfare.”

North Carolina is a state that has a remarkable history of utilizing eugenics programs. When it was found unconstitutional for welfare administrators to discriminate against African Americans, they were forced to find a new way to stop blacks from having access to state funds. The North Carolina eugenics movement clearly was a way to lower the number of black welfare recipients by eliminating the ability for black women to procreate – notably, an act that should be viewed as a basic right and extended to all humans regardless of race or gender. As Jennifer Klein has stated, “These procedures were generally irreversible. And...the state’s actions were an enormous violation of the individual’s bodily integrity and autonomy” (2012, 424). These actions are thus evidence of how the government has infringed upon the rights and lives of African American women in all parts of the country, including North Carolina. After World War II, the number of sterilization procedures decreased in many states due to the widespread knowledge of how the Nazis performed unwarranted sterilizations on an estimated 350,000 people; thus, many US states decreased or halted the number of sterilizations being completed (Klein 2012, 423–24). Contrary to what other states decided to do, North Carolina reached its highest number of sterilizations after World War II ended (Klein 2012, 424). For example, it was revealed in 1965 that North Carolina had been the state with the highest number of reported sterilizations in every year but one in the period between 1950 and 1965 (Klein 2012, 424).

However, North Carolina was the first state to offer reparations in 2014, for victims who had undergone sterilization without their knowledge or consent. There was a 10-million-dollar budget allocated for the payment of reparations to the victims who were still living in 2014 (Carmon 2014). It was assessed that each of the estimated 2,000 living victims would receive 50,000 dollars (Klein 2012, 424). Beverly Perdue, the governor of North Carolina who

established the task force to compensate the state eugenic program's victims, said on the matter, "You can't rewind a watch or rewrite history. You just have to go forward and that's what we're trying to do in North Carolina" (Kessel and Hopper 2011). However, some sterilization victims in North Carolina could not seek reparation, as the money was set aside only for victims of the state program; there were also many victims who were sterilized through county agencies. For example, in North Carolina, some people were sterilized by Mecklenburg County health officials and others were sterilized in Raleigh at the Dorothea Dix Hospital, a psychiatric hospital; however, these victims were not eligible for reparations because the official North Carolina Eugenics Board was not directly responsible for their sterilization (Campbell and Helms 2016).

Eugenics Outside of North Carolina

Currently, North Carolina and Virginia are the only states that have paid reparations to victims of involuntary sterilizations; Virginia, however, only paid 25,000 dollars to each of its surviving victims (Bold 2015). Furthermore, while many states like North Carolina have overturned their sterilization laws, there are still sterilizations being completed without the individual's full consent in other parts of the US, often on those who are incarcerated. In 2013, it was reported by Paul Campos, a University of Colorado law professor, that 148 women in California prisons had been illegally sterilized between 2006 and 2010. Campos further reported that these women were "given tubal ligations without the prison administrators" obtaining the proper "case by case authorization for the procedures, required by law, from a state board." There was a large public outcry over this news, which led Jerry Brown, the governor of the state, to sign a bill in 2014 that banned involuntary sterilizations in California prisons (Schwarz 2014).

Under President Obama, the Affordable Care Act was passed in 2010 and it has expanded the reproductive rights of women in the United States. This act carries the potential to increase the number of US citizens with insurance coverage and to raise the value of coverage, specifically concerning reproductive health needs. This act also has the potential to improve access to services and information regarding health services (Sonfield and Pollack 2013, 374). The act was revolutionary, as it set the initiative for providing health insurance for all US citizens, regardless of one's race or social class (Sonfield and Pollack 2013, 373). However, public reception has been very mixed. According to a 2011 study, 42 percent of individuals in the US deemed the act favorable, while 47 percent regarded it as unfavorable (Brodie, Deane, and Cho 2011, 1100).

The prevalence of one reproductive health service increased significantly with the passing of the Affordable Care Act, and it was, ironically, sterilization. In an analysis of the Affordable Care Act's utilization rates in women's reproductive health services, it was found that sterilization procedures increased from 0.7 percent in 2011 to 2.3 percent in 2013 (Arora and Desai 2016, 228). In a 2012 study completed by Sonya Borrero, Nikki Zite, and Mitchell Creinin, it was discovered that, due to forms which must be completed for publicly-funded sterilizations to occur, not all women who had signed these forms fully understood what they were giving consent to. This was because of the forms' complexities. To fully understand the forms, one must possess significant, above-average literacy skills, yet the majority of women "likely to undergo publicly funded sterilization...are at particularly high risk for having average or below average health literacy skills" (Borrero, Zite, and Creinin 2012, 1822). The researchers found that women who had undergone the procedure misunderstood the permanence of sterilization, and they concluded that insurance providers do not always ensure that the patient understands what the procedure will entail. The authors also established that it is minority and low-income women who are more likely to undergo this procedure. These findings are

disconcerting because of the vast number of misunderstandings caused by the consent forms (Borrero, Zite, and Creinin 2012, 1822). If the process is not soon changed, the United States could once again have a eugenics movement; this time, though, minority women will be signing off on their own government-funded sterilization, without fully understanding what the procedure involves.

Conclusion

Clearly, the government, in particular the state government of North Carolina, has worked in the past to limit the reproductive freedoms of African American women through the implementation of eugenics programs. While reparations have given those affected by these sterilization practices some semblance of justice, they are still not comparable to having the ability to procreate. There is simply no way to set an adequate price on a human being's rights in terms of control over what happens to one's own body. However, it is a good place to start, and reparations should be paid to those who did not qualify for the North Carolina funds. Reparations should also be paid to victims in other states. These reparations are paid with taxpayer money and will be costly, and this will force lawmakers to set aside their partisan politics to allow these victims a semblance of the justice that they deserve. This should include those who were sterilized through county agencies and also those who have died. Reparations can be paid to victims who are still alive, and damages can be paid to family members of those victims no longer living. Compensation for having their basic human rights violated will allow these victims and their families to feel some sense of justice. However, it might be difficult for someone to prove that their ancestor was sterilized if they are no longer living.

Even though North Carolina's eugenics program ended in 1977, illegal sterilizations were still taking place until 2014 in California prisons. Future research considerations should be focused on whether other illegal sterilizations have taken place in recent years. Additionally, research should be completed on consent forms in order to create a form that will be easily comprehensible for those undergoing a publicly-funded sterilization. Above all else, a permanent piece of legislation should be passed in order to ensure that the basic human right of reproduction is never again taken away from citizens in the United States, regardless of their situation, race, or gender. Our legislators must set aside their political differences and work together to create a law that will adequately confront and eradicate this issue of basic human rights.

References

- Arora, Prachi, and Karishma Desai. 2016. "Impact of Affordable Care Act Coverage Expansion On Women's Reproductive Preventive Services in The United States." *Preventive Medicine* 89: 224–29. <http://www.sciencedirect.com/science/article/pii/S0091743516301098>.
- Bold, Mark. 2015. "It's time for California to compensate its forced-sterilization victims." *Los Angeles Times* (Los Angeles, CA), March 5. <http://www.latimes.com/opinion/op-ed/la-oe-0306-bold-forced-sterilization-compensation-20150306-story.html>.
- Borrero, Sonya, Nikki Zite, and Mitchell Creinin. 2012. "Federally Funded Sterilization: Time to Rethink Policy?" *American Journal of Public Health* 102 (10): 1822–25. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490665/?tool=pmcentrez>.

- Brodie, Mollyann, Claudia Deane, and Sarah Cho. 2011. "Regional Variations in Public Opinion on the Affordable Care Act." *Journal of Health and Politics* 36 (6): 1091–103. <http://jhppl.dukejournals.org/content/36/6/1097.full.pdf+html>.
- Brown, Eugene. 1938. "Eugenical Sterilization in North Carolina: Purpose, Statutory Provisions, Forms and Procedure." North Carolina Eugenics Board, North Carolina. <http://digital.ncdcr.gov/cdm/compoundobject/collection/p249901coll22/id/417353/rec/2>.
- Campbell, Colin, and Ann Doss Helms. 2016. "More NC eugenics victims could become eligible for compensation." *The News & Observer*, June 9. <http://www.newsobserver.com/news/politics-government/state-politics/article82871452.html>.
- Campos, Paul. 2013. "Eugenics Are Alive and Well in the United States." *TIME*, July 10. <http://ideas.time.com/2013/07/10/eugenics-are-alive-and-well-in-the-united-states/>.
- Carmon, Irin. 2014. "For eugenic sterilization victims, belated justice." *MSNBC*, June 27. <http://www.msnbc.com/all/eugenic-sterilization-victims-belated-justice>.
- Cornell Law School. n.d. "Buck v. Bell." Legal Information Institute. <https://www.law.cornell.edu/supremecourt/text/274/200>.
- Kaelber, Lutz. 2014. "Eugenics/Sexual Sterilizations in North Carolina." Last modified October 30, 2014. <https://www.uvm.edu/~lkaelber/eugenics/NC/NC.html>.
- Kessel, Michelle, and Jessica Hopper. 2011. "Victims speak out about North Carolina sterilization program, which targeted women, young girls and blacks." *NBC News*, November 7. http://rockcenter.nbcnews.com/_news/2011/11/07/8640744-victims-speak-out-about-north-carolina-sterilization-program-which-targeted-women-young-girls-and-blacks.
- Klein, Jennifer. 2012. "Compensating Victims of Forced Sterilization: Lessons from North Carolina." *Journal of Law, Medicine & Ethics* 40 (2): 422–26. <https://doi.org/10.1111/j.1748-720X.2012.00675.x>.
- Learn NC. n.d. "Eugenics in North Carolina." *The University of North Carolina at Chapel Hill School of Education*. <http://www.learnnc.org/lp/editions/nchist-worldwar/6164>.
- Lou, Lily. 2014. "North Carolina compensates victims of eugenic sterilization." *The Guilfordian*, November 7. <https://www.guilfordian.com/worldnation/2014/11/07/north-carolina-compensates-victims-of-eugenic-sterilization/>.
- Office of Justice for Sterilization Victims. n.d. "Eugenics Data by County." North Carolina Justice for Sterilization Victims Foundation. http://www.sterilizationvictims.nc.gov/documents/County_Rank-Sterilizations_Performed_per_County_%20Residence_%20July_1946-June%201968.pdf.
- Oyez. n.d. "Buck v. Bell." <https://www.oyez.org/cases/1900-1940/274us200>.
- Price, Gregory N., and William A. Darity Jr. 2010. "The Economics of Race and Eugenic Sterilization in North Carolina: 1958–1968." *Economics and Human Biology* 8 (2): 261–72. http://ac.els-cdn.com/S1570677X10000201/1-s2.0-S1570677X10000201-main.pdf?_tid=fadc15f6-8125-11e7-a3b7-00000aacb361&acdnat=1502738758_20de0314ba87ab05c44ca7aac1be7b4c.
- Rutherford, Charlotte. 1991. "Reproductive Freedoms and African American Women." *Yale Journal of Law & Feminism* 4 (2): 255–90. <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1063&context=yjlf>.
- Schwarz, Hunter. 2014. "Following reports of forced sterilization of female prison inmates, California passes ban." *The Washington Post*, September 26. <https://www.washingtonpost.com/blogs/govbeat/wp/2014/09/26/following-reports-of-forced-sterilization-of-female-prison-inmates-california-passes-ban/>.

- Scott, Laura. 2015. "Wicked Silence: The North Carolina Forced Sterilization Program and Bioethics: A Discussion Guide." *Wake Forest University*. <http://bioethics.wfu.edu/wp-content/uploads/2016/01/WickedSilenceStudentDiscussionGuide.pdf>.
- Sonfield, Adam, and Harold Pollack. 2013. "The Affordable Care Act and Reproductive Health: Potential Gains and Serious Challenges." *Journal of Health Politics* 38 (2): 373–91. <http://jhpl.dukejournals.org/content/38/2/373.full.pdf+html>.
- Tillmon, Johnnie. 1972. "Welfare is a Women's Issue," *Ms. Magazine*. <http://www.ms magazine.com/spring2002/tillmon.asp>.