

## Eugenics, sterilization, and historical memory in the United States

### *Eugenia, esterilização e memória histórica nos EUA*

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Recebido para publicação em junho de 2016.  
Aprovado para publicação em agosto de 2016.

<http://dx.doi.org/10.1590/S0104-59702016000500011>

STERN, Alexandra Minna. Eugenics, sterilization, and historical memory in the United States. *História, Ciências, Saúde – Manguinhos*, Rio de Janeiro, v.23, supl., dez. 2016, p.195-212.

#### Abstract

From the 1920s to the 1950s, California sterilized approximately 20,000 people in state homes and hospitals based on a eugenic law that authorized medical superintendents to perform reproductive surgeries on patients deemed unfit and “suffering from a mental affliction likely to be inherited.” Working with a unique resource – a dataset created from 19,000 sterilization recommendations – my team and I have reconstructed patterns and experiences of institutionalization of sterilizations. This article presents several of our important initial findings related to ethnic and gender bias in sterilization policies, and reflects on the relevance of the history for contemporary issues in genomics and social justice.

Keyword: eugenics; sterilization; California; Mexicans; racism.

#### Resumo

*Da década de 1920 até a de 1950, o estado da Califórnia esterilizou aproximadamente vinte mil pessoas em abrigos e hospitais públicos com base em uma lei eugênica que autorizava as autoridades médicas a esterilizar pacientes considerados incapazes e portadores de “transtorno mental possivelmente hereditário”. Trabalhando com uma fonte singular – um conjunto de dados contendo 19 mil recomendações para esterilização –, minha equipe e eu reconstruímos padrões e experiências que concorreram para a institucionalização das esterilizações. Este artigo apresenta importantes achados iniciais relacionados ao viés étnico e de gênero nas políticas de esterilização, e reflete sobre a relevância da história para questões contemporâneas como genômica e justiça social.*

*Palavras-chave: eugenia; esterilização; Califórnia; mexicanos; racismo.*

During most of the twentieth century, eugenics was a popular “science” in the United States and much of the world (Bashford, Levine, 2010). In its “positive” or gentler form, eugenics manifested in activities such as better babies contests, infant welfare programs, or pronatalist programs directed at groups deemed superior (Kline, 2001; Stepan, 1991). In its more negative form, eugenics involved heavy-handed forms of reproductive control such as sterilization and mass euthanasia (Proctor, 1988). Genetic determinism undergirded both “positive” and “negative” eugenics, although the former allowed greater latitude for environmental factors. From the 1900s through the 1960s, both variants of eugenics strongly influenced public health policies and attitudes on local and national levels in the United States (Hansen, King, 2013; Paul, 1995; Kevles, 1995).

Many people are surprised to learn that in 1907 the largely agricultural state of Indiana passed the world’s first sterilization law, which authorized medical superintendents to sterilize people whose deleterious heredity appeared to threaten society (Stern, 2007). From 1907 to 1937, 32 US states followed suit, passing eugenic sterilization laws as part of a larger public health project to combat degeneracy (Largent, 2008). These laws were used to control the reproduction of vulnerable populations until the 1970s, when legislatures started to repeal these statutes.

Over 60,000 sterilizations were officially recorded in the United States, principally in state homes and hospitals for the “feebleminded” and “insane.” Sterilization rates were fairly steady in the 1910s and 1920s as eugenics gained currency, and increased markedly after 1927, when the US Supreme Court upheld the constitutionality of the procedure in “Buck v. Bell” based on the rationale that the state had the duty and authority to protect the public’s health through the eradication of deleterious genes. As the lead justice, Oliver Wendell Holmes Jr., famously opined in this case, “three generations of imbeciles are enough” (Lombardo, 2008).

Today, state-sanctioned sterilization is recognized both as one of the most severe manifestations of eugenics and as an ethical wrong that deprived scores of people their reproductive autonomy and truly informed consent. Since the early 2000s, governors of some states have apologized for sterilization programs. Two states, North Carolina and Virginia, have gone further by establishing programs to compensate sterilization victims (Evans, 2 Nov. 2015).

This article reconstructs the history of sterilization in California using a recently discovered primary source: 19,000 sterilization recommendations processed by nine state institutions between 1919 and 1952. In 2007, I discovered 19 microfilm reels containing thousands of documents related to sterilization in California’s institutions for the “feebleminded” and “insane.” I worked with a team of researchers to digitize these materials and code and enter data from them into a database that protects patient privacy and allows for extensive statistical and qualitative analysis.

This article reviews some of our key preliminary findings, emphasizing the experiences of Mexican-origin patients, who were sterilized at disproportionate rates vis-à-vis general institutional populations and resisted sterilization more actively than any other group. I conclude with reflections about historical memory and amnesia of eugenic sterilization. All too often, eugenic or forced sterilization are remembered with excessive hubris and proclamations that today, in the twenty-first century, we are immune to such misguided

uses of science. I suggest that some of the conditions that facilitated forced sterilization still exist in our contemporary era; in addition, that we can trace continuities from the eugenic past to the genomic present in terms of the assumptions about normality and disability that can undergird prenatal genetic testing.

### **Reproductive racism and resistance**

In 1909, two years after Indiana and a few weeks after the state of Washington, California passed the third sterilization bill in the nation (Stern, 2005b; Wellerstein, 2011). Envisioned by F.W. Hatch, the secretary of the State Commission in Lunacy, this legislation granted the medical superintendents of asylums and prisons the authority to “asexualize” a patient or inmate if such action would improve his or her “physical, mental, or moral condition.” The law was expanded in 1913, when it was repealed and replaced, and updated in 1917, when clauses were added to shield physicians against legal retaliation and to foreground a eugenic, rather than penal, rationale for surgery. The 1917 amendment, for example, reworded the description of a diagnosis warranting surgery from “hereditary insanity or incurable chronic mania or dementia” to a “mental disease which may have been inherited and is likely to be transmitted to descendants” (quoted in Braslow, 1997). More encompassing than its predecessors, the 1917 act targeted inmates afflicted with “various grades of feeble-mindedness” and “perversion or marked departures from normal mentality or from disease of a syphilitic nature.” Performed sporadically at the outset, operations began to climb in the late 1910s, and by 1921, 2,248 people – more than 80% of all cases nationwide – had been sterilized, mostly at the Sonoma and Stockton hospitals (Braslow, 1997, p.56). These sterilizations occurred at nine different institutions. Seven (Stockton, Patton, Napa, Mendocino, Agnews, Camarillo, and Norwalk) were designated as mental hospitals, ostensibly for patients with psychiatric conditions; the remaining two (Sonoma and Pacific Colony) were so-called feeble-minded homes, where individuals were institutionalized based on their supposed lower mental capacity, often calculated with an IQ (intelligence quotient) score.

The state’s aggressive attempts to control the procreation of committed persons deemed insane, feeble-minded, or otherwise unfit, as well as the clinical and ideological contributions of several ardent medical superintendents to sterilization procedures and policies, makes California stand out when compared to the rest of the country. In New Jersey and Iowa, for instance, sterilization laws were declared unconstitutional in the 1910s, judged to be “cruel and unusual punishment” or in violation of equal protection and due process (Reilly, 1991). This impelled some states to draft legislation that avoided punitive terminology, a tactic that underpinned the approbation of revised or original sterilization laws in the 1920s. During the Great Depression, the strain of shrinking state budgets and the “Buck v. Bell” decision spurred additional sterilization legislation, especially in the South. In 1932, 27 states had laws on the books and the number of operations nationwide peaked at just over 3,900. In 1937, Georgia passed the last of the sterilization statutes, bringing the total number of state laws to 32.<sup>1</sup> Puerto Rico, a US colony, also approved sterilization legislation that same year. Significantly, California’s statute – although reworked over the decades – remained on the books from 1909 until it was repealed by the state legislature in 1979.

There were several overriding characteristics of California's sterilization program that can help explain why it was so extensive and long-standing. First, sterilizations occurred during a time and in places imbued by medical paternalism. Health experts, from the personnel on site to agency directors in Sacramento, wielded inordinate power over the reproductive lives of patients. For example, the law explicitly stated that superintendents, in consultation with the director of the Department of Institutions, could "cause a person to be sterilized" even if approval was not forthcoming from the patient, family members, or guardian (California, 1937, p.1005-1006, 1154-1155). Compared with sterilization programs in other states, such as Indiana or Oregon, there was little room for appeal or resistance. Notwithstanding, patients and their families opened wedges in the system, and by the late 1940s, the supremacy of superintendents was faltering.

Second, when the analysis is taken to the granular level and we examine the interpersonal and interactional dynamics of thousands of cases of sterilization, the rationales for the procedure grow more heterogeneous. Over the course of four decades, as medical techniques advanced and as successive superintendents directed the state's nine different institutions, the implicit and explicit reasons for sterilization shifted and included, sometimes simultaneously, hereditarian, therapeutic, punitive, economic, and pragmatic rationales. Some superintendents believed that the principal motivation of sterilization was to improve a patient's psychiatric delusions; others recommended reproductive surgery because of a concern about the financial burden of any future children of patients deemed feeble-minded; and others unreservedly advocated the operation as a preventive measure that would ensure the "unfit" would not beget more of their kind. Sterilization also served as a method of punishment, meted out by superintendents to children and wards of the state deemed incorrigible, unruly, and incapable of recovery or rehabilitation.

Third, preliminary statistical analysis reveals elevated rates of sterilization of Spanish-surnamed patients, most of Mexican origin. Given the anti-Mexican dimension that was pervasive in eugenic organizations and rhetoric in California, this is not surprising. Yet, watching the disarticulation of families and the denigration of Mexican reproductive bodies through the lens of institutional sterilization accentuates how scientific racism was put into medical practice. The profound implications of sterilization as an act of bodily desecration that infringed on legal rights, familial integrity, and religious beliefs was not lost on Mexican-origin patients and their parents, who waged the most vocal resistance to California's sterilization regime.

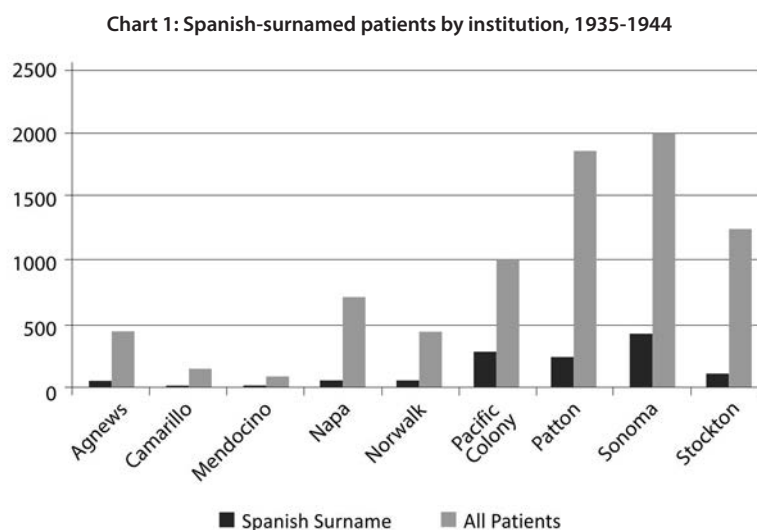
Sterilizations in California's homes and hospitals were made possible in legal and administrative terms by state laws, which, from 1909 until full-fledged repeal in 1979, were firmly rooted in eugenic theories of hereditary improvement. Moreover, as a growing body of scholarship suggests, eugenics encompassed more than strict hereditary control, extending into strategies of reproductive regulation such as institutional segregation (as in Illinois or New York, which had no sterilization statutes), patriarchal containment of women who transgressed gender and sexual norms, or remedial vasectomies on men classed as homosexual who posed little threat of unrestrained procreation.<sup>2</sup> Patients and families that accepted sterilization as a therapeutic procedure or as a condition for release did so under the parameters of eugenic policies. The minority of patients who perhaps sought out

sterilizations because they desired permanent birth control during an era when contraception was illegal might have been exercising a constrained form of reproductive autonomy. The range of rationales and motivations for sterilization during the eugenics era complicate our understanding of the slippery intersections between the desire for reproductive freedom and the imposition of reproductive control, or choice and coercion in one scholar's poignant phrasing (Schoen, 2005).

One of the most striking aspects of California's sterilization program was the disproportionate impact on Spanish-surnamed patients, the vast majority of Mexican origin. From the 1920s to the 1950s, with increasing intensity starting in the mid-1930s in institutions for the "feebleminded" (Pacific Colony and Sonoma), Spanish-surnamed individuals were sterilized at elevated rates. Chart 1 illustrates ratios of sterilized Spanish-surnamed patients vis-à-vis all sterilized patients. The highest ratios of Spanish-surnamed patients could be found at Pacific Colony, where 29% were Spanish-surnamed, followed by Sonoma with 21%, Patton at 14%, and Agnews at 13%.

For all institutions the average percent of sterilized Spanish-surnamed patients was 16%. In and of itself, this figure emphasizes the extent to which Mexican-origin persons, who made up the majority of Spanish-surnamed patients, were over-institutionalized, given that between 1910 and 1940 they never comprised more than 6.5% of the state population according to census figures (Lira, Stern, 2014).<sup>3</sup> Our recent analysis, which compares data from the sterilization data set against census records from California's state institutions, demonstrates that Spanish-surnamed patients were 2.5 times more likely to be sterilized than the average patient. Even more strikingly, Spanish-surnamed female patients under 18 years of age were 3.8 times more likely to be sterilized, a reflection of the state's interest in controlling the reproduction of young Latinas (Novak et al., June 2016).

Indeed, across all the institutions, Mexican-origin sterilized patients, both male and female, tended to be younger than the overall population. For example, the mean age of



Source: prepared by Alexandra Stern and Kate O'Connor from Eugenic Sterilization Data Set (1919-1953).

non-Spanish-surnamed patients in all the institutions from 1935 to 1944 was 26 (the median was 25), whereas the mean of Spanish-surnamed patients was 23 (the median was 19). This pattern was particularly pronounced at the feebleminded homes, such as Pacific Colony, where the mean age of Spanish-surnamed patients was 18 (the median was 17). Reflective of this pattern was 17-year-old Dolores Chavez, who was committed to Pacific Colony in 1941. Chavez had been a ward of the Ventura Juvenile Court and was classified as a middle moron with an IQ of 56 (Sterilization recommendation, 123-0923).<sup>4</sup> Her father, deported years earlier to Mexico, was deceased, as was her mother. At some point, she had been placed in the care of a female guardian, perhaps an extended family member, also of Mexican origin. Chavez was tagged as being a truant and “behavior problem,” and her home disparaged as unfit. Figure 1 presents the sterilization recommendation for this girl, represented in pseudonym as Dolores Chavez. In the 1920s and early 1930s, sterilization recommendations were processed as letters, sometimes accompanied by additional communications and modified consent forms. In 1936, the Department of Institutions adopted the “787” form, which streamlined the process. Staff could simply type onto the form, filling in the sections on personal, family, and clinical history, and checking a box under “Legal Provisions” that mimicked the phrasing of the state’s sterilization law. As with many Mexican-origin families, Chavez’s next of kin, in this case her guardian, refused consent. Exercising the legal prerogative to make the final determination, Pacific Colony’s superintendent proceeded to authorize the operation based on Chavez’s purported mental deficiency, and two weeks later she was sterilized (Sterilization index card 361-3956).

In contrast to several other states, California’s law offered next to no room for appeal or objection. This, however, did not deter hundreds of Mexican-origin families, who resisted the sterilization of their children more intensely than any other group (Lira, Stern, 2014; Lira, 2015). In 1937, for example, the mother of Carlos Vasquez “refused two letters of consent” that Sonoma had sent to her home. Seeking to overcome this hindrance, Butler dispatched a letter to the Director of the Department of Institutions, in which he described Vasquez as a “run-away and a menace to society” who had been remanded to the court for petty and grand theft. Butler impugned the mother, labeling the boy’s parentage “a low grade Mexican type,” and requesting permission to proceed with the operation, which was carried out the following year (Eugenic Sterilization Data Set, 1919-1953, Sterilization recommendation 120-1778 – 120-1779, Sterilization index card 361-1829).

Many parents declined consent in written correspondence. However they also lobbied officials who had been involved in their children’s committal. In 1931, Sonoma’s superintendent, Fred O. Butler, recommended the vasectomy of Juan Romero, who had been transferred from the Preston School of Industry, so that he would never “reproduce his kind, for we know from experience that individuals of his mentality should never bear off-spring, as they are usually defective in some manner” (Butler, 21 Nov. 1931). One of Mr. Romero’s three sons, Javier, had already been sterilized, and in the same communication, Butler reminded him that Sonoma was still awaiting approval for his third son, Pablo. Butler asserted that having three boys in one family who ended up in correctional facilities was evidence of “a hereditary thread” and that any grandchildren born of these boys would certainly be defective (Butler, 21 Nov. 1931). Attempting to reverse this planned course of action, Mr. Romero went to talk



FORM 787

### Recommendation and Approval for Vasectomy or Salpingectomy for the Purpose of Sterilization

Name [REDACTED]  
 Institution PACIFIC COLONY - Spadra

**PERSONAL HISTORY** HOSPITAL CASE No. 2772

Age 13 yrs. Nativity California Religion Lutheran Education Special classes  
 Marital status Single Sex Female No. of children None Ages \_\_\_\_\_

**FAMILY HISTORY** (for additional space use reverse side):  
Apparently negative for nervous and mental diseases.

**CLINICAL HISTORY** (for additional space use reverse side): Mentally deficient girl, whose presence at home was creating friction between mother and stepfather.  
 Date admitted Oct. 3, 1941 Present diagnosis Mental deficiency, High Imbecile level, undifferentiated type.

Attacks (previous, and diagnosis of each): \_\_\_\_\_

**LEGAL PROVISIONS** (compliance with):

This form is submitted in accordance with section 6624 of the Welfare and Institutions Code of the State of California.

1. Legally signed and prepared commitment papers { are } on file at this institution.
2. This patient is afflicted with:
  - Mental disease which may have been inherited and is likely to be transmitted to descendants.
  - Feeble-mindedness, in any of its various grades (specify grade) High Imbecile grade, I. Q. 47
  - Perversion or marked departures from normal mentality.
  - Disease of a syphilitic nature.

Written consent { not given } by [REDACTED] Mother  
Name Relationship

under date of Jan. 31, 1941 copy of which is attached hereto.  
(If consent not given, submit separate letter giving circumstances)

After careful consideration of the case of [REDACTED] by the members of the Medical Staff of this institution, it is their belief that this patient is suffering from the affliction above noted and it is their recommendation that the operation for the purpose of sterilization be performed, with which opinion and recommendation I concur and do hereby request your approval.

[DATE] November 5, 1941

Approved and authorization for an operation for sterilization granted this 7<sup>th</sup> day  
 of November 1941.

*James J. [Signature]*  
 Medical Director and Superintendent

*Carl E. [Signature]*  
 Director of Institutions

82014 1-40 SR 870

Figure 1: 1941 sterilization recommendation for a 17-year-old Mexican-origin girl at Pacific Colony (Source: Eugenic Sterilization Data Set, 1919-1953, used in accordance with the California Committee for the Protection of Human Subjects under 12-04-0166)

to the health officer at the San Francisco Detention Hospital who had initiated his son's institutional odyssey. According to the health officer, Mr. Romero was "violently opposed" to sterilization and rebuffed the classification of his son as feeble-minded. Like Carlos Vasquez's mother, Romero's father was belittled, described as "an ignorant, unintelligent Spanish man." Authorities found it "impossible to convince him of the value of the operation for sterilization either for his son's protection or for that of society" (Geiger, 24 Nov. 1931). Six months after this letter exchange Butler convened a conference on this case, and decided that the presence of three defectives in one family and the 13 burglaries attributed to Romero warranted his sterilization.<sup>5</sup>

In addition to challenging authorities that endorsed sterilization, Mexican-origin families sought intervention from community allies. In 1936, Celia Ramirez was recommended for sterilization at Pacific Colony. She had been classed as a high moron with an IQ of 68 and had a long case history that involved repeated running away and institutional escapes. Ramirez's records suggest that she was gang-raped at age 9 by five men, including her uncle. Despite the clinical detection of venereal disease, her account about this sexual violence was deemed to be "without foundations" by the juvenile authorities. Ramirez's protracted and pained trajectory involved various stints in the court and in homes, including Pacific Colony. Both separately and together, her father and mother "opposed sterilization on religious grounds." They contacted the Mexican Consulate in Los Angeles, which in turn wrote to Sacramento "verifying the parents' objections to sterilization and stating that the Consul had taken the liberty of informing the mother that such operation would not take place without her consent" (Eugenic Sterilization Data Set, 1919-1953, Sterilization recommendations 122-0272 – 122-0277). It is possible the Mexican's Consul's actions stalled Ramirez's sterilization, as there is no record of her name in the lists of patients sterilized at Pacific Colony in 1936 and succeeding years.

The Catholic Church also played a role in protesting sterilization. In 1942, the father of Ignacio Dominguez, a 15-year-old boy diagnosed with a borderline IQ of 75, responded negatively to Butler's request for sterilization through the intermediation of his priest. Dominguez was under the watch of the Santa Barbara Police Department's Probation Office, having been found intoxicated in a local pool hall, party to a knife fight, and "involved with a local gang of marauding Mexicans" (Eugenic Sterilization Data Set, 1919-1953, Sterilization recommendations 124-0179 – 124-0180). According to Butler, Dominguez's parents were divorced, feeble-minded, and unable to care for their many children, several of whom were at a local reformatory. Disregarding the priest's objections to Dominguez's sterilization, Butler requested permission from Sacramento, which was granted, and this boy was sterilized the following year (Eugenic Sterilization Data Set, 1919-1953, Sterilization index card 361-4114).

Most dramatically, Mexican-origin families took to the courts, filing what appear to be the only constitutional challenges to California's sterilization law.<sup>6</sup> In 1930, 16-year-old Concepción Ruíz, through her guardian, sued in district court for US\$150,000 damages for the salpingectomy performed "against her wishes and in spite of protest" at Sonoma the previous year. Her attorneys argued that Ruíz's 14th Amendment rights to due process had been violated (Girl..., 29 Nov. 1930; Arguments..., 5 Jan. 1931). There is no indication that Ruíz won her suit or that any legal precedent was set. Nine years later, Sara Rosas García, a



widow with nine children, filed a Writ of Prohibition in the second appellate district to prevent the Pacific Colony superintendent from sterilizing her eldest daughter, Andrea. Represented by David C. Marcus, a Jewish American lawyer with ties to the Mexican Consulate and the National Association for the Advancement of Colored People (NAACP), Garcia put forth a compelling criticism of the proposed sterilization as an infringement on the equal protection clause of the 14th Amendment and on due process given that there was no mechanism for patient appeal. Marcus averred that the surgery would be performed against the “wishes and desires” of Garcia’s daughter and that the law gave “no remedy or method of redress” for the “irreparable damage” she would suffer. Although Garcia’s writ was denied in a 2-to-1 decision, Judge J. White, who was sympathetic to Marcus’s argument, excoriated the existing law in a terse dissent. White wrote that the granting

of such power should be accompanied by requirements of notice and hearing at which the patient might be afforded an opportunity to defend against the proposed operation. To clothe legislative agencies with this plenary power, withholding as it does any opportunity for a hearing or any opportunity for recourse to the courts, to my mind partakes of the essence of slavery and outrages constitutional guaranties (Garcia, 1939).

Despite this legal contest, records indicate that Garcia’s daughter was sterilized at Pacific Colony in 1941.<sup>7</sup>

Mexican-origin parents were not the only ones who fought sterilization. In 1937, the Italian father of a 16-year-old girl housed at Sonoma refused consent. His daughter had been committed because she had stolen from friends and neighbors and “once from an oil or service station.” Yet this girl, with a registered IQ of 75, or borderline grade, had “very good scholastic standing.” Thus, Butler saw her as a prime candidate for house parole, where “she might receive further schooling on the outside.” Butler wrote to Sacramento asking that this girl be “sterilized over and above the father’s objections” so that she could be released and “receive further schooling on the outside” (Eugenic Sterilization Data Set, 1919-1953, Sterilization recommendation 121-0763 – 121-0764). Butler’s petition was granted and the salpingectomy was performed in 1938 (Eugenic Sterilization Data Set, 1919-1953, Sterilization index card 361-4551).

Parental resistance to sterilization was a persistent feature of California’s sterilization regime. By far, this pattern was most pronounced among Mexican-origin families who exhibited an unwillingness to abide by the strictures of institutionalization for religious, moral, and cultural reasons. This pattern of pushback constituted more than several hundred solitary episodes of refusal, and instead can be interpreted as a hitherto obscured dimension of mid-twentieth century ethnic and civil rights mobilization around family dignity and bodily autonomy.<sup>8</sup> The strident rejection of so many Mexican-origin families to the assumptions and justifications of the state’s sterilization regime underlines the heightened racial hostility that permeated eugenics in California. Although all patients were labeled as mentally deficient or insane, only Mexican-origin parents were so consistently derided as “low-grade,” or “inferior stock” in formulations that condemned both their biological and social capacity to parent. Mexican-origin parents were struggling against an inimical system that sought to disarticulate families, many of which coped with the strain of seasonal migration and poverty. The stakes

were high as parents sought to make an impossible choice between familial separation through long-term institutionalization or the prospect of reproductive surgery foreclosing the possibility of future generations.

The glaring absence of either institutional oversight or legal recourse for patients from 1909 to the late 1940s helps to explain California's comparatively high sterilization rates. During these decades superintendents acted with great impunity, aided by a geography of isolated institutions and legal statutes that afforded remarkable protection. In this scenario institutional peculiarities thrived, and California's sterilization program unfolded unevenly across the state's nine institutions. There were clear distinctions between the mental hospitals and the feeble-minded homes as well as between superintendents, depending on their beliefs about the therapeutic, eugenic, or punitive purpose and value of reproductive surgery. Nevertheless, one preponderant pattern was the unforgiving racial antagonism towards Spanish-surnamed, primarily Mexican-origin, patients and their families, which was expressed both in ethnic derision and disproportionate rates of sterilization. This racialized dynamic set the stage for the resistance of Mexican-origin patients and families in and outside of the walls of the institutions.

With the benefit of the digitized archive of sterilization documents, a picture begins to coalesce of institutional paternalism, the pretense of a consent process, and multiple instances of speaking back to compulsory sterilization. Ultimately, the acts of Sara Rosas Garcia, who appeared before the second appellate court, and the parents of Celia Ramirez, who sought the Mexican Counsel's intervention, served as pressure points on a system that faced more organized assaults in subsequent years. Indeed, this quieter and largely forgotten resistance adumbrated the activism of the 1960s and 1970s, when the anti-psychiatry, feminist, and gay and lesbian rights movements rejected the paternalism of mid-century medicine and institutions; the disability movement expanded that critique to upend assumptions about the physical and intellectual limitations of people deemed retarded; and the Chicana/o movement, aligned with ethnic and racial justice struggles, upbraided the stereotypes of inferiority, criminality, and delinquency that were staple ingredients of mid-century eugenic racism.

### **Sterilization in twenty-first-century California**

In 1979, California's sterilization law was unanimously repealed by a generation of lawmakers astonished that the Golden State still had such a statute on the books. And by 1986, the reproductive control of earlier decades had become anathema; the law now stipulated that people with disabilities could only be sterilized at the request of a conservator or guardian after a court process, and, moreover, that "the right to choice over procreation is fundamental and may not be denied to any individual on the basis of disability. Persons with developmental disabilities should be provided with services to enable them to live more independent lives, including assistance and training that might obviate the need for sterilization" (California State, 1986, p.3483).

Despite these noble intentions, the sterilization of vulnerable populations in state institutions did not end in California with the erosion of the eugenics era. Starting in the 1980s, the overlapping trends of de-institutionalization and skyrocketing incarceration

led to a process of trans-institutionalization, whereby the same kinds of people deemed “social problems” and “menaces” to society, especially those convicted of minor offenses or with mental health problems, who in the 1930s might have been committed to Patton or Sonoma, were incarcerated in San Quentin or Valley State prison. At the outset of the twenty-first century, with a generalized crisis in California’s mismanaged prison system, the environment was ripe for another episode of reproductive injustice in state institutions. And this is what occurred in California’s beleaguered prison system. In the summer of 2013, the Sacramento-based Center for Investigative Reporting (CIR) released an article alleging that 150 female inmates in California state prisons had been sterilized without proper authorization between 2006 and 2010 (Johnson, 7 July 2013). This exposé prompted a state investigation that ultimately corroborated the CIR’s findings, confirming that 144 women had been sterilized between fiscal years 2005-2006 and 2012-2013 without adherence to required protocol and that “deficiencies in the informed consent process” had occurred in 39 of these cases (California State Auditor, June 2014). Some of the irregularities included inadequate counseling about sterilization and its lasting consequences, missing physicians’ signatures on consent forms, neglect of the mandated waiting period, and the destruction of medical records in violation of records retention policies. Within one year of these revelations, legislators approved a bill banning sterilizations in state prisons except in extreme cases when a patient’s life is in danger or when there is a demonstrated medical need that cannot be met with alternative procedures. In September 2014, California’s governor, Jerry Brown, signed this legislation into law (California governor..., 25 Sept. 2014).<sup>9</sup>

This journalistic and legislative process unmasked a carceral environment characterized by a haphazard mixture of disregard and undue pressure, coupled with inconsistent supervision that allowed medical staff to act with little procedural accountability. Particularly disturbing were the prejudices expressed by Doctor James Heinrich, the physician who performed many of the tubal ligations. He indifferently explained to a reporter that the money spent sterilizing inmates was negligible “compared to what you save in welfare paying for these unwanted children – as they procreated more” (quoted in Johnson, 7 July 2013). This callous attitude about the reproductive lives of institutionalized women, the majority low-income and women of color, was not new to California. In the 1930s, at the height of eugenic sterilization, superintendents of California state homes and hospitals repeatedly discussed the need to reduce the economic burden of “defectives” and their progeny through reproductive surgery. In the late 1960s the USC/LA County Hospital obstetrician who oversaw over a hundred nonconsensual postpartum tubal ligations of Mexican-origin women purportedly spoke to his staff about “how low we can cut the birth rate of the Negro and Mexican populations in Los Angeles County” (Madrigal..., 30 May 1978).

Despite awareness of the violations of reproductive autonomy that took place in California’s women’s prisons, the 20,000 sterilizations performed in state institutions from the 1920s to the 1950s remain largely forgotten. In this sense, California’s experience differs significantly from that of Virginia and North Carolina. For example, in February 2015 Virginia became the second state to establish a compensation plan for living victims of a forced sterilization program (Robertson, 26 Feb. 2015). Virginia’s General Assembly and Governor Terry McAuliffe approved a US\$400,000 budget designed to pay out US\$25,000 to victims of a program that

sterilized roughly 8,000 people between 1924 and 1979 (Hardin, Lombardo, 25 Feb. 2014).<sup>10</sup> This compensation package came two years after North Carolina made history as the first state to authorize monetary reparations, allocating 10 million dollars for one-time payments to the living victims of the 7,600 people sterilized between 1929 and 1974 (Neuman, 25 July 2013). At the 12-month mark of this program, about 220 people had each received checks for US\$20,000, although some victims frustratingly did not qualify because their operations – labeled eugenic sterilizations by physicians at the time of surgery – were not administered by the official North Carolina Eugenics Board (Mennel, 31 Oct. 2014).

The reparations in North Carolina and Virginia are the culmination of years-long advocacy by victims, mental health advocates, legislators, and scholars who fought for additional restorative gestures following the apologies issued for eugenic practices and mass sterilization in the early 2000s by a previous cohort of governors and lawmakers. In 2002, Virginia spearheaded a wave of gubernatorial apologies and legislative acknowledgments that soon spread to North Carolina, South Carolina, Oregon, California, and Indiana (Stern, 2005a). This accumulating recognition of the wrongs carried out in the name of eugenics under the aegis of states and their health and welfare agencies heightened awareness of the history of eugenics in these and other states that passed sterilization laws in the twentieth century. For example, reporters at the *Winston-Salem Journal* worked with civil rights advocates, community activists, and academicians to uncover personal stories and historical materials that became part of a 2002 series on North Carolina's sterilization program. Entitled "Against their will" and eventually published as a book compilation, these articles elucidate the racial and gendered logic that guided North Carolina's program, which sterilized African American women at intensifying rates in the 1950s and 1960s (Begos et al., 2012).<sup>11</sup> Several years later in Indiana, historians, bioethicists, and legislators organized an exhibit, conference, and several publications around the centennial of the 1907 passage of the Hoosier state's sterilization law, the first such legislation in the world (Lombardo, 2010; Stern, 2007).<sup>12</sup> These commemorative endeavors included the installation of a historical plaque recognizing the 2,500 people sterilized in state homes and hospitals in Indiana between 1907 and 1974 (Historical..., 12 Apr. 2007; 1907 Indiana..., [20--]).

California has been home to similar activities. In March 2003, following a senate hearing in the state capitol, Governor Gray Davis apologized for the state's sterilization program. Speaking for the "people of California," Davis conveyed his message to the "victims and their families of this past injustice," lamenting, "our hearts are heavy for the pain caused by eugenics. It was a sad and regrettable chapter – one that must never be repeated" (Ingram, 12 Mar. 2003). Soon, California's Attorney General issued a separate apology, and the state Senate passed a resolution expressing "profound regret over the state's past role in the eugenics movement and the injustice done to thousands of California men and women" (Senate..., 2003-2004).

Since that flurry of political activity, advocates and academicians have organized virtual and in-person meetings to discuss the relevance and importance of remembering California's eugenic past and evaluating its implications and echoes today.<sup>13</sup> While gratified by gubernatorial and legislative statements that acknowledge how eugenic sterilization trampled on human rights and reproductive autonomy, some of us involved in these events took pause.

For the most part, these headline-grabbing apologies painted a stark boundary between our enlightened and ethically-informed present and a benighted past in which “pseudoscientific” theories with Nazi origins misguided health and political leaders. This kind of rhetoric relies on and reinforces a certain brand of hubris that can induce complacency around contemporary issues of social justice, reproduction, and genetics. The 2013 revelations about the 144 unauthorized sterilizations performed on female inmates in California prisons from 2006 to 2010 proved the fragility of conceits drawn from historical interpretation. Tucking the past away in a neat package can also hinder a deeper appreciation of the complexity of eugenics, particularly of those gray areas where hereditarianism overlapped with dimensions of public health and medicine, such as infectious disease management or infant and maternal care, that have been much more salubrious and less controversial.

Over the past decade, there has been periodic and sometimes intense reflection among scholars and advocates and in the media on California’s eugenic past. During this entire time there also has been one persistent and glaring absence: living sterilization victims who can accept apologies or tell their stories, let alone clamor for compensation. Unlike in Virginia, Oregon, and North Carolina, where sterilization victims have unveiled plaques, recounted their experiences to reporters, or participated in the establishment of agencies such as North Carolina’s Office of Justice for Sterilization Victims, in California there has been a void (Zitner, 16 Mar. 2003). Even after concerted attempts by legislators, journalists, and scholars to locate sterilization victims through press announcements and official channels, only one person, the late Charlie Follett, ever ventured into the public spotlight. Sterilized at the Sonoma State Home in 1945 at the age of 15, Follett felt that he was entitled to compensation for his suffering and humiliation, describing his life as “miserable.” All indications are that Follett was destitute after leaving Sonoma; he lived for many years out of his battered Cadillac in the small town of Lodi and died without even a penny for his own burial (Guillermo, 5 Aug. 2003; No money..., 11 Apr. 2012).

I have learned about a handful of patients who were sterilized in state institutions through relatives who tracked me down upon learning about my research. Of this modest group of six, almost all are curious about an aunt or uncle sent to Sonoma, Pacific Colony, or Stockton whose life story is shrouded in a cloud of patchy information and partial recollection. I have been able to locate most of these patients by checking the digitized sterilization forms and data set. However, California law only permits conservators to access patient information. Thus, I cannot divulge anything to the relatives who contacted me. They have telling clues about the circumstances that led to their family member’s institutional commitment, and historical memory would benefit from assembling the puzzle pieces they offer with data points in official documents. However, in accordance with the patient privacy and confidentiality protections associated with the US Health Insurance Portability and Accountability Act of 1996, and with conflicting feelings of obligation and frustration, I direct them to the Department of State Hospitals’ Legal Department to pursue their genealogical quests.

How is it possible that in California, where more than 20,000 sterilizations were performed, there is nobody willing or able to tell her or his story? The answer lies mainly in timing. In several states, persons classified as mentally retarded or unfit to bear or rear children were sterilized, sometimes at increasing rates, into the 1960s. Yet California’s program slowed



considerably in the early 1950s. Today, none of the fifty patients interviewed in the 1960s by the University of California at Los Angeles psychiatrist Robert Edgerton for a study about the psychological and emotional impact of sterilization at Pacific Colony are still alive (Anton, 16 July 2003; Edgerton, 1993).<sup>14</sup> Moreover, whether because of shame, apathy, or stigma, no living victims in California have expressed any interest in remembering their sterilizations aloud and in public. This simple act could attach a human face to the statistics and draw attention to the lasting, often harrowing, consequences of forced reproductive surgery. In light of recent developments in Virginia and North Carolina, it might spur the California legislature to consider compensation.

### **Remembering and learning from the past**

Given these limitations, and with slight possibility of reparations for sterilization victims, how can we encourage California to remember, and not forget, its paramount role in the history of eugenics and sterilization?

First and foremost, we can reconstruct in broad strokes and elucidate in detail stories and patterns of sterilization in state institutions. In my case, this has been facilitated by uncovering materials like the microfilms with thousands of pages of sterilization documents. The preliminary quantitative analysis of the dataset we have constructed from these historical records shows discernible ethnic, gender, and age bias. In at least one institution, Pacific Colony, Spanish-surnamed females under 18 years of age were at the greatest risk of sterilization. Population-level data can show significant associations among a large set of variables and further analysis will expand our grasp of social patterns and longitudinal trends. Yet each patient committed to a state home or hospital and recommended for sterilization was a human being deserving of dignity and rights that were violated by state laws and institutional practices. By foregrounding social justice when working with the sterilization records, the impetus to recover marginalized and elided stories and make them accessible in traditional and digital formats can help to heal and restore even if pseudonyms suppress the historical subjectivity contained in actual names. Writing sterilization experiences back into history can happen at the scholarly level as well as in K-12 education. The 2011 passage of the FAIR act in California, which mandates the incorporation of disability and LGBTQ history in public school curricula, offers an entry point for informing young people about this problematic aspect of California's past (Jerry..., 14 July 2011). My team of researchers is prototyping a digital archive that links story telling to data visualization, with the objective of producing of an interactive online resource that will be of value to students and other researchers, and that can restore historical knowledge to the communities most harmed by eugenic sterilization.

Analyzing the discursive elements of the rhetoric used to demonize and disparage people targeted for sterilization underscores continuities between past and present, in particular, the synergistic relationship between racialization and medicalization. For example, twenty-first century anti-immigrant vitriol, whether involving anxieties about anchor babies, birthright citizenship, or unaccompanied minors from Central America crossing the US-Mexican border, draws heavily on resilient stereotypes of biological inferiority that surged and consolidated

during the eugenic racism of the 1920s and 1930s (Schrag, 2010). Strikingly, the Republican nominee for the 2016 US presidential election, Donald Trump, has attacked Mexicans as rapists, invaders, and degenerates that must be quarantined from US boundaries with a wall. Trump's xenophobic rhetoric unabashedly, even giddily, draws on eugenic tropes from the first half of the twentieth century that undergirded restrictive immigration laws. Systematically studying eugenic sterilization in California from the 1920s to the 1950s can help us understand, from a perspective of health institutions and human experiences, how laws and practices based on distorted theories of heredity produced patterns that no democratic society should accept today.

#### ACKNOWLEDGEMENTS

This article draws, with permission, from chapter 4 of *Eugenic nation: faults and frontiers of better breeding in modern America*, 2nd ed., by Alexandra Miinna Stern. © 2015 by the Regents of the University of California. Published by University of California Press.

#### NOTES

<sup>1</sup> On Georgia's law, see Lombardo (2011, p.45-67).

<sup>2</sup> On institutional segregation as a eugenic strategy in Illinois, see Rembis (2011). Dyck (2013) offers compelling illustrative profiles of sterilizations in Alberta that followed similar patterns. On the patriarchal aspects of sterilization in Sonoma, see Kline (2001).

<sup>3</sup> For a thorough and compelling analysis of Pacific Colony, see Lira (2015).

<sup>4</sup> All names used are pseudonyms; records used in accordance with the California Committee for the Protection of Human Subjects Protocol ID 13-08-1310 and the University of Michigan Biomedical IRB HUM00084931.

<sup>5</sup> For more on transfers from Preston and the Whittier reformatory to Sonoma and other institutions for sterilization, see Chávez-García (2012).

<sup>6</sup> Cases involving allegations of medical malpractice, demands for damages, and petitions for the state to provide non-therapeutic surgical sterilizations for the indigent were heard in California's Supreme and Appellate courts between 1930 and 1979; yet only the cases filed by Ruiz and Garcia challenged the constitutionality of the sterilization law. I searched Lexis/Nexis Legal Academic Search for California Supreme Court and Appellate court cases using the terms sterilization, asexualization, salpingectomy, vasectomy, tubal ligation, and eugenics. See Jessin... (11 July 1969); and Kline (2001), chapter 4.

<sup>7</sup> For more extensive analysis of the resistance of Mexican-origin families to sterilization, see Lira (2015).

<sup>8</sup> On the importance of seemingly isolated pre-1960s acts of resistance in the health system, see Hoffman (2012).

<sup>9</sup> History of SB 1135, available at: <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml;jsessionid=2c cf804451d89d5c5834f82b9c3a>.

<sup>10</sup> This budget package can compensate up to 16 sterilization victims. It seems likely that more victims will come forward and that the Virginia legislature will need to revisit this issue in the near future.

<sup>11</sup> The original series appeared as "Against their will: North Carolina's sterilization program," *Winston-Salem Journal*, Dec. 8-12, 2002.

<sup>12</sup> See the 2010 special issue of the *Indiana Magazine of History*, which includes an introduction by this author and three essays on different dimensions of eugenics in Indiana.

<sup>13</sup> In 2012 the Center for Genetics and Society (CGS) collaborated with scholars and activists on a one-day symposium that launched the Network to Address California's Eugenics History. Held at the Boalt Law School at the University of California at Berkeley, the public portion of this event attracted a crowd of over 200 people. See Eugenics... (2012). The following year CGS, the Living Archives of Eugenics, Facing History and Ourselves, and this author organized another well-attended conference hosted by the Paul K. Longmore Institute on Disability at San Francisco State University on the intersections of eugenics and disability. See Future... (2013).

<sup>14</sup> Also, Robert B. Edgerton email correspondence with the author, 27 Jan. 2004.

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