

A SOCIOLOGICAL EXAMINATION OF STERILIZATION ABUSE AND SOCIAL
INEQUALITY IN THE UNITED STATES

by

Chloe Matthews

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Project Approved:

Supervising Professor: Amina Zarrugh, Ph.D.

Department of Sociology

Jeannine Gailey, Ph.D.

Department of Sociology

Hanan Hammad, Ph.D.

Department of History

ABSTRACT

This research delves into the sociological dimensions of sterilization abuse in the United States, aiming to address a gap in previous literature that predominantly approaches this subject from a historical perspective. Furthermore, this thesis focuses on five landmark sterilization court cases whereas prior studies often focus on a singular court case, so this paper provides cross comparison over multiple decades. The methodology employed involves content analysis through coding legal complaints, justice decisions, and other court documents to identify recurring themes and patterns. Undertaking this approach uncovered significant insights into the influence of power dynamics in the realms of consent, family structures, and perceptions of mental and physical capacity inherent in cases of coerced sterilization. The analysis highlights how sterilization and court outcomes manifest differently depending on social elements of the plaintiffs involved such as race, gender, and class. Specifically, marginalized populations, including women and racial minorities, are disproportionately affected by compulsory sterilizations, facing systemic barriers to reproductive liberties. In conclusion, my research contributes to a deeper understanding on the impact of the intersectionality of social inequalities and sterilization abuse in the realm of reproductive rights.

Introduction

The landmark decision of *Roe v Wade* in 1973, which legalized abortion on a national scale, represented a pivotal moment in the protection of reproductive rights and bodily autonomy for individuals in the US. This historic precedent was recently overturned in 2022 during the Supreme Court's decision in *Dobbs v Jackson Women's Health Organization*. The ruling effectively challenged the consensus of *Roe v Wade* because it allows states greater power to restrict constituents' abortion access. This seismic shift in judicial precedent underscores the impact of judicial decision-making on matters of fertility and the bodily agency. Furthermore, these cases demonstrate the interconnectedness of state actors, healthcare, and individual freedoms. Looking farther back into issues of fertility, reproduction, and bodily agency, it is important to note that people's rights to procreation have not only been tied to the right to have an abortion. The fundamental right to make choices about individual reproductive futures has been taken away from many people in the US through sterilization procedures.

The narrative of sterilization abuse in America demonstrates the troubling reality of deep-rooted power differentials and systemic injustices that have shaped the history of the US. From the eugenics movement of the early twentieth century to more contemporary instances of coerced sterilization, the practice has been propelled through racist, classist, and gendered injustices. Various social categories and conditions have shaped the perception and control over who should be able to procreate, yet previous literature on sterilization is primarily written from a historical lens. This paper broadens the breadth of current research by offering a sociological analysis to bring a fresh understanding of how systemic and structural failures shaped sterilization and targeted certain groups for decades. By synthesizing findings from five court cases, this research

deepens our knowledge of the complex intersectionality involved in the relationship between social inequality and sterilization abuse.

Existing literature on sterilization in the US not only predominantly utilizes a historical perspective, but also focuses on individual court cases in isolation. My thesis expands upon previous research by employing a sociological lens to analyze court documents of five prominent sterilization court cases. By examining cases at various judicial levels, from state district courts to the US Supreme Court, this paper offers broader patterns of sterilization practices. These cases expose the intricate relationship between legislation, societal perceptions, and judicial decisions that have shaped reproductive rights and autonomy. Through a content analysis of complaints, justice opinions, and other court documents, I explore recurring themes to demonstrate how power dynamics interact with consent, family structures, and perceptions of mental and physical capacity. This comprehensive sociological analysis is important because it sheds light on the broader implications of the consensus of these court cases and legal precedents.

The analysis of complaints, case summaries, and judicial opinions reveals a profound influence of power dynamics on sterilization abuses in the US, particularly in the mechanisms of consent, family structures, and assessments of mental and physical capacity across multiple historical contexts. Individuals are commonly pitted against state actors when facing coerced sterilization, showcasing the challenges of defending one's bodily autonomy against large institutions. Deception and misinformation by state actors, as seen in the *Norma Jean Serena v Natalie J Leezer*, *Relf v Weinberger*, and *Stump v Sparkman* cases, has clouded the ability for individuals and families to provide genuinely informed consent, resulting in large consequences for their reproductive liberty. Furthermore, the intersection of race and gender also complicates patterns of sterilization abuse. White women like Carrie Buck and Linda Sparkman faced

sterilization due to their ability to uphold moral standards, while racial minorities such as the Relf family endured social service programs that took advantage of families on welfare. The significance of gender is also important as seen in *Oklahoma v Skinner*, where the Supreme court was hesitant to justify the sterilization of an educated white male, highlighting preferential treatment for individuals aligning with the dominant social order of twentieth century America. Overall, the examination and comparison of these court cases underscores how power imbalances and social categories intersect to shape the landscape of who was sterilized and why. These cases emphasize the importance of informed consent, the protection of individual autonomy, and the complexities of intersecting identity characteristics in the pursuit of reproductive justice.

This study delves into the complex interconnectedness between social inequality and coerced sterilization abuse in the United States. The following research question guides this thesis: How has social inequality shaped sterilization abuse in the US? This question seeks to unveil the underlying structural factors that have historically influenced compulsory sterilizations and prompts an exploration of the intersecting dynamics of power and oppression within state institutions. Examining historical court cases and sociopolitical contexts sheds light on certain social inequalities that have been susceptible to sterilization abuse. Closely analyzing the pivotal court cases of *Buck v Bell*, *Skinner v Oklahoma*, *Stump v Sparkman*, *Relf v Weinberger*, and *Norma Jean Serena v Natalie J Leezer*, this paper highlights the forces that underpinned previous sterilization practices in the US. Individuals, particularly women and those belonging to marginalized communities, have endured coercive measures to strip away their procreative agency. This study exposes how social disparities have perpetuated irreversible damages to people's reproductive liberty with individuals single-handedly fighting institutional powers. With

a sociological lens, I hope to contribute a deeper understanding of the root causes of systemic injustice and inequality in the realm of reproductive autonomy.

Literature Review

The extent of a person's agency to procreate is dependent on many social categories and conditions. Differences or similarities in the classes, races, or other social traits of women¹ largely explain the perception and control of their bodies. The history of sterilization in the United States highlights the clash between personal autonomy and legislation over people's bodies. The Eugenics movement largely took hold during the beginning of the early twentieth century in the United States. Eugenic theories were grounded in the scientifically inaccurate notion that the enhancement of humanity is achievable through selectively breeding certain populations (National Human Genome Research Institute, 2022). Eugenicists weaponized social Darwinism to assert that abstract human qualities such as intellect or mental illness were inheritable (Kevles, 2019). The implementation of the eugenic practice of sterilization has led to extensive harm for many communities. Sterilization reached constitutional justification in 1927 from the Supreme Court ruling of *Buck v Bell* (Stern, 2017). The justices reached their decision because of the precedent set in *Jacobson v Massachusetts* where the individual choice of getting the smallpox vaccination was repealed due to public health concerns (Stern, 2005). Parallels being drawn between smallpox vaccinations and sterilizations medicalizes and dehumanizes the reproductive body. Those in prisons, hospitals, homes for the "feeble-minded," and other institutions were the primary targets for most sterilizations (Hansen & King, 2013). Politicians, scientists, media sources, and the general public omitted the term "eugenics" following the

¹ Women refers to anyone who is sex assigned at birth (SAB) female. The control of SAB male's ability to reproduce will also be taken into consideration, particularly when looking at class, stigma, and gender in the early twentieth century Eugenics movement.

post-war publicity of Nazi Germany's eugenic sterilization program (Ipgrave et al., 2022). By the 1960s, the justification for sterilization shifted to welfare² dependency, illegitimacy, overpopulation, and who was deemed fit to parent (Stern, 2005).

Previous studies on sterilization and eugenics are predominantly historiographies. Although history is a key component in shedding light on the link between medical care and social inequality, a sociological lens can expand the reasoning behind why the phenomenon of sterilization targeted specific groups. Researching this topic also calls attention to the systemic failure of the government to ensure liberty for all in the past and present. Because many of the people who were forcibly sterilized were considered deviant members of society, attention to their stories has disappeared in advocacy and media. The practice of sterilizing deviant members of society produced an additional stigma for them to bear. To delve deeper into the sociological dynamics of reproduction, I will review literature that examines the relationship between sterilization with gender, class, and race across institutions. Societal perceptions of gender, class, and race are deeply entrenched in legislation and the historical practice of compulsory sterilization in the United States. This research calls for a more inclusive comprehension of reproductive liberty and women's rights by recognizing the logics of forced sterilization in the United States throughout history.

Across the literature on sterilization in the United States, four patterns emerge in analyses of the factors that made certain people more likely to be sterilized by the state. Firstly, studies examine how the social construction of the family unit, who society deems fit to parent, and social class shape perceptions of who is worthy of sterilization. Secondly, extant research examines how the history of the construction of governmental control in the First Republic of the United States led to a fundamental basis for labeling and incarcerating deviant people. A third

² Forms of public assistance ranging from public housing to subsidized food vouchers.

body of research investigates how race impacts socially constructed perceptions of different peoples' procreative patterns. Lastly, literature around women's rights movements address how the conception of "reproductive rights" has long excluded forced sterilization, which has contributed to the persistence of injustices against certain minorities.

Ideal Family Units and Parents

During the late nineteenth and early twentieth century, the emergence of a prominent middle class transformed the American family unit. American middle classes began tying their sexuality to marriage (Shumsky, 1993). Research suggests that officials within state institutions were determining who was fit to be a parent based on if they were receiving welfare (Ladd-Taylor, 1997; Roberts, 1997; Stern, 2005). This placed women on welfare in a vulnerable position to be sterilized well into the 1970s (Stern, 2005). There are reports of mothers being threatened that they would lose social support services or custody of their children if they rejected sterilization (O'Brien & Rich, 2022). This practice was highlighted in 1974 during the famous *Relf v Weinberger* court case from Montgomery, Alabama. This case follows the compulsory sterilization of low-income, minority Americans. The Relf sisters, Minnie Lee who was twelve and Mary Alice who was fourteen, were taken into a room and forcefully sterilized without any legal permission or consent (Davis, 1983). In the process of litigating this matter, the case unveiled that around 100,000 to 150,000 women, most of them being Black and/or poor, had been sterilized without consent (Hansen & King, 2013). Following these findings, the court ruled to outlaw the use of federal funds for coerced sterilizations and the practice of encouraging women on welfare to volunteer for the medical procedure. This was one of few victories for victims of sterilization in the court of law in American history. A limitation of these rulings,

however, are that the injustices are irreversible insofar as victims remain unable to produce offspring.

The construction of worthy parenthood around whether someone receives money from the state marginalizes economically disadvantaged classes and limits the social acceptability of a family to their financial resources. Although economics are an integral part of the family structure, wealth does not define a good parent. Perceptions of welfare also do not consider histories of abuse that systematically place minorities in lower economic stratifications than white people in America (Richardson, 2020). Privileged groups often assume that all worthy and hard working Americans live in satisfactory housing, attend good schools, and have access to college education and job opportunities (Collins, 2020). This has not been the case for many people of color in the history of the US. Marginalized communities continue to face systemic racism despite legal changes following the Civil Rights Act of 1964 that sought to expand opportunities for people of color, which can place them in disproportionate need of social support compared to white Americans. The need for welfare benefits then does not correlate to an inability to parent. Understanding the relationship between race, class, gender, and social class is essential to understanding who faced coerced sterilization.

Incarceration and Deviance in America

A second body of literature around forced sterilization in the United States draws connections between one's vulnerability to sterilization and the social construction of deviance in society. Emile Durkheim asserts that deviance is a natural consequence of stable institutions. Individuals defined as "deviant" then serve as an example to which other groups contrast themselves. This contradiction then reinforces the territorial identity of each group. American society controls those who are socially defined as deviant by locking them into a permanently

deviant position (Rand & Jonathon Miller, 2021). More literally, isolation and detention have been common methods for controlling the poor, minorities, and the disabled in the history of the US (Ross, 1998). According to Appleman (2018), the first Republic of the United States constructed the carceral system to protect liberty by negating it. During the early beginnings of American statehood, those defined as mentally ill were confined in attics, almshouses, poorhouses, and jails to protect the peace of the greater communities. This practice of detention was rooted in beliefs about heredity and class that lacked scientific backing. The political, financial, and social instabilities of the first modern Republic gave reasoning for why individuals on the margins of society were heavily controlled, contained, and regulated. The twentieth century in America was also met with an influx of immigrants into the United States from Mexico and Asia. This period marked an increase in US nationalism and public fears surrounding race and immigration (Ipgrave et al., 2022). Immigration increased the perceived degrees of deviance and difference apparent in American cities, which provided stable ground for Eugenic theories to take hold.

The inclination of the First Republic to incarcerate individuals defined as “deviant” remains prevalent in discussions of mass incarceration in the US. In the twenty-first century, the US incarcerates more people than any state in the world and has the largest prison population rate (Cullen, 2018). The modern US prison population began exponentially expanding in the 1970s. Presidential agendas, such as the “war on drugs,” led to disconcerting increases in incarceration that disproportionately targeted people of color. U.S. prisoners are treated as second class citizens, which can be seen in the removal of certain rights, such as felon disenfranchisement (The Sentencing Project, 2019). Other fundamental rights taken away from prisoners have also come in the form of sterilization. For example, from the fiscal year 2005-06

through 2012-13, 794 inmates in California Women's prisons underwent medical procedures resulting in sterilization (Howle, 2014). Among those sterilized inmates, 39 women had deficient consent forms. Furthermore, 144 of these surgeries were bilateral tubal ligations, the sole purpose of which is to sterilize. Notably, these surgeries are not medically necessary and are an excluded service of California prison medical care. Howle's (2014) report demonstrates the continuing dehumanization of prisoners through sterilization in the post-Eugenic era. A similar story highlighted in the documentary *Belly of the Beast* recounts the story of Kelli Dillon's coerced sterilization and legal battles (Cohn, 2020). Dillon was sterilized at the Central California Women's Facility in 2001 and lost her initial court case pressing charges against the doctors who sterilized her. The documentary highlights the challenges in obtaining justice when inmates who are perceived as second class citizens are making allegations against people with medical degrees. The report and documentary corroborate that the injustice of sterilizing prisoners is far from an outdated problem. With mass incarceration and the disproportionate targeting of minority populations, sterilization continues to be a punishment for deviance that propels inequality and racism.

Race and Procreative Assumptions

A third pattern in the literature around sterilization addresses how poverty, racism, sexism, and other systems of power influence perceptions of procreation more generally (Roberts, 1997). Euro-Americans frequently assume that singular members of minority communities serve as a representative of the whole group (Rust 1996). This standardizes the misunderstanding and mistreatment of marginalized peoples. During the end of the nineteenth century, comfortable classes³ commonly referred to immigrants and the working class as aggressive, promiscuous, and animalistic (Shumsky, 1993). A white fear of Black sexuality has

³ Middle and upper classes.

long served as a backbone for racism in Western society (Collins, 2020). Western medicine, science, law, and popular agenda have historically written a narrative that Black people only have sex for reproductive reasons (Collins, 2020). This narrative corroborates with the “animalistic” perceptions of minority groups held by the privileged American public.

White peoples’ understanding of Latin and Hispanic immigrants has followed a similar course. Racist medical practice underpinned the injustices of the 1975 *Madrigal v Quilligan* court case. Witnesses presented evidence that the doctors involved in the malpractice labeled the Mexican American plaintiffs as, “hyper breeders who were welfare mothers in waiting” (Stern, 2005). The decision of *Madrigal v Quilligan* ruled in favor of the doctors and against the Latina women who had been sterilized without consent. The rationale for these sterilizations rested on the ideas that Latin women were immigrating to the country, having children, and depending on welfare. This directly relates to the rhetoric used to describe Black sexuality in the history of the United States. Justification of coerced sterilization weaponized the animalistic perception to limit minority groups’ procreation abilities.

Women’s Rights Movements and Reproductive Rights

The goal of women’s rights movements have typically reflected the ideas and desires of those who have more privilege (Roberts, 1997). Since white women do not face the same challenges as women of color, they have more grounds and ability to mobilize their interests through advocacy (Crenshaw, 1989). Crenshaw (1989) explains the dominant view of discrimination claims that a discriminator treats all people within a race or sex category similarly. Any variation within this group suggests that there is either no evidence of discrimination or that conflicting interests override the ability to bring forth a common claim. Because the privilege of whiteness or maleness is implicit, the intersectionality of black women

fitting into the discriminatory categories of race and sex places them at a disadvantage (Crenshaw, 1989). As a result of this narrow scope of discrimination, much of feminist theory is organized around what happens to white women. Thus, Crenshaw (1989) addresses that this single-issue framework marginalizes Black women within the women's rights movements. Longtime feminist agendas regarding rape illuminate this narrow scope. Early sexual knowledge and rape legislation are understood to serve as a protection of female chastity (Crenshaw, 1989). These rape statutes were in place to allow white males to control white female sexuality. Historically, there has been an absence of institutional legislation regulating Black female virginity. Courts in certain states even instructed juries that Black women should not be presumed to be chaste like white women (Crenshaw, 1989). Rape laws demonstrate how the clash of sexist expectations of chastity and racist assumptions of sexual promiscuity create unique problems for Black women. The intersection of race and gender both construct and hinder the lives of Black women and their inclusion within feminist agendas.

Reproductive rights in American culture are synonymous with "the right to an abortion" (Roberts, 1997). Roberts (1997) explains that white, middle-class women tend to focus on eradicating the laws impeding the choices otherwise available to them. The notion of "negative" and "positive" liberty provides a framework for understanding the shortcomings of reproductive legislation in the US. The dominant implementation of "negative" liberty reserves most of its protections for privileged members of society (Roberts, 1997). This is because "negative" liberty bars government intrusion rather than guaranteeing social justice. "Positive" liberty authorizes government action to dismantle private and public acts of discrimination to actively ensure the rights of all citizens (Roberts, 1997). When reproductive liberty is considered synonymous with the right to have an abortion, a policy that encourages abortion does not restrict that freedom.

This ideological thinking supports the notion that the encouragement of sterilization does not infringe on women's rights. This reinstates the right to liberty by denying the negation of it, rather than actively ensuring freedom for all citizens. This passive system lacks inclusivity and allows for the persistence of marginalization and oppression of distinct groups of people within society.

TRANSITION TO METHODS. SUMMARIZE LIT REVIEW AND RESTATE RQ.

Methods

Most of the literature surrounding sterilization in the United States has employed a historical lens of analysis. My thesis expands upon existing research by applying a sociological lens to examine legal documents from five sterilization court cases. I have chosen to analyze the original complaints, justice opinions, and other court documents from a total of five court cases that reached different levels of the U.S. judicial system. Two of these cases, *Norma Jean Serena et al. v Natalie J. Leezer* (1974) and *Relf v Weinberger* (1974), were adjudicated in state district courts. In contrast, the remaining three, *Buck v Bell* (1927), *Skinner v Oklahoma* (1942), and *Stump v Sparkman* (1978), did. Generally, scholars have tended to focus primarily on those cases that reach the U.S. Supreme Court level and discuss these court cases individually in a disconnected manner from one another. I argue that looking at these court cases side by side offers insights about the differences and similarities that surface across the cases. Additionally, it is important to analyze court cases because they demonstrate how the reproduction and sterilization of US citizens has been legislated over time. Rather than only focusing on the outcome of a particular case, a detailed content analysis of the original complaints and court documents offers insights into how plaintiffs experienced sterilization and conceptualized issues of consent.

The documents analyzed for each case were largely chosen based on availability. The original complaints were only accessible for *Relf v Weinberger* and *Norma Jean Serena v Natalie J Leezer*. In lieu of an original complaint for *Buck v Bell*, a Supreme Court Brief was used as it lays out the outline of the original arguments made by the plaintiff similar to a complaint. Documents available for *Skinner v Oklahoma* were limited, and therefore the justice opinions were analyzed. This provided useful information into how judges framed these cases and how they came to their decision. Lastly, a court summary of *Stump v Sparkman* was analyzed with the primary focus on why Sparkman chose to bring this case to the courts, providing similar content to an original complaint. This comprehensive analysis of local, state, and federal cases provides a deeper understanding of regulation and stigmatization surrounding the construction of the ideal parent in terms of race, gender, and sexuality.

Buck v Bell (1927) is the court case that famously gave compulsory sterilization a constitutional justification in the US. Carrie Elizabeth Buck, the appellant, was born in 1906 and raised by foster parents after being deemed “feebleminded” by authorities. Buck’s sterilization case arose following a pregnancy that resulted from a rape by her foster parent’s nephew. The Virginia State Colony for Epileptics and Feebleminded was responsible for the sterilization (Wolfe, 2021). The Supreme Court used the precedent of *Jacobson v Massachusetts*⁴ to assert that the basis for compulsory vaccinations was broad enough to include the cutting of fallopian tubes (Holmes, 1927).

Skinner v Oklahoma (1942) concerns Oklahoma’s Habitual Criminal Sterilization Act, which permits the sterilization of individuals convicted of multiple felonies involving moral

⁴ A statute in Massachusetts permitted cities to mandate smallpox vaccinations for their residents. Jacobson opted not to adhere to the mandate within his city and was fined five dollars. The Supreme Court ruled in favor of Massachusetts in 1905, claiming that the state can use power to protect the public health and safety of its citizens (Oyez, 2019).

turpitude. Jack T. Skinner, a repeat offender, challenged the Act's constitutionality under the Fourteenth Amendment due process and equal protection guarantee. Skinner's convictions were once for stealing chickens and twice for robbery. The Supreme Court of Oklahoma upheld the Act; however, the U.S. Supreme Court reversed the decision because of its violation of the equal protection clause's requirements (Douglas , 1942).

Norma Jean Serena et al. v Natalie J. Leezer (1972) is emblematic of a broad pattern of compulsory sterilizations of Indigenous children in the 1960s and 1970s (Gschultz, 2022). Norma Jean Serena sued for damages in 1974 after her children were taken away by the Armstrong County Child Welfare Service and she was sterilized without consent. Court proceedings found that the welfare service misrepresented Serena's children's health conditions in order to legitimize taking away Serena's right to parent. The jury's decision was mixed as they awarded Serena compensatory damages for the wrongdoing of the welfare system yet claimed that she had provided "informed consent" for the tubal ligation.

Relf v Weinberger (1974) details the Southern Poverty Law Center's lawsuit on behalf of the Relf sisters against a doctor that violated their rights and autonomy. Mary Alice and Minnie Lee Relf, at ages 12 and 14, were unknowingly sterilized. Their illiterate mother had signed an "X" on a form that she thought was giving permission for her daughters to receive birth control shots. As a result of the litigation, federal regulations were altered to require "informed consent" before sterilization procedures could occur (Southern Poverty Law Center, n.d.).

Stump v Sparkman (1978) concerns the question of judicial impunity. In 1971, Linda Kay Spitler Sparkman, a woman with mental disabilities, was sterilized as a child after her mother petitioned for the procedure. Judge Harold D. Stump approved of the procedure, even though Sparkman was unaware of the surgery's nature. Sparkman sued Judge Stump for violating her

Fourteenth Amendment right to due process. The U.S. Court of Appeals for the Seventh Circuit reversed a district court ruling, claiming that Judge Stump lacked jurisdiction to approve the petition. The Supreme Court reversed this decision stating that Judge Stump was immune from damages liability because the law granted him the power to act on the petition, even if his approval was in error (*Oyez*, n.d.).

A comprehensive analysis of five court cases from the early twentieth century to the late 1970s provides context into the broader patterns of compulsory sterilizations in the United States. The application of a sociological lens will shed light on how the intersection of legislation, societal perceptions, and judicial decisions shape reproductive rights and the autonomy of individuals. Through examining the cases collectively, similarities and differences emerge, highlighting the ongoing struggle for the protection of fundamental rights in the realm of reproductive health. Interrogating five previous legal battles will expand the existing knowledge base of coercive sterilization practices.

To analyze the legal complaints of the five sterilization cases, I conducted a content analysis and close reading of each lawsuit. I began by open coding the complaints and court documents to identify recurring language in the writing. This process involved reading each case line by line to pull out main ideas on each page. Once I identified particular patterns, I re-read each document and engaged in axial coding to identify common themes and patterns. I identified several salient themes across the complaints, justice opinions, and case summaries-- how power dynamics impact consent, family structures, and physical or mental capabilities -- and have organized my findings accordingly.

Findings

A key theme that emerged in reviewing complaints and case summaries was the influence of power dynamics on sterilization. This theme surfaced in multiple ways, illuminated by the mechanics of consent, family, and mental or physical capacity in these court cases. Coerced sterilization has historically pitted individuals against formidable state actors, such as public hospitals, mental institutions, and welfare programs. In many instances, individuals have found trouble asserting their autonomy over their bodies when challenged by the authority wielded by institutions. These struggles reflect the unequal distribution of power and knowledge within society and how this can lead to institutionalized discrimination. Consent, family dynamics, and perceptions of physical and mental capabilities highlight how power imbalances led to the sterilization of specific groups of people in the US.

Constraints on Consent

Consent is a complex concept that has the potential to result in a relinquishment of power. People can sign away their personal autonomy when they consent to certain procedures or agreements. Consent and informed consent are similar yet distinctly different notions. In this instance, consent is defined as giving permission for something to happen, while informed consent is permission granted with the knowledge of the possible risks and consequences. Medical consent is largely gained through paperwork and forms with signatures. These forms do not necessarily denote that the recipient is informed. Informed consent was not given a name or a legal basis until its first public recording in the court documents for the 1957 case *Salgo v Leland Stanford Jr University Board of Trustees*. Salgo underwent a medical procedure on his heart that left him with a permanent paralysis of his lower limbs. Salgo sued the medical center as they never disclosed this as a potential risk of the heart surgery (Bazzano et al., 2021). This case was

the first time the courts legally decided that doctors need to provide patients with potential risks and benefits that may arise from medical procedures. This ruling underscores how doctors often did not provide enough information to patients to knowingly consent to medical procedures.

Across multiple cases, institutions manipulated consent through deception and misinformation.

The following excerpts provide abuses of consent from before and after the 1957 ruling of *Salgo v Leland Stanford Jr University Board of Trustees*.

The *Norma Jean Serena v Natalie J Leezer* case illustrates multiple issues of consent, one of which was the removal of her newborn child from her custody and subsequent sterilization:

“That without the knowledge or consent of the Plaintiff, Defendants...planned that the Plaintiff should be sterilized immediately after the birth of her yet unborn child while the Plaintiff was still in the hospital... That without the knowledge or consent of the Plaintiff, Defendants...planned to fabricate a story to tell the Plaintiff that her newborn infant was severely ill and could not return home with the Plaintiff... On August 16, 1970, the Plaintiff...gave birth with no complications to Shawn Serena who was delivered in excellent health.”

This situation demonstrates that multiple state actors were working against an individual to ensure that her right to have a family was destroyed. To ensure their plans were successful, the state lied to Serena. The deception made Serena feel it was pointless to fight for custody of her child.

Similarly, the *Stump v Sparkman* case demonstrated how state institutions have weaponized lies to coerce people into sterilization without informed consent:

“Petitioner Circuit Judge approved the petition the same day in an ex parte proceeding without a hearing...the [sterilization] operation was performed shortly thereafter, the

daughter having been told that she was to have her appendix removed. About two years later she was married, and her inability to become pregnant led her to discover that she had been sterilized.”

This quotation not only illuminates how Sparkman was deceived, but also the consequences of those actions. This was a violation of Sparkman’s autonomy and right to make decisions about her own body. The decisions of the state to sterilize Sparkman without consent or information had a profound impact on her future relationships and family dynamics.

Relf v Weinberger further illuminates how state services exploited poor families without consent, highlighting the intersection of race and class in vulnerability to sterilization in the absence of consent:

“When Community Action moved the Relfs to a public housing project in 1971, the Family Planning Service began the unsolicited administration of experimental birth control injections to Katie [who is 17 years of age]. No parental permission was sought or given...At a later date, the clinic began the unsolicited administration of the same shots to the two younger Relf girls [Mary Alice Relf, age 12, and Minnie Relf, age 14].”

All three Relf daughters were minors at the time of these injections, meaning that they could not give informed consent. Furthermore, the excerpt highlights that no parental consent was sought or given. Community Action used the leverage of providing public housing to the Relfs to experiment with birth control on the children. This is harmful to the children as these medications were not ensured to be safe for their use. Furthermore, the administration of this medication advances a narrative that these girls would need to be on birth control so that they do not reproduce. The assumption that these young girls wanted to reproduce or were even sexually active can be attributed to the oversexualization of black women in the United States (Collins,

2020). This agenda was also propelled by a Eugenic-rooted fear of poor, “Black women on welfare reproducing.” Social services saw it as their right to administer this experimental medication on minors, disregarding their basic rights to consent and information about the birth control.

Another point of contention in terms of informed consent in *Relf v Weinberger* concerns literacy:

“Mrs. Relf, who neither reads nor writes, put her mark on what she later learned to be an authorization for surgical sterilization. There was not informed consent to the surgery by Mrs. Relf. Mrs. Relf was then escorted home. Minnie and Mary Alice were left by themselves in a ward.”

Mrs. Relf was not informed of the documents she was signing. Mrs. Relf’s lack of accessibility to the knowledge of the procedures made her an easy target from which to coerce written consent. This manipulation led to serious repercussions for her sterilized daughters and calls into question the legality of procedures performed without informed consent. Furthermore, socioeconomic factors can widen the gaps in access to resources and information which leads to structural inequalities. Mrs. Relf’s inability to read or write underscores potential vulnerabilities of marginalized populations within the healthcare system.

In *Skinner v Oklahoma*, the decision to sterilize a prisoner is put into the hands of a jury, effectively shifting the power of consent to the state via jury rather than the individual:

“The court instructed the jury that the crimes of which the petitioner had been convicted were felonies involving moral turpitude, and that the only question for the jury was whether the operation of vasectomy could be performed on petitioner without detriment to his general health. The jury found that it could be.”

Nine people were given the power to override an individual's decision to procreate. The power is removed from Skinner, the individual, and placed in the hands of the institution, or the court system. Because of the decision of the group, Oklahoma was able to sterilize the individual regardless of his consent. The jury was also asked a slanted question: whether the sterilization could be completed without causing problems for Skinner's overall health. This question is skewed in the sense that it scopes health to only be understood as physical complications beyond the procedure itself. This then excludes the possibility of evaluating the consequences of other factors such as Skinner's emotional or mental health. The jury was not asked whether the crimes should result in a sterilization. Skinner's crimes included stealing chickens and two instances of robbery. The jury was only informed that the crimes involved immoral actions. This quotation highlights the flaws of the legal system and how consent can be stripped away from an individual when the state views a criminal as someone who does not deserve bodily integrity.

The quotations presented above illustrate the power dynamics of sterilizations between individuals and institutions in the realm of consent and informed consent. State actors and institutions can wield their authority to strip agency from people about their own bodies. These findings complement prevailing feminist legal critiques of "consent" as a concept, which MacKinnon (2016) argues emerges from government relations between state and citizen (i.e., "the consent to be ruled") that are inherently unequal and hierarchical. Feminist critiques of the law emphasizes how conditions of coercion and power imbalances, which are characteristic across the cases examined here, effectively erode one's ability to consent but remain unacknowledged in a legal construction of consent as present unless the threat of physical violence or death is present (MacKinnon, 2016).

As demonstrated in light of unequal power dynamics, institutions weaponize deceptive practices, misinformation, and vulnerabilities to override individual or familial consent. Evidenced by the removal of children from custody, administration of experimental birth control, and coerced sterilization procedures.

Limits of Family

Closely examining the influence of power, we can observe how the state can manipulate the institution of the family, which otherwise enjoys considerable power in society. Seen in both the *Relf v Weinberger* and *Norma Jean Serena v Natalie J Leezer* cases, the family's control of minors weakens as children interact with outside institutions. By observing the *Buck v Bell* and *Stump v Sparkman* cases we can further see what circumstances are necessary for the state to deem someone an ideal mother. The following quote demonstrates the fear of Minnie Relf, age 14, as she waits in the hospital for a sterilization procedure that has not been explained to her or her mother:

“Prior to the [sterilization] operation, Minnie got out of bed, borrowed some change from another patient in the ward, and telephoned a neighbor's house to speak with her mother. (The Relfs do not have a telephone.) Minnie asked her mother to bring her sister and her home, but her mother had to tell her that she had no transportation to get the girls from the hospital. It was the next morning that both children were placed under a general anesthetic and surgically sterilized.”

The Relfs are a Black family receiving welfare. It is evident that the state was exploiting the inability of Minnie or Mary Alice to leave the hospital. Removing the children from the home put the decision-making in the hands of state actors and took agency away from the family.

The intersection of race and poverty encouraged the decision of state-funded programs to not only determine that Mrs. Relf is an inadequate mother, but also justify the removal of the capacity of her daughters to reproduce future Relf generations.

In *Norma Jean Serena v Natalie J Leezer*, the Plaintiff is a Native Creek-Shawnee woman who is defending herself against many corroborating state actors, such as welfare service employees, caseworkers, physicians at the Citizens General Hospital, and Administrators of the Armstrong County Board of Assistance. The Defendants deceive the Plaintiff by claiming to help her family while actively attempting to remove her custody and estrange her from her children:

“Despite the systematic efforts of Defendants Leezer, Burgess, and Lipsie to discourage the Plaintiff from maintaining contact with her minor children, the Plaintiff, notwithstanding her limited means, visited the children as often as the aforementioned Defendants would permit, although the Plaintiff later had to ride for two hours on a bus to the offices of the Defendants herein for sporadic and severely limited and humiliating visits with her children...On those sporadic and short occasions where the Plaintiff was actually permitted to visit with her children she was constantly supervised by the aforementioned defendants and sometimes the foster parents and degraded and embarrassed in the presence of her minor children...the Defendants persisted to thwart the Plaintiff’s efforts to prevent estrangement from her children.”

This quote highlights that the defendants actively attempted to remove Serena’s custody rights and erode her relationship with her children. The state deemed that she was not an ideal mother and was incapable of caring for her children, disregarding the fact that she made colossal efforts to maintain contact with them throughout this attempted estrangement. There were multiple Defendants collaborating to end the Plaintiffs motherhood. This was an institutional

attack against an individual and her family. The more involved these state programs became with the Serena family, the less control the Plaintiff had over the rights of her children. Her desires to be in custody were blatantly ignored because state actors had deemed her an unfit parent. Due to the intersection of Norma Jean Serena's race, gender, and class, she was taken advantage of by the Defendants. In the late nineteenth century and early twentieth century, Jacobs (2008) explains that white women reformers worked to remove Native American children and place them in boarding schools for Western assimilation. Many white women reformers claimed themselves to fill the role in society of the "Great White Mother," a narrative which still influences people's perceptions of who is fit to be a mother. Sterilization was yet another way that state actors and majority populations sought to limit the Native American family and belittle indigenous women's ability to parent (Jacobs, 2008). *Norma Jean Serena v Natalie J Leezer* points towards the shortcomings of feminist frameworks that frame women's rights movements to solely address abortion and the right to end pregnancy. For women of color, the right to give birth is a part of the struggle to survive as a community.

Buck v Bell and *Stump v Sparkman* highlight other justifications state institutions have used to strip away motherhood from females. The intersection of gender and sexuality has implications on one's social status. American society, especially in the twentieth century, encourages sex and reproduction to be a product of marriage and looks down upon promiscuity and fornication. In both *Buck v Bell* and *Stump v Sparkman* a woman is sterilized either because of assumptions about her sexual behavior or pregnancy outside of a marriage. The timeline of Carrie Buck's sterilization is punctuated in these terms:

"Carrie Buck is perfectly healthy physically; was eighteen years old at the time of the trial with a mental age of nine years, a 'middle grade moron.' She has no criminal record

and was a good worker in the home of Mrs. Dobbs with whom she lived until she became pregnant and was taken in custody by the State authorities and committed to the State Colony for Epileptics and Feeble-Minded. On April 13th, 1925, the Circuit Court...ordered Dr. J.H. Bell, Superintendent, to perform upon Carrie Buck the operation of salpingectomy.”

This quote illuminates that Carrie Buck was not taken into a state institution until she became pregnant outside of wedlock. The court masks this fact by claiming that Buck has mental deficiencies which is why they believe she should be in the State Colony for Epileptics and Feeble-Minded. A similar situation occurs in the *Stump v Sparkman*:

“Mrs. McFarlin stated under oath that her daughter was 15 years of age and was ‘somewhat retarded,’ although she attended public school and had been promoted each year with her class. The petition further stated that Linda had been associating with ‘older youth or young men’ and had stayed out overnight with them on several occasions. As a result of this behavior and Linda’s mental capabilities, it was stated that it would be in the daughter’s best interest if she underwent tubal ligation in order ‘to prevent unfortunate circumstances.’”

Controversy in *Stump v Sparkman* stems from the use of mental capacity as a scapegoat for moral justifications of sterilization. Linda was sterilized because she was involved with older men outside of wedlock. The fear and social stigma surrounding pregnancy outside of a marriage was the reason for a mother to encourage the sterilization of her child in this instance. The sexual desire of 15-year-old Linda was also seen as a mental deficiency as it was commonly misunderstood that sexual desire was only innately biological in men (Bullough, 2019). This created a social world in which women’s sexuality was suppressed and discouraged.

The intersection of race and gender is also of note when examining the difference between why sterilizations occurred in *Relf v Weinberger* and *Norma Jean Serena v Natalie J Leezer* in contrast to *Buck v Bell* and *Stump v Sparkman*. Sterilizations of Minnie Relf, Mary Alice Relf, and Norma Jean Serena involved deception and coercion. These three victims were sterilized without consent because the state actors, such as welfare agencies, deemed that they would be unfit parents. In contrast, Carrie Buck and Linda Sparkman were white women who were encouraged to be sterilized based on societal morals by their guardians. State actors in these cases defended their actions because of Buck and Sparkman's equivocal mental deficiencies. Buck and Sparkman were sterilized because their guardians feared the stigma that comes with a pregnancy outside of marriage. The Relfs and Serena were sterilized because the state decided that they should not reproduce. The white women were expected to uphold societal morals whereas the minority women were restricted from reproducing because they were seen as unfit mothers. The white women then experienced abuse as an isolated individual while the racial minorities experienced the trauma as a family.

Legal and Social Constructions of "Capacity"

Sterilization has historically been fraught with concerns over the mental and physical capacity of those undergoing the procedure. These capacities are usually judged in terms of a person's ability to function within the bounds of societal norms. Institutions have played a significant role in determining who is socially "deviant" and therefore should be withheld from reproducing. Individuals thought to have diminished capacity face abuses and infringement of rights from many state actors.

Excerpts from *Buck v Bell* and *Stump v Sparkman* highlight key features about the weaponization of mental and physical capacity as well. For example, in *Buck v Bell*, the court justifies sterilization on the premise that, “Carrie Buck is perfectly healthy physically; was eighteen years old at the time of the trial with a mental age of nine years, a ‘middle grade moron.’” Furthermore, in *Stump v Sparkman* the court claims that Linda was, “15 years of age and was ‘somewhat retarded.’” These quotes highlight how vulnerable groups, particularly women and minors, can be susceptible to sterilization abuses because of mental capacity. Both girls/women were claimed to be of a lower mental capacity based on issues of sexual activity. Because they did not comply with moral standards in society, the state classified them as having diminished mental capacity. Conflating sexual behavior with mental illness or disability is rooted in the patriarchal state that wants to ensure that white women will uphold societal standards and produce “legitimate” children within the bounds of a legal family.

Notably, when a male's sterilization is being considered, the physical capacity of the victim to procreate is center stage. The nature of the irreversible consequences of the surgery are also heavily focused upon as seen in the case of *Oklahoma v Skinner*:

“We are dealing here with legislation which involves one of the basic civil rights of man. 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. There is no redemption for the individual whom the law touches. Any experiment which the State conducts is to his irreparable injury.”

In *Skinner v Oklahoma* we see that the Supreme Court Justices are worried about the far reaching impacts of sterilizing male prisoners. They are worried about this demographic

becoming unable to procreate. The justices' apprehension largely stems from the potential for certain races to “wither and disappear” which is inherently eugenic. Jack T. Skinner was a white, college educated man and therefore not the typical target for negative eugenic sterilization⁵ (Davis, 2023). The judges, all white and male, are hesitant to sterilize Skinner, and other similar criminals, because of the potential far reaching impact it would have on the demographic of white males. Also, Skinner’s mental capacity, although he has a criminal past, is not brought into question by the justices, and, if anything, defended in the opinion of the court. This is a stark contrast to the court cases involving girls/women in which their mental capacities are frequently questioned or weaponized.

In sum, the findings from the content analysis of multiple sterilization court cases shed light on the pervasive influence of power dynamics in the history of sterilization in the US. Court cases spanning multiple time periods emphasize the similarities and differences of why certain people were chosen to be sterilized. Consent, family dynamics, and mental or physical capacity emerged as key themes influencing the execution of sterilization procedures. These cases illustrate a disturbing pattern wherein institutions strip agency from individuals, particularly women and racial minorities, over their bodily autonomy. The intersection of race, gender, and socioeconomic status further complicates the targets for sterilization abuse as the experiences of Carrie Buck and Linda Sparkman differ from Norma Jean Serena and the Relf family. White girls/women, like Buck and Sparkman, were more susceptible to be sterilized over issues following moral standards whereas racial minorities fell victim because of state-sanctioned programs trying to control their reproduction through eugenic ideologies. Moreover, the significance of gender becomes strikingly apparent in cases like *Skinner v Oklahoma*, where the

⁵ Negative eugenic sterilization is the improvement of the genetic makeup of a population by preventing the reproduction of those considered unfit (Merriam Webster Dictionary)

Supreme Court is apprehensive to constitutionally justify the sterilization of an educated white male. This leads to implications of sterilization on the basis of dominant racial and social groups as Skinner received preferential treatment when placed in the position of individual against the institution. Those who align closely with the dominant social order may receive greater protections and considerations when facing coerced sterilization. Analyzing five court cases demonstrates that consent, family, and mental or physical capacity are important factors in the power dynamics at play regarding institutionalized sterilization.

Conclusion

Social inequality profoundly impacts sterilization abuse in the US as seen through the underlying structural factors that have historically stripped away peoples' reproductive autonomy. Exploring the question of how social inequality shaped sterilization abuse in the US, this study delves into the intricate role of power dynamics, institutionalized discrimination, and societal norms that have perpetuated egregious violations of bodily autonomy. An examination of documents from five sterilization court cases, spanning multiple decades, found that social hierarchies intersect with reproductive rights in many ways, with differences in agency and access to healthcare dependent on demographic and social characteristics of plaintiffs and defendants. The findings highlight the influence of race, gender, and socioeconomic status on the experiences of individuals faced with coerced sterilization, demonstrating the pervasive nature of systemic injustice within state institutions. The deceptive practices of state actors to manipulate consent, limit family autonomy, and erroneously perceive mental and physical capacities sheds light on how institutions weaponize their authority in corrupt manners, particularly harming minority and/or marginalized populations. By analyzing the nuances of these historical injustices,

my research highlights past sterilization abuses and their implications on the rights and dignities of individuals, family units, and communities.

Previous research into the practice of sterilization in the US is dominantly written by historians. Studies also tend to focus on sterilization court cases in singularity, overlooking the broader patterns of these practices. This research fills these gaps by applying a sociological lens to the history of sterilization across multiple court cases that span over different eras of the twentieth century. Through analyzing multiple cases with diverse plaintiffs, the social inequalities that propelled sterilization abuse are uncovered. The findings point toward a sociological understanding of reproduction that demonstrates how power dynamics, institutionalized discrimination, and societal norms intersect to offer different people different options over their bodily autonomy. Furthermore, the exploration of social constructions of motherhood within society reveal how marginalized individuals, particularly racial minorities, have been systematically limited in their right to procreate and parent. The intersections that occur between social inequalities, reproductive rights, and the legal system provide valuable insight into the question of who was sterilized and why during twentieth century America. A limitation of this study was the focus only on those cases that were appealed to higher courts, including federal district courts and the US Supreme Court. Future work should examine a larger number of cases, including those litigated at lower courts, to potentially observe differences in decisions.

The long history of sterilization abuse points to many failures in the legal, governmental, and healthcare fields. The consequences endured by these medical procedures are irreversible and devalue reproductive justice to the same extent as restricting abortions. Women's rights movements, which have historically underrepresented sterilization abuse in their agendas, should

push towards a more inclusive frame of reproductive justice so that a diverse group of people can envision themselves as part of the movement. Furthermore, future research in this area should consider how the ideal mother is constructed in sterilization litigation to unpack how gender nonconformity in certain mothers shapes how vulnerable their children are to sterilization. Along those lines, it is also important to further illuminate the multiple dimensions of informed consent so that disenfranchised mothers are not manipulated into unknowingly consenting to medical procedures with irreversible consequences for their children. Systemic reforms are necessary to ensure that consent is genuinely informed, respected, and freely given. The power dynamics that have shaped the landscape of sterilization are still present within modern society as minority groups along the lines of race, gender, and sexuality fight for medical and social justices. These ongoing inequalities underscore why it is important to continue evaluating the consequences of belonging to certain social identities and how they intersect with sterilization.

This work is even more urgent because the problems associated with coercive sterilization practices are far from over. The Center for Investigative Reporting unveiled that 148 women were sterilized without proper approval from 2006 to 2010 and a state audit revealed that the California's Department of Corrections and Rehabilitation conducted 144 illegal sterilizations on inmates from 2005 to 2013 (La, 2023.). California did develop a reparation program titled the Forced or Involuntary Sterilization Compensation Program however these funds do not equate to the liberties that the state took away from people when they eliminated their ability to procreate (Fox, 2023). Furthermore, many of those who underwent coerced sterilization do not have children or living legacies on to whom they could pass reparations. Reparation policies are one step towards rectifying the crusade of sterilization, yet they cannot undo the mental, physical, and emotional damages that sterilization procedures inflict. It is important to remember the

legacy of sterilization in the US to highlight demographic groups that need to have their rights and liberties actively protected.

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