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SEXUAL STERILIZATION

OF THE MENTALLY RETARDED
(TITLE)

BY

Nancy Ann Wallace

THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF

Master of Science in Education

IN THE GRADUATE SCHOOL, EASTERN ILLINOIS UNIVERSITY
CHARLESTON, ILLINOIS

1984

YEAR

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SEXUAL STERILIZATION OF THE MENTALLY RETARDED

Nancy Wallace
Eastern Illinois University

A Thesis Submitted in Partial Fulfillment of
the Requirements for the Degree of Master of
Special Education

August, 1984

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N. W.

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Abstract

For more than 50 years, sterilization of mentally retarded persons was an accepted practice in many states as a way to reduce the number of persons born with mental defects. In recent years, the practice has come under heavy challenge, both medically and legally. In the United States between 1907 and 1963, approximately 12,500 sexual sterilizations were performed. In 1970, 27 states had particular grounds on which sterilization could be ordered. As of 1979, only 19 states still had statutes that allowed sterilization for eugenic reasons. This paper examines the history of the sterilization laws and the grounds for invoking sterilization statutes. This paper also examines important court decisions regarding eugenic sterilization laws, the possible causes of mental retardation, and the psychological effects that sterilization may cause. This paper also includes a survey that was designed to measure the attitudes of the respondents regarding the topic of sexual sterilization and the survey results.

Introduction

Since at least the time of Plato's Republic, philosophers, scientists, and sociologists have advocated different programs of selective breeding which they believed would improve the human race (Vukovich, 1971). Aristotle did not view defective infants as being capable of human endeavor. In his writings, Socrates mentioned anencephalus and other cranial malformations associated with severe retardation, thus beginning to establish a physiologic basis for mental retardation (Siantz, 1979). Moreover, cruel attempts to apply basic eugenic principles have been made at least since the time of the Spartans of ancient Greece who permitted their sickly children to die and slaughtered their more intelligent slaves in order to ensure control by the ruling elite (Matoush, 1969).

Another factor that affected the evolving concept of mental retardation was "eugenics," a term introduced by Sir Francis Galton (Kanner, 1974). In sorting out elements that improve the qualities of a race, the problem of large and multiplying numbers of persons with mental retardation surfaced. Mental retardation was seen as a condition acquired by degenerates who spread evil, crime, disease, and financial hardship on society. Treatment of this condition included lifelong segregation and sterilization, restrictive marriage laws, and institutionalization (Siantz, 1979).

Compulsory sterilization to prevent the procreation of offspring likely to inherit the mental and physical defects

of their parents originated as a consequence of the sterilization movement that reached its heyday in the United States during the early 1900's. The movement was influenced by such factors as the theories of Sir Francis Galton, the scientific realization that Mendel's law of heredity applied to human beings, and the development of simple surgical procedures that could accomplish sexual sterilization without attendant hormonal aberration (American Jurisprudence Proof of Facts, 1970).

In the United States between 1907 and 1963, approximately 12,500 sexual sterilizations were performed. The number of such operations has been declining rapidly since 1950, apparently because of (a) growing skepticism about the inheritability of the defects enumerated in the statutes, (b) fear of civil and criminal liability for the performance of sterilization operations, (c) a change in administrative policies, (d) improved facilities in mental hospitals for the treatment of disorders, (e) a belief that the indications for eugenics sterilization are often exaggerated, and (f) studies in the field of genetics that indicate that sexual sterilization, in its present form, will not significantly decrease the number of mentally disordered individuals in the population (American Jurisprudence Proof of Facts, 1970).

History of the Sterilization Laws

After a Michigan sterilization bill was defeated in 1897 and a Pennsylvania sterilization bill was vetoed by the governor in 1905, Indiana finally enacted the first

compulsory eugenic sterilization law in 1907, under which the sterilization of confirmed criminals, idiots, imbeciles, and rapists in state institutions, when recommended by a board of experts, was made mandatory. By 1917, fifteen other states had passed similar measures (American Jurisprudence Proof of Facts, 1970).

In 1927, the United States Supreme Court declared constitutional a Virginia statute authorizing the involuntary sterilization of institutional "mental defectives" (Buck v. Bell, 1927). The justifications given for the state's exercise of its police power were (a) the prevention of the inheritance of the condition, thereby reducing the number of mental defectives, (b) the fear that too many mental defectives would become a "social menace," and (c) the interest in reducing the cost of institutionalization. In recent cases, involuntary sterilization has been justified on the grounds that a retarded mother would be unfit to care for her offspring (In re Simpson v. Department of Public Welfare, 1962; In re Sterilization of Moore, North Carolina Association for Retarded Children v. State of North Carolina, 1976). In the above line of cases, the state's interests in requiring sterilization outweighed the retarded person's right to procreate (Vitello, 1978).

Vitello (1978) states that the Supreme Court explicitly recognized the individual's fundamental right to procreate. By 1942, 32 states had enacted legislation on compulsory sterilization. By 1968, the total number of states retaining

eugenic sterilization laws had dropped to 27 (American Jurisprudence Proof of Facts, 1970).

Particular Grounds on Which Sterilization Can Be Ordered as of 1970

Eugenic sexual sterilization laws exhibit their greatest diversity in specifying the basis upon which an inmate of a mental institution or person at large can be sterilized. These laws are summarized in Table 1.

By 1979, compulsory sterilization laws still existed in nineteen states. In the 31 states that do not have even questionable valid statutory authority, physicians who perform sterilizations on minor retarded children may find themselves sued for negligence, malpractice, assault and battery, or violation of the civil right of the sterilized person, even if done under a court order. Only an adult labelled as retarded who has not been adjudicated incompetent and without coercion from anyone, and with full understanding of less permanent contraceptive methods, can give legal valid consent for permanent sterilization (Dowden & Heartwell, 1979).

Bender (1977) states that most of the eugenic sterilization laws focus upon three general classes of individual: the feeble minded (usually indicating mildly or moderately retarded individuals), the insane (usually signifying the more severely mentally impaired), and the epileptic (usually signaling an individual with any of the seizure disorders). And even though genetics has always

Table 1

Grounds for Invoking Sterilization Statutes

| Grounds | State |
|--|----------------|
| According to the laws of heredity, subject is probable potential parent of socially inadequate offspring who would be likewise afflicted | Arizona |
| | Mississippi |
| | New Hampshire |
| | Oklahoma |
| | South Carolina |
| | Utah |
| | Virginia |
| | West Virginia |
| Procreation is deemed inadvisable | Delaware |
| | Wisconsin |
| Statute silent as to particular grounds | Minnesota |
| Procreation would produce children with an inherited tendency to named conditions (e.g., mental illness, mental deficiency); or physical or mental condition of the patient would be improved by sterilization | Connecticut |
| | Georgia |
| | Idaho |
| | Iowa |
| | Maine |
| | Michigan |
| | North Dakota |
| | Oregon |
| Vermont | |

(table continues)

| Grounds | State |
|---|----------------------------|
| Sterilization ordered when deemed advisable | Alabama |
| Subject is afflicted with mental disease that may have been inherited and is likely to be transmitted to subject's descendants; or marked departure from normal mentality | California South Dakota |
| Subject is afflicted with hereditary form of insanity that is recurrent; epilepsy; or primary or secondary types of feeble-mindedness | Indiana |
| Subject is idiotic, feeble-minded, or insane person who is treated, trained, or cared for in custodial institution | Montana |
| Subject is mentally deficient patient who is eligible for parole or discharge | Nebraska |
| Sterilization ordered if considered in best interest of the mental, moral, or physical improvement of the patient or for the public good | North Carolina |

Note. From American Jurisprudence Proof of Facts, 1970.

indicated that these classes differ both in terms of reproduction capacities and in patterns of inheritance, the laws have not distinguished among them (Bender, 1977).

Before an individual is denied a substantive right (the right to procreate), the 14th Amendment of the United States Constitution guarantees procedural due process. In cases where involuntary sterilization was upheld, courts have noted the inadequacies of the due process procedure (Vitello, 1978).

As stated in the American Association on Mental Deficiency Journal (1974), mentally retarded persons have the same basic rights as other citizens. Among these rights are the right to conformance with state and local laws, to marry to engage in sexual activity and to have children, and to control one's own fertility by any legal means available.

Court Decisions

There have been a series of court decisions in which the position has emerged that there is no authority for a court-ordered sterilization of a minor or incompetent retarded person in the absence of clear-cut medical indications. Parents, lawyers, physicians, and hospitals involved in such sterilizations have been successfully sued and monetary damages have been awarded (Dowden & Heartwell, 1979).

The landmark case establishing procreation as a fundamental right is Skinner v. Oklahoma (1942). In Skinner, the Supreme Court held that the Oklahoma statute authorizing involuntary sterilization of certain criminals violated constitutional rights (Linn, 1977). In this action the court

reversed a judgment directing that a vasectomy be performed on a man who had been convicted once of stealing chickens and twice of armed robbery. At the outset, the court pointed out that the statute involved one of the basic civil rights of man, that marriage and procreation are fundamental to the very existence and survival of the race. The power to sterilize, if exercised, may have subtle, far-reaching, and devastating effects. In evil or reckless hands it can cause races or types which are inimical to the dominant group to wither and disappear; therefore, strict scrutiny of the classification which a state makes in a sterilization law is essential. Concluding that the equal protection clause would indeed be a formula of empty words if such conspicuously artificial lines could be drawn, the court declared that when the law lays an unequal hand on those who have committed intrinsically the same quality of offense and sterilizes one and not the other, it has made as invidious a discrimination as if it had ordered oppressive treatment (American Law Reports, 1973).

In the case of Wyatt v. Aderholt (1974), Dr. Philip Roos testified on the inadequacies of parental consent stating:

I would object to that as the sole criterion for many reasons, not the least of which is that parents are often motivated by their own anxieties, their own unresolved conflicts, and there is a tendency to overprotectiveness. Parents are often motivated by the very strong anxiety of pregnancy in their retarded child

. . . (I) would say that parental approval as such is totally inadequate as a justification for sterilization. (p. 42)

In his decision in the case of Wyatt v. Aderholt (1974), Judge Frank Johnson issued a series of guidelines to be followed when sterilization of a retarded person is proposed. These guidelines totally eliminate the guardian from participation in the sterilization decision and place the responsibility upon the state through strict procedural safeguards. The Wyatt approach takes into account all the problems and dangers inherent in voluntary consent to sterilization by the mentally retarded. Although it does not solve all of the voluntary sterilization problems, it does seek to ensure that, with proper safeguards and independent review, no retarded person will be sterilized unless he truly understands the process and desires it (Soskin, 1977).

The case of Relf v. Weinberger (1974), a lawsuit instituted in 1974 first focused national attention on the growing problem of sterilization abuse. The action arose when two black women, ages twelve and fourteen, were sterilized: neither the girls nor their parents were informed of the nature of the operation.

The parents challenged HEW regulations providing federal funds for voluntary family planning, alleging that HEW had failed in its responsibility to ensure that federal funds were used only for voluntary sterilizations. The district court found that:

An indefinite number of poor people have been improperly coerced into accepting sterilization operations under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilization. Patients receiving Medicaid assistance at childbirth are evidently the most frequent targets of the pressure. (Relf v. Weinberger, 1974)

The court ordered HEW to promulgate regulations ensuring that competent adults would be sterilized only after they had given their informed and voluntary consent and preventing altogether the use of federal funds for sterilization of minors or those persons who are mentally incompetent (Relf v. Weinberger, 1974).

A recent case that attracted considerable attention was Sparkman v. McFarlin (1976). An Indiana judge approved, in affidavit form and without evidentiary hearing or review, a mother's request to sterilize her "somewhat retarded" 15-year-old daughter. The girl did not receive notice of the petition, no guardian ad litem was appointed to represent the daughter, nor was the petition or order ever filed with the county court. Only after the daughter had married and was unable to conceive did she discover that she had been sterilized. She filed suit against the mother, the mother's attorney, the doctors and hospital involved in the sterilization, and the judge who approved the petition for violation of her civil rights. The defendants were liable for damages for causing the sterilization (Dowden &

Heartwell, 1979).

The legal background for sterilization of retarded individuals has oscillated from the 1927 decision of Buck v. Bell, which permitted sterilization for eugenic reasons, to Skinner vs. Oklahoma in 1942, which held that procreation was "one of the basic civil rights of man." It has been further confused by decisions involving privacy and the right not to procreate (Griswold v. Connecticut, 1965; Roe v. Wade, 1973). Sterilization has been permitted in some jurisdictions for institutionalized persons under the parens patriae power of the state, but in the absence of specific statute, even a judge is not immune from suit for authorizing sterilization (Vining & Freeman, 1978).

Causes of Mental Deficiencies

A very large percentage of mental defects are related to specific environmental influences, including prenatal and birth injuries, and specific diseases or infections which result in brain damage. "Genetic" causes, whether chromosomal or related to specific genes, are believed to be responsible for slightly more than a third (37 percent) of all mental defects (Penrose, 1949). More than 40 percent of recognized mental defects must still be attributed to unknown causes (Bender, 1977). It is estimated that about 89 percent of inheritable deficiencies are transmitted by normal individuals. At present, it is impossible to determine who is a normal carrier. If all of the persons labelled as retarded were sterilized based on the theory of hereditary

transmission of mental deficiency, the next generation of mentally retarded persons would only be diminished by about 11 percent (Cochran, 1974).

Stern (1973) states the best-known chromosomal abnormality is Down's syndrome, constituting almost 10% of those who are mentally retarded. Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period (American Association on Mental Deficiency, 1974). The most widely known, specific gene-related form of mental retardation is phenylketonuria (PKU). Although the number of possible deleterious genes which could engender a mental defect is relatively high, perhaps in the hundreds, geneticists believe that, since such genes are relatively rare in our populations, they collectively account for a very small proportion of mentally retarded individuals (Bender, 1977).

It is much more likely that the largest mental retardation category--the mildly retarded--can most easily be fitted into a so-called "polygenic" genetic model (Cavalli & Bodmer, 1971). In such a model the genetics of mental retardation is viewed in a fashion similar to that for height or weight: continuous variation from high to low is observed, environmental influences are clearly significant, and the genetic component is ascribed to numerous interacting genes, each contributing in a small but additive fashion. Mild retardation results from the unfortunate accumulation of

unfavorable genes also found, but in smaller numbers, in "normal individuals" (Bender, 1977).

Several carefully executed studies have established that there is a very high risk (30-35%) that the mildly retarded individual, if reproductively active, will bear a similarly affected child (Neel & Schull, 1954). These experiments underscore the significance of a hereditary endowment of intelligence. Yet it would be a serious error to diminish or dismiss the role of environment, a factor which is inextricably involved in the development of the whole person (Bender, 1977).

Most significantly from a scientific point of view, it is critical to note that the vast majority (at least 80%) of mentally impaired individuals have nonmentally impaired parents. The eugenics argument for prevention is irrelevant in these cases: the court has no need of a geneticist to bear expert witness (Bender, 1977).

Bligh (1972) stated that to be effective in stemming an increase of retarded persons, a comprehensive program of eugenic sterilization would of necessity involve sterilization of "at least 10,000,000 normal" persons, or approximately 10% of the present population. Persons phenotypically normal produce the vast majority of offspring who exhibit behaviors characterized as retarded. The dilemmas and magnitude involved in diagnosing potential parents of the persons labelled as retarded are overwhelming. If medical knowledge were at a level of sophistication to do

so, which it is clearly not, implementation and administration of a social control program would be a Sisyphean nightmare.

Psychological Effects of Sterilization

Linn (1978) states the central importance of the family to our way of life transcends all cultural boundaries-- ethnic, religious, social, and economic. Neither does the desire to have children diminish with handicapping conditions. It is now understood that mentally retarded persons, who are seeking their place in society's mainstream, can be deeply affected by the involuntary sterilization process. Dr. Philip Roos (1975), former Executive Director of the National Association for the Retarded Citizens, writes that "mentally retarded persons apparently do not generally accept sterilization gladly as once assumed." (p. 46) Dr. Roos outlines the psychological impact of sterilization which often "symbolizes punishment" and may be synonymous in their minds with castration.

When they are sterilized against their wishes, serious psychological damage can result. Retarded persons are frequently overprotected by their family and others. An unsought sterilization of retarded persons confirms their perception of helplessness and worthlessness. An involuntary sterilization infringes their bodily integrity and is perceived as a permanent symbol of their "reduced or degraded status," further damaging their self-image. In fact, retarded individuals try very hard to pass for normal;

involuntary sterilization thwarts their attempt to be as much like normal individuals as they can (Edgerton, 1967).

Extensive publicity was given in the summer of 1973 to the forced sterilization of 18 black and poor females by an Alabama doctor. The punishment by sterilization phenomenon has been interpreted as another manifestation of the dehumanizing "mere gook syndrome" (Lieferman, 1974). When persons are perceived as "mere gooks" or aliens, social distance barriers are maintained allowing for complacency on the part of the general public (Robinson, Robinson, & Williams, 1979).

The fundamental liberty of ownership of one's own body is threatened by the continuing legacy of Galton's eugenics concepts. It is the responsibility of the biomedical profession to acknowledge and make known the present state of medical knowledge, or lack thereof, concerning the causes and transmission of mental defects. Further, it is the responsibility of both the medical and legal professions to take action to discredit public laws and policies depriving individuals of their constitutionally guaranteed right to choose to procreate (Robinson et al., 1979).

The purpose of this study was to explore the attitudes of teachers, teacher aides, and supervisors who work with students who have been labelled retarded on the topic of sexual sterilization and to examine some of the factors related to these attitudes. An attempt was made to measure the degree of favor and the intensity with which the attitude

was held.

Method

Subjects

The survey was sent to 100 teachers, teacher aides, and supervisors who work with students labelled as Educable Mentally Impaired (EMI) or Trainable Mentally Impaired (TMI) in a central Illinois public school district. The participants were employed in a school district that has a special education population of 3,000 students. Those working with students labelled as Educable Mentally Impaired work in a public school within the district. Those who worked with the students identified as Trainable Mentally Impaired work in a center that has been specially designed for the needs of these students.

Setting

The participants in this study are from a central Illinois city and its surrounding communities. This city is mainly industrial. It has a population of over 100,000 people. It relies heavily on the automotive and agricultural industries to support its economy. Recently, this city experienced a great economic depression due to the loss of demand for the products produced in the city. Many workers were temporarily laid off their jobs, while others were permanently dismissed from their employment. At the time of this writing, the city is beginning to recover from its recent layoffs and economic depression.

The public school system of this city serves 27,286

students. As stated before, the special education population is 3,000 students. These students are receiving various types of special services. These services include classes for the individuals labelled as Learning Disabled, Educable Mentally Impaired, Trainable Mentally Impaired, Behavioral Disordered, Deaf, Multiply Impaired, and Visually Impaired. Other services include speech, occupational and physical therapy, vocational rehabilitation, and psychological services.

Procedure

The survey was designed to measure the attitudes of the participants regarding the topic of sexual sterilization of the mentally retarded. The instructions asked for a response to each statement from "strongly agree to strongly disagree." The statements were written without bias toward the topic. The survey was typed on a computer questionnaire form so that the results could be tabulated by the computer center at Eastern Illinois University.

The targeted participants were those who work with students labelled as Educable Mentally Impaired and Trainable Mentally Impaired. The participants were selected by using the public school directory which lists the names and titles of each employee, their place of employment, and its address. The surveys were then sent to 100 people. Of those 100 sent, 61 were completed and returned. The surveys were sent to each participant by means of the public school mailing system. Permission to use this system was granted by the

superintendent of the school district. A volunteer who is employed by the school system delivered the surveys to the central distributing center, from which they were then sent to each participant. All surveys were returned to a central location through the same system (for the survey, see Appendix A).

Analysis

In analyzing the data, a frequency count using subprogram Frequencies on SPSS (Nie, Hull, Jenkins, Steinbrenner, & Bent, 1975) was first conducted. Then, to determine whether a relationship existed between bases of classification or whether the two bases of classification may be considered independent (from subprogram CROSSTABULATIONS (Nie et al., 1975)), a "chi square" test was used.

Results

Of the 100 surveys sent, 61 were returned in usable fashion. The information taken from the five demographic questions on the survey showed that under the question of religion, there were 41 Protestants, 11 Catholics, 6 of other religious beliefs, and 3 did not respond to that question. Responding to the question on gender, there were 9 males, 49 females, and 3 did not respond. Question 3 asked for the participant's job title: 6 were elementary teachers of individuals labelled as Educable Mentally Impaired (EMI), 13 were junior and senior high EMI teachers, 2 were elementary teachers of individuals labelled as Trainable Mentally Impaired (TMI), 1 was a junior and senior high school TMI

teacher, 35 were either supervisors or teacher aides, and 4 did not respond to the question. Question 4 asked for the participant's educational level. Twenty-four have bachelor's degrees, 34 have master's degrees, and 3 did not respond. Of the participants, 18 were related to a handicapped person, 40 were not related to a handicapped person, and 3 did not respond.

The results of the frequency analysis is shown on Table 2. In regard to the questions, Question 1 stated: Individuals labelled as retarded do not have the decision making abilities to decide if sterilization is the right course of action. The response rate showed 20 out of 59 generally agreed with this statement. Question 2 stated: Only those individuals identified as retarded who reside in institutions should be sterilized. The largest response was 18 out of 59 who generally disagreed with the statement. Question 3 stated: All states should have some type of sterilization laws. The participants strongly disagreed with this statement with a response rate of 17 out of 56. Question 4 stated: The person labelled as retarded who has a genetic defect which is likely to be inherited by his/her children should be sterilized. On this question the response was 25 out of 57 generally agreed. Question 5 stated: The rights of all individuals must be fully protected. The response rate showed 35 out of 59 strongly agreed with this statement. Question 6 stated: Involuntary sterilization is a complete and irreversible taking of a basic human right.

Table 2

Results of Frequency Analysis

| | | | | Row 1 - Count | | | | |
|------|-------|--------|--------|-------------------|------|------|------|------|
| | | | | Row 2 - Frequency | | | | |
| | | | | Response Number | | | | |
| | Mean | Median | Number | 1 | 2 | 3 | 4 | 5 |
| Q-01 | 3.068 | 3.050 | 59 | 4 | 20 | 10 | 18 | 7 |
| | | | | 6.6 | 32.8 | 16.4 | 29.5 | 11.5 |
| Q-02 | 3.712 | 3.806 | 59 | 2 | 6 | 16 | 18 | 17 |
| | | | | 3.3 | 9.8 | 26.2 | 29.5 | 27.9 |
| Q-03 | 3.304 | 3.269 | 56 | 7 | 11 | 13 | 8 | 17 |
| | | | | 11.5 | 18.0 | 21.3 | 13.1 | 27.9 |
| Q-04 | 2.737 | 2.360 | 57 | 7 | 25 | 9 | 8 | 8 |
| | | | | 11.5 | 41.0 | 14.8 | 13.1 | 13.1 |
| Q-05 | 1.712 | 1.343 | 59 | 35 | 12 | 7 | 4 | 1 |
| | | | | 57.4 | 19.7 | 11.5 | 6.6 | 1.6 |
| Q-06 | 2.500 | 2.225 | 59 | 15 | 20 | 8 | 11 | 5 |
| | | | | 24.6 | 32.8 | 13.1 | 18.0 | 8.2 |
| Q-07 | 3.810 | 3.889 | 58 | 1 | 5 | 16 | 18 | 18 |
| | | | | 1.6 | 8.2 | 26.2 | 29.5 | 29.5 |
| Q-08 | 2.944 | 2.933 | 54 | 4 | 10 | 30 | 5 | 5 |
| | | | | 6.6 | 16.4 | 49.2 | 8.2 | 8.2 |
| Q-09 | 3.439 | 3.579 | 57 | 2 | 12 | 13 | 19 | 11 |
| | | | | 3.3 | 19.7 | 21.3 | 31.1 | 18.0 |

The response indicated the participants generally agreed with this statement with the response rate of 20 out of 59.

Question 7 stated: Sterilization is justifiable for a person identified as mentally retarded as a safeguard to the human race. The response rate showed a tie between strongly and generally disagreeing, with 18 responses for each out of 59 responses. Question 8 stated: A person labelled as retarded who has been sterilized is accepted in the moral community. The response rate was 30 out of 54 neither agreed nor disagreed with this statement. Question 9 stated: Only those individuals with an IQ of 40 or below should be sterilized. Nineteen out of 57 generally disagreed with this statement.

When subprogram CROSSTABULATIONS (Nie et al., 1975) was run to check for differing responses on questions by demographic characteristics, only one significant difference (Question 1, males differed from females) was found. This difference could easily be attributed to chance since 45 different comparisons were made with an alpha level of 0.05.

Discussion

This survey resulted in some interesting patterns. In response to the question dealing with protection of rights of individuals labelled as retarded, 77% of the respondents were in agreement. Similarly, 59% of the respondents disagreed that sterilization is justifiable as a safeguard to the human race. These results seem to indicate that the participants feel very strongly that each individual, regardless of IQ,

should be guaranteed his/her basic rights. On the other hand, 52% agreed that if a person labelled as retarded has a genetic defect that is likely to be passed on to his/her children, then they should be sterilized. A conclusion that might be drawn is rather than bring another person with defective genes into the world, it would be justifiable to sterilize the carrier of the defective genes. Based on the response rate there appears to be a contradiction in these three statements. This could be attributed to the fact that the first two statements are generic and people seem to agree with this type of statement. The third statement is very explicit and possibly is more reflective of the respondents' true attitudes.

Only on one question did the respondents neither agree nor disagree. This indecision was in response to the statement of a person labelled as retarded being accepted in the moral community. This statement may have been confusing to the respondents. To clarify the point, the following questions need to be addressed: In the moral community, who makes the rules and decides who shall and shall not be accepted? Does sterilization outweigh all other moral conduct codes? Because an individual labelled as retarded has been sterilized, does it make him/her more acceptable, or are there other facts to be considered? In answer to these questions, one must realize that society has always set the standards of acceptance in the moral community. In the author's opinion, until society gains more knowledge about

sterilization and the social order that includes the persons labelled as retarded, the standard of acceptance in the moral community will remain the same.

This investigation was limited in that it was designed to measure the effect of favorable and unfavorable attitudes toward sterilization. Future research needs to address more specific attitudes on the topic of sterilization than were obtained in this study. Another limitation was the number of participants involved in the survey. If the survey had been sent to participants in a large city and a small rural community, then comparisons could have been made between the responses. Had the survey also included demographic information, such as the number of years the participants had worked with the students labelled as retarded, it might have shown a correlation between the attitudes on sterilization and the number of years the participants had worked with the students labelled as retarded. Again, much future research is needed.

In researching the information for this paper, the researcher found few judicial articles relating to court cases on sterilization after 1980 and only two surveys published since 1967 relating to the topic of sterilization. It is the researcher's understanding that it takes five years for each court case to be reviewed and published. Of the two surveys, the one published in 1967 surveyed the attitudes of parents of retarded children toward voluntary sterilization. The other survey was published in 1978 on the topic of what

retarded adults believe about sex. This survey did not pertain directly to sterilization, but it did examine the attitudes of individuals labelled as retarded on childbirth, child-rearing, and birth control. The need for further research on the topic of sterilization is evident. Surveys of various populations such as doctors, lawyers, the clergy, parents of those labelled as retarded, and the general public would be beneficial in understanding how informed each group is on the legal, medical, and social aspects of sterilization. From this research, materials could be disseminated to each group so each might become better educated about sterilization and the various components.

The intent of eugenic sterilization is to eliminate future generations of persons labelled as retarded. But the biomedical researchers estimate that 89 percent of the next generation of persons labelled as mentally ill and mentally defective will be produced by normal parents. Even with this percentage there are people like William Shockley who proposed to give a financial bonus to low IQ parents who voluntarily submit to sterilization. Obviously, many moral and ethical questions arise around the topic of sterilization (e.g., Should parental fitness be equated by IQ? Is there a correlation between low intelligence in a woman and her "mothering" abilities? Is it accurate to assume that persons of low measured intelligence will have less traumatic responses to sterilization than persons of higher levels of intelligence? Does an individual have the right to govern

one's own body?). These questions are difficult. Ignoring them, however, would have devastating consequences for a disproportionate number of low socioeconomic individuals.

A dilemma also exists for the legal and medical professions. In the court case of Relf v. Weinberger (1974), the judge urged caution in the establishment of a standardized policy since "unfathomed implications might include the undue deprivation of right guaranteed to each and all citizens" (Robinson, Robinson, & Williams, 1979). In the case of Sparkman v. McFarlin (1976), a suit was filed against Sparkman's mother, the mother's attorney, the doctors and the hospital involved in the sterilization, and the judge who approved the petition. The defendants were liable for damages for causing the sterilization. After the U. S. Supreme Court received the case, it upheld the judicial immunity of the judge who approved the petition. But physicians and lawyers are potentially liable for damages if they participate in the sterilization of a person labelled as retarded without that person's consent or in the absence of due process. Regardless of the consequences, sterilization of persons labelled as retarded are frequently sought without the voluntary consent of the individuals involved.

The purpose of this paper was not to take a stand on the issue of sterilization but to report the findings from a survey. However, the researcher now feels that it is important to emphasize that one point was very evident, i.e., persons labelled as retarded still suffer discrimination

related to sexual sterilization in 19 states. Similarly, many individuals in the legal and medical professions hold the same prejudices. Since there is no empirical proof that mental retardation is a conclusive result of hereditary factors, it seems an anachronism that eugenic sterilization should continue as routine in the 19 states that still legalize sterilization. The fundamental right to procreate based upon the classification "mentally retarded" is a violation of the equal protection clause of the 14th Amendment to the United States Constitution. To not protect every individual's basic rights could have devastating effects on the total population and could signal a return to the reign of the Third Reich.

References

- American Jurisprudence Proof of Facts 225. (1970). 21.
- American Law Reports. (1973). San Francisco: Bancroft
Whitney Company.
- American Association of Mental Deficiency. (1974).
Sterilization of persons who are mentally retarded.
Mental Retardation, 59-61.
- Bender, Harvey A. (February, 1977). A geneticist's viewpoint
toward sterilization. Amicus, 45-48.
- Bligh, R. (1972). Sterilization and mental retardation.
American Bar Association Journal, 51, 1059-1062.
- Buck v. Bell 274 U.S. 200 (1927).
- Cavalli-Sforza, L. L., and Bodmer, W. F. (1971). The genetics
of human populations. Sherman Oaks, CA: W. H.
Freeman and Company.
- Cochran, B. (1974). Conception, coercion, and control:
Symposium on reproductive rights of the mentally
retarded. Hospital Community Psychiatry, 25, 283-293.
- Dowden, Carla, and Heartwell, Stephen F. (1979). Legal
implications of sterilization of the mentally retarded.
American Journal of Disabled Child, 133.
- Edgerton, R. B. (1967). The cloak of competence. Berkeley,
CA: University of California Press.
- Griswold v. Connecticut, 381 U.S. 479 (1965).
- In re Simpson v. Department of Public Welfare, 180-NF 2d. 206
Ohio Probate Court (1962).

In re Sterilization of Moore v. State of North Carolina, 221 S.E. 307 (1976).

Kanner, L. (1974). A history of the care and study of mental retardation. Springfield, IL: Charles Thomas.

Lieferman, H. (1974). They still think sterilization is good enough for welfare mothers. South Voices, 1, 2-8.

Linn, Brian. (December, 1978). Involuntary sterilization recent development. Mental Retardation, 404-409.

Matoush, L. (1969). Eugenic sterilization - a scientific analysis. Denver Law Journal, 631.

Neel, James V., and Schull, William J. (1954). Human heredity. Chicago: The University of Chicago Press.

Nie, Norman H., Hull, C. Hadlai, Jenkins, Jean G., Steinbrenner, Karen, and Bent, Dale H. (1975). Statistical package for the social science. New York: McGraw-Hill.

Penrose, L. S. (1949). The biology of mental defects. New York: Grune and Stratton.

Relf v. Weinberger 372 F. Supp. 1196 (D.D.C. 1974).

Robinson, Felipi C., Robinson, Shirley W., and Williams, Loretta J. (1979). Eugenic sterilization: Medico-legal and sociological aspects. Journal of the National Medical Association, 71(6).

Roe v. Wade, 410 U.S. 113 (1973).

Roos, Philip. (Spring, 1975). Psychological impact of sterilization on the individual. Law and Psychology Review, 45-50.

- Siantz, Mary Lou. (1979). Human values and mental retardation. Nursing Clinic of North America, 114(1).
- Skinner v. Oklahoma 316, U.S. 535 (1942).
- Soskin, Ron. (February 1977). Voluntary sterilization - safeguarding freedom of choice. Amicus.
- Sparkman v. McFarlin Civil Number F75-129 (1976).
- Stern, Curt. (1973). Principles of Human Genetics (3rd ed.). Sherman Oaks, CA: W. H. Freeman and Company.
- Vining, Eileen, and Freeman, John. (1978). Sterilization and the retarded female. Pediatrics, 62(5).
- Vitello, John S. (December, 1978). Involuntary sterilization recent developments. Mental Retardation, 404-409.
- Vukowich, William T. (1971). The dawning of the brave new world: Legal, ethical and social issues of eugenics. Villanova Law Review, 159, 191.
- Wyatt v. Aderholt, 368 F. Supp. 1383 (1974).

**EASTERN ILLINOIS UNIVERSITY
SURVEY - QUESTIONNAIRE FORM**

**IMPORTANT DIRECTIONS
FOR MARKING ANSWERS**

USE NO. 2 PENCIL ONLY

- Do NOT USE PENS.
- Make heavy black marks that completely fill circle.
- Erase clearly any answer you change.
- Make no stray marks.

GENERAL DIRECTIONS

Please fill in the following information

- A. Religious affiliation: 0. Protestant;
1. Catholic; 2. Other
- B. Sex: 0. Male; 1. Female;
- C. Job title: 0. Elementary EMI teacher
1. Jr. High/High School EMI teacher
2. Elementary TMH teacher
3. Jr. High/High School TMH teacher
4. Other
- D. Your educational level: 0. Bachelor's
1. Master's; 2. Doctorate
- E. Are you related to a handicapped person. 0.yes;1. no

| CODES | | | | | | | | | |
|-------|---|---|---|---|---|---|---|---|---|
| A | B | C | D | E | F | G | H | I | |
| 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
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| 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| 8 | 8 | 8 | 8 | 6 | 6 | 6 | 6 | 6 | 6 |
| 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 |

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|---|--|
| Directions: Listed below are a number of statements dealing with the issue of sexual sterilization of the mentally retarded individual. For each statement listed, please indicate your response by marking with a pencil. The numbers can be described as follows. | ○ ○ ○ ○ ○ ○ ○ ○ |
| 1. I strongly agree with the statement. | ○ ○ ○ ○ ○ ○ ○ ○ |
| 2. I generally agree with the statement. | ○ ○ ○ ○ ○ ○ ○ ○ |
| 3. I neither agree or disagree. | ○ ○ ○ ○ ○ ○ ○ ○ |
| 4. I generally disagree with the statement. | ○ ○ ○ ○ ○ ○ ○ ○ |
| 5. I strongly disagree with the statement. | ○ ○ ○ ○ ○ ○ ○ ○ |
| | ○ ○ ○ ○ ○ ○ ○ ○ |
| 1. Individuals labelled as retarded do not have the decision making ability to decide if sterilization is the right course of action. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| | ○ ○ ○ ○ ○ ○ ○ ○ |
| 2. Only those individuals identified as retarded who reside in institutions should be sterilized. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| 3. All states should have some type of sterilization laws. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| | ○ ○ ○ ○ ○ ○ ○ ○ |
| 4. The person labelled as retarded who has a genetic defect which is likely to be inherited by his/her children should be sterilized. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| 5. The rights of all individuals should be fully protected. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| 6. Involuntary sterilization is a complete and irreversible taking of a basic human right. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| 7. Sterilization is justifiable for the person identified as retarded as a safeguard to the human race. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ |
| 8. A person labelled as retarded who has been sterilized is accepted in the moral community. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ |
| 9. Only those individuals with an IQ of 40 or below should be sterilized. | 1 2 3 4 5 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ |
| | ○ ○ ○ ○ ○ ○ ○ ○ |
| | ○ ○ ○ ○ ○ ○ ○ ○ |