Buck v. Bell (1927)

In 1927, the US Supreme Court case Buck v. Bell set a legal precedent that states may sterilize inmates of public institutions. The court argued that imbecility, epilepsy, and feeblemindedness are hereditary, and that inmates should be prevented from passing these defects to the next generation. On 2 May 1927, in an eight to one decision, the US Supreme Court ordered that Carrie Buck, whom it called a feebleminded daughter of a feebleminded mother and herself the mother of a feebleminded child, be sterilized under the 1924 Virginia Eugenical Sterilization Act. Buck v. Bell determined that compulsory sterilization laws did not violate due process awarded by the 14th Amendment to the US Constitution. It also bolstered the American eugenics movement and established legal authority for sterilizing more than 60,000 US citizens in more than thirty states, until most of the practices ended in the 1970s.

The US compulsory sterilization movement gained momentum in the 1890s, when eugenics became increasingly influential in politics and sterilization operations began to replace castration and other forms of mutilation. Vasectomies could sever a man's vasa deferentia, while salpingectomies could sever a woman's Fallopian tubes, although surgical procedures posed their own problems. The eugenics movement held that hereditary defects weaken society and should be eliminated from the population. Positive eugenics encouraged reproduction among individuals with hereditary advantages, whereas negative eugenics sought to prevent people deemed disabled or socially inferior from reproducing by restricting immigration, banning interracial marriages, and sterilization.

By 1914, twelve states had passed compulsory sterilization legislation, but these laws were often challenged and weakly enforced. Several more states attempted to pass sterilization laws, but one was overturned and state governors vetoed two more. Determined to craft legislation that could withstand judicial scrutiny, Harry Hamilton Laughlin, superintendent of the Eugenics Record Office at Cold Spring Harbor, New York, published Eugenical Sterilization in the United States in 1922. Laughlin's book included a copy of his Model Eugenical Sterilization Law, which he designed to serve a prototype of constitutional state sterilization laws. Laughlin's Model Law claimed that, if enacted, the genes from "the most worthless one-tenth of our present population" would be eliminated within two generations.

In Virginia, Albert Priddy, superintendent of the Virginia State Colony for Epileptics and Feeble Minded in Lynchburg, Virginia, recruited legislator Aubrey Strode in order to draft a state sterilization law. In 1917, Priddy was sued for sterilizing Willie Mallory, on the grounds that Mallory was held and operated on against her will. Though Priddy won the case, the experience taught him that future legislation should be carefully worded to ensure its constitutionality. Ultimately, Strode's sterilization law relied on Laughlin's Model Law.

On 20 March 1924, the Virginia Eugenical Sterilization Act was signed into law. It stated that in certain cases, inmates of any state institution could be sterilized if the institution's board found that the patient was idiotic, insane, feebleminded, epileptic, or an imbecile. On Strode's advice, Priddy sought to validate the Act by subjecting it to judicial review. Priddy would arrange a test case, to be appealed and taken to the Supreme Court, in order to test the constitutionality of the sterilization legislation. A patient would be selected for sterilization and Priddy would arrange for a lawsuit on the patient's behalf to challenge the decision to sterilize him or her. The lawsuit would sue Priddy in an attempt to challenge the legality of the Sterilization Act.

In August, Priddy presented to the Virginia Colony's Board a list of eighteen patients eligible for sterilization. All eighteen were women. The board approved the use of salpingectomy on fourteen of the women, and left decisions about the remaining four pending. Among the women approved

for sterilization was Carrie Buck, who would become the first person sterilized under the Virginia Sterilization Act.

In the previous fall, Buck's foster mother, Alice Dobbs, had noticed that her seventeen-year-old foster child was pregnant. By the time Buck's pregnancy could no longer be hidden, Alice and her husband John had decided to institutionalize Carrie for being an unwed teenage mother. Buck was institutionalized on the grounds that she was a moral delinquent whom her foster parents could neither control nor afford. Priddy had ceased to allow expectant mothers to enter to the Virginia Colony, so Buck had gone briefly to a home in Charlottesville until she delivered her baby.

On 28 March 1924, Carrie's daughter, Vivian Buck was born. Consigned to the Virginia Colony, Carrie was forced to relinquish her child. Already dubbed feebleminded, Vivian was to be sent to a poorhouse until the Dobbses agreed to adopt her, on the condition that Vivian go to the Virginia Colony if she continued to be feebleminded. Two months after giving birth, Carrie was forced to leave her daughter and join her mother, Emma Buck at the Virginia Colony.

Carrie's biological mother, Emma Adeline Harlowe Buck, had been admitted to the Colony four years earlier. Emma was in poor health, having suffered from rheumatism, pneumonia, and syphilis. Her record indicated that she was arrested for prostitution and giving birth to illegitimate children, while scars on her arms hinted at previous drug use. Despite these claims, Emma Buck was married to Carrie's father, Frank Buck, and every time she entered a hospital to deliver a child, she was designated as married. Like her daughter, Emma Buck was admitted to the Colony on the basis that she was "feebleminded" within the meaning of the law.

With three generations of Bucks available for his argument, Albert Priddy felt confident that he could prove that the Buck women were feebleminded and that their low intelligence was a hereditary defect. Emma Buck's record stated that she lacked moral sense and responsibility; it labeled her a moron; and she had supposedly given birth to illegitimate children. Proving Vivian Buck's feeblemindedness was more challenging. Priddy had the trial delayed in his attempt to gather additional evidence that Vivian had inherited her mother and grandmother's feeblemindedness. Caroline Wilhelm, a social worker for the Red Cross, asserted several times that she could find no defect in Vivian. Two weeks before the trial, however, Wilhelm again visited the Dobbses, and decided that the Alice Dobbs's grandbaby, born three days earlier than Vivian, was somehow different. Unable to qualify this statement, Wilhelm merely asserted that Vivian was "not quite a normal baby." Wilhem based these assertions on Vivian's responsiveness and how she crawled.

In order to proceed to trial, the Board of the Virginia Colony had to appoint an attorney for Carrie Buck. The board chose Irving Whitehead, founding member of the Colony and a primary supporter of Priddy's sterilization campaign. The case began as Buck v. Priddy, but Priddy died of cancer before the case could be tried, and John Bell replaced him. Aubrey Strode, the author for the 1924 Virginia Sterilization Act and a childhood friend of Whitehead's, represented the Virginia Colony.

Buck v. Bell was tried on 18 November 1924 in the Circuit Court of Amherst County, Virginia; the proceedings lasted five hours. Strode presented his evidence and Whitehead offered no rebuttal. Carrie Buck's lawyer called no witnesses to counter the experts in medicine and eugenic science that Strode presented. Eugenics expert Arthur Estabrook, who had visited the Virginia Colony to examine the Buck women, testified that they met the Virginia Sterilization Act's definition of feeblemindedness. Harry Laughlin presented his brief on inheritance of degenerate qualities. He had used the newly designed Stanford-Binet IQ test to score Carrie and Emma Buck, and he explained that Carrie's mental age was nine years old, while Emma's mental age was seven years, eleven months. Anyone who scored an age of six through nine years was deemed an imbecile; morons scored higher, while idiots scored lower. These results qualified Carrie and Emma as imbeciles, and Laughlin argued that this trait of imbecility was genetic, not environmental. Caroline Wilhelm testified that Vivian Buck was an abnormal baby, listless and unresponsive. The court found in favor of Bell.

The case reached the US Supreme Court in April 1927. Whitehead argued that sterilization procedures violate the 14th Amendment to the Constitution, which guarantees certain rights and liberties known as due process; he further stated that there were as of yet no standards on compulsory sterilization to which the Court could compare the Virginia Sterilization Act. Strode countered that the

Act did afford due process rights and that sterilization was not cruel and unusual punishment. He likened the procedure to compulsory vaccination laws, and further argued that the Act was designed for the protection of society—and the individual.

The Supreme Court ruled in an eight to one decision that Carrie Buck could be legally sterilized under the Virginia Sterilization Act. The majority opinion was authored by Justice Oliver Wendell Holmes Jr., who provided the Court's opinion in less than three pages. The Court ruled that the principle of compulsory vaccination, validated under Jacobson v. Massachusetts, was broad enough to allow for a woman's Fallopian tubes to be cut. Holmes's decision stated that,

"Instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind…Three generations of imbeciles are enough."

Holmes further stated that if public welfare may demand the lives of its best citizens, then surely the lowest members of society should be prevented from propagating their kind at the expense of everyone else. Justice Pierce Butler dissented, but authored no opinion.

In his book, Three Generations, No Imbecile, historian of science Paul Lombardo concluded that there was little to suggest mental deficiencies in Carrie or Vivian Buck. During his research, Lombardo located some of Carrie's and Vivian's report cards: both girls had received adequate marks in school, and Vivian had made the Honor Roll one term. Lombardo also reveals that Carrie's pregnancy was not an act of promiscuity—she was raped by her foster mother's nephew.

Lombardo interviewed Carrie in 1983, shortly before her death. He confirmed that she had been raped, inquired about her grades, and discussed her successful progression through school. He also asked about Carrie's sister, Doris Buck, who was sterilized without her consent or knowledge under the Virginia Sterilization Act. Doris was told her operation was for appendicitis, and she did not learn about the sterilization for years. Carrie Buck died on 28 January 1983, and was buried a few steps away from her daughter, who had died when she was only eight-years-old of enteric colitis, a broad term that could have meant any number of diseases. Alice and John Dobbs, who had adopted Vivian, reported on her death certificate that they did not know the name of her birth mother.

Buck v. Bell was a landmark decision for the American eugenics movement. Although Carrie Buck was the first person sterilized under Virginia's Sterilization law, another 8,300 Virginians underwent involuntary sterilization until the practice was finally ended nationwide in the 1970s. The Virginia Sterilization Act was repealed in 1974. As of 2012, however, the justification of sterilizing "feebleminded" individuals set by the Buck v. Bell precedent had not been overturned.

Sources

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