The Attempts to Introduce Eugenic Legislation in the Second Polish Republic as Viewed from the Perspective of the Solutions Adopted in the United States of America

Piotr Michalik
(The Pontifical University of John Paul II in Cracow)

Summary
In the first decades of the 20th century, broad recognition of Francis Galton’s eugenics resulted in the implementation of its demands in the form of eugenic legislation. Particularly drastic form of the latter were sterilization laws, first introduced in the US State of Indiana in 1907, and later in most of the other states, and during the interwar period, several European countries. Between 1934 and 1936 under the influence of the Western “achievements”, especially the German law of 1933, the failed attempts to introduce compulsory sterilization were also undertaken in the Second Polish Republic. When analyzing the regulations proposed by Leo Wernic, the president of the Polish Eugenic Society, it would be advisable to bring in the sterilization laws adopted and applied on a large scale in the United States of America. In the “homeland” of eugenics legislation, the model sterilization law had been already prepared in 1914, and the Supreme Court of the United States upheld its constitutionality in the notorious Buck v. Bell case in 1927..
The Attempts to Introduce Eugenic Legislation in the Second Polish Republic as Viewed from the Perspective of the Solutions Adopted in the United States of America

In his introductory paper from 1904 issue of *American Journal of Sociology* Francis Galton (1822–1911), father of eugenics, explained it as “a science which deals with all influences that improve the inborn qualities of a race (population)”\(^1\). Galton, like many others eugenicists, was convinced that betterment of the race could be accomplished, as he put it, in and by “the useful classes” of the society\(^3\). The advocates of this view optimistically believed in the power of the positive eugenics, based on persuasion rather than coercion. According to Galton the positive eugenics only craved for “learned and active society”, ready to accept “national importance of eugenics”\(^4\). Galton enthusiastically wrote:

It (eugenics) must be introduced into the national conscience, like a new religion. It has, indeed, strong claims to become an orthodox religious tenet of the future, for eugenics co-operate with the working of the nature by securing that humanity shall be represented by the fittest races. What nature does blindly, slowly, and ruthlessly, man may do providently, quickly, and kindly. As it lies within his power, so it becomes his duty to work in that direction\(^5\).

Not all eugenicists shared this view, and many considered it too optimistic, simply unfit for implementation in practice. Instead, they turned to the negative eugenics, which aimed at “checking the birth-rate of the Unfit”, understood as undesirable members of the society\(^6\). Due to several reasons it was the United States of America where the assumptions

\(^1\) From the Greek *eugenos* which means well-born.
\(^3\) *Ibidem*, p. 3.
\(^4\) *Ibidem*.
\(^5\) *Ibidem*, p. 5.
of the negative eugenics first prevailed. In 1911, Charles Benedict Davenport the founder of the Eugenics Record Office (ERO) in Cold Spring Harbor, New York (1910), wrote:

It is a reproach to our intelligence that we as a people, proud in other respects of our control of nature, should have to support about half a million insane, feeble-minded, epileptic, blind and deaf, 80,000 prisoners and 100,000 paupers at a cost of over 10 million dollars yearly to support [...]. The general program of the eugenics [...] also includes the control by the state of the propagation of the mentally incompetent.

For the American leading eugenicists, like Davenport and his assistant director in the Eugenics Record Office, Harry Hamilton Laughlin (1880–1943), there were three best solutions to deal with “the propagation of the mentally incompetent” in USA: anti-miscegenation laws, immigration laws and, last but not least, sterilization laws. Although all of these had been in application in federal or state law before eugenic movement was formally organized around 1910, one should also has known that they were, and especially sterilization laws, strongly supported and significantly broadened by American eugenicists. In 1914, Laughlin as an Eugenic Associate of Psychopathic Laboratory of the Municipal Court of Chicago prepared the Model Eugenical Sterilization Law as a form ready to fill by a state lawmaker. In his introduction to the Model from its 1922 publication, Laughlin explained that:

[...] eugenical sterilization purports to prevent the reproduction by certain definitely and legally described and located cacogenic person. It claims that by so doing the race will be purged of some of its degenerate and defective stock. It (sterilization) is effective [...] It may be accomplished with little or no danger to life [...] While compulsory, still in most cases it is possible to secure the cooperation of the patient or the patient’s family [...] The cost to the state in maintaining in custodial institutions its anti-social citizens would probably be reduced considerably by eugenical sterilization, although the effects of such reduction would not be apparent until future decades. The science of eugenics has made sufficient progress to enable it [...].

The first of many American sterilization laws and the very first worldwide was enacted in the state of Indiana in 1907. It was An Act to prevent procreation of confirmed criminals, idiots, imbeciles and rapists passed by General Assembly and approved by Governor James Frank Hanley. According to the statute, every institution in the state, entrusted with the care of above mentioned individuals, was obliged to establish a committee of medical experts. Such a committee together with a board of managers of the

---

7 The foundation and maintenance of ERO was possible due to several private benefactors, particularly Andrew Carnegie, Mary Harriman and John D. Rockefeller – M. Musielak, Sterylizacja ludzi ze względów eugenicznych w Stanach Zjednoczonych, Niemczech i Polsce (1899–1945), Poznań 2008, p. 47.
8 Ch.B. Davenport, Heredity in Relation to Eugenics, New York 1911, p. 4.
9 See M. Musielak, Sterylizacja..., p. 97–118.
11 H.H. Laughlin had defined the eugenic sterilization as “a surgical operations upon or the medical treatment of the reproductive organs of the human male or female, in consequence of which the power to procreate offspring is surely and permanently nullified; provided, that [...] the term [...] shall imply skilful, safe, and humane medical and surgical treatment of the least radical nature necessary [...]” – ibidem, p. 447.
12 Ibidem, p. 454.
13 Ibidem, p. 15.
institution was allowed to decide whether a procreation of the examined inmate is unadvisable. If so, and if there was no probability of improvement of the mental and physical condition of the inmate, a surgeon could lawfully perform a compulsory sterilization in the safest and most effective way\(^\text{14}\). According to official records, the Indiana sterilization law was put in operation over 2300 times. During its long legal life it was declared unconstitutional by the Indiana Supreme Court in the 1921 case of \textit{Smith v. Williams}, re-enacted after the US Supreme Court \textit{Buck v. Bell} decision in 1927\(^\text{15}\), and eventually repealed in 1974\(^\text{16}\).

Following Indiana, between 1907 and 1935, thirty US States implemented sterilization laws\(^\text{17}\). Among them the most significant were those of California and Virginia. In California the first eugenic statute: \textit{An Act to permit asexualization of inmates of the state hospitals and the California Home for the Care and Training of Feeble-Minded Children and of Convicts in the state prison} was unanimously passed in 1909, twice amended in 1913 and 1917, and never found unconstitutional\(^\text{18}\). Up to 1964 the California’s legislation was the legal base of the eugenic sterilization of nearly 1/3 of all of over 63,000 “unfit” Americans, who were lawfully asexualised in US from 1907 to 1981, when the last eugenic sterilization took place in Oregon\(^\text{19}\). In Virginia, no sterilization law had been introduced until 1924 when General Assembly passed two statutes long expected by American eugenicists. First of which was a notorious piece of anti-miscegenation laws \textit{The Racial Integrity Act}, declared unconstitutional by the United States Supreme Court in the 1967 landmark case of \textit{Loving v. Virginia}\(^\text{20}\). Second was \textit{An Act to provide for the sexual sterilization of inmates of State institutions in certain cases}, known as \textit{The Sterilization Act}, which implemented legal, administrative, and medical measures of Laughlin’s \textit{Model Eugenical Sterilization Law} to Virginia legal system\(^\text{21}\).

Shortly after its enactment \textit{Virginia Sterilization Act} played an important role in one of the most infamous cases in the history of American judicature: the \textit{Buck v. Bell}. Nowadays, it is beyond doubt that Virginia’s statute was not only the next piece of American eugenic legislation but also the first step in judicial campaign aimed at legalizing the eugenic sterilization both in Virginia and on the federal level\(^\text{22}\). Only sev-

\(^{14}\) \textit{Ibidem}.

\(^{15}\) See below.


\(^{17}\) M. Musielak, \textit{Sterylizacja...}, p. 137–143.


\(^{20}\) \textit{388 U.S. 1} (1967).
