“Eugenical Sterilization in Germany.” *Eugenical News*. 18, no. 5 (September/October 1933): 89-93. Reprinted on the *Cold Spring Harbor Laboratory’s Image Archive of the American Eugenics Movement.* <http://www.eugenicsarchive.org/html/eugenics/index2.html?tag=1901>.

*Indiana passed the first eugenic-based sterilization law in 1907.[[1]](#footnote-1) Other states soon followed, with many of them basing their laws off of the model sterilization law written in 1914 by Harry Laughlin, the director of the Eugenics Record Office.[[2]](#footnote-2) The most notable state law based on Laughlin’s model was passed in Virginia in 1924.[[3]](#footnote-3) Laughlin’s law even served as a template for Germany’s law, which was first created by the Weimar government in 1932, but only passed by the Nazi government on July 14, 1933. Below is an article reprinted in* Eugenical News*, the major journal in the US dedicated to eugenics.[[4]](#footnote-4) Although the author is not listed, the journal was then associated with the Eugenics Record Office, and so Laughlin was most likely the author.*

(a) Nature of the New Statute.

Germany is the first of the world’s major nations to enact a modern eugenical sterilization law for the nation as a unit. Among the smaller nations Denmark led all countries with a national statute in this field, but the law recently promulgated by the Nazi Government marks several substantive advances.

Doubtless the legislative and court history of the experimental sterilization laws in 27 states of the American union provided the experience which Germany used in writing her new national sterilization statute. To one versed in the history of eugenical sterilization in America, the text of the German statute reads almost like the “American model sterilization law.” It provides for the initiation of a case by “petition” of the individual subject or his guardian, seeking application of the law. Thus the voluntary aspect is covered. In its compulsory phase, the guardian of the inadequate or incompetent, or the superintendent of a custodial institution for any one of the several types of the socially inadequate classes may “request” the application of the law. Following such “petition or request,” each case is decided, according to its eugenical merits, by a specialized court and procedure, in which the eugenical facts, and the rights of the subject, and the eugenical interests of the family-stocks of the Reich are duly represented.

The special Eugenical Court comprises a magistrate acting as chairman, a public health physician, and another physician particularly versed in eugenics. This court must determine whether, according to the experience of medical science, there is great probability that the descendants of the particular subject would suffer from serious bodily or mental defects. A voluntary application before a court may be withdrawn, but after the hearing the court may order compulsory surgical sterilization. Appeal may be made to a Supreme Eugenical Court. Appeal automatically stays the operation, but, if the final court approves of the operation it shall be carried through, regardless of consent or dissent by the subject. Full privacy, under severe penalty, is provided. Also provision is made for adequate surgical skill.

Prevention of hereditary degeneracy is the sole purpose of the new statute, which applies equally to all hereditary degenerates as specified by law, regardless of sex, race or religion. A special provision makes this sterilization law applicable to persons suffering from alcoholism. Also, it is understood from press reports, that an additional statute provides for the compulsory sterilization for the perpetrators of sex crimes. It is further understood that the German Reich proposes to refuse marriage licenses to all individuals who do not measure up to the new eugenical standards Eugenical News of the nation in reference to inborn physical and mental quality.

The new eugenical sterilization law was promulgated on July 14, 1933, and it goes into effect January 1, 1934. In the meantime it was announced that the Reich will secure data on prospective sterilization cases, that it will, in fact, in accordance with “the American model sterilization law,” work out a census of its socially inadequate human stocks.

The new law is clean-cut, direct and “model.” Its standards are social and genetical. Its application is entrusted to specialized courts and procedure. From a legal point of view nothing more could be desired.

But like all laws its use will depend upon its enforcement. To one acquainted with English and American law, it is difficult to see how the new German Sterilization Law could, as some have suggested, be deflected from its purely eugenical purpose, and be made an “instrument of tyranny” for the sterilization of non-Nordic races. Of the more than 16,000 cases of legal sterilization, under the recent American state sterilization statutes, no one has ever suggested that in any single case had the state made an eugenical mistake by sterilizing good stock, nor that any racial, religious or political prejudice had ever prompted any single operation under these laws.

In the long series of test-cases in which the legality and constitutionality of the American statutes were finally worked through the state and federal courts, ultimately to be approved by the Supreme Court of the United States,[[5]](#footnote-5) the American states learned how to draft statutes which, in the opinion of the American courts were absolutely devoid of any punitive element, were well adapted to their one purpose of preventing hereditary degeneracy regardless of sex, race, religion, political or social position or any other “legally unnatural” classes of the population. Also the court held that the sterilization statute of the type now current is practically proof against tyrannical misuse for political, religious or racial persecution of one section of the population by another.

As a general governmental policy, approval or disapproval, however violent in either case, of the Nazi Government does not enter into the evaluation of the present German sterilization statute. One may condemn the Nazi policy generally, but specifically it remained for Germany in 1933 to lead the great nations of the world in the recognition of the biological foundations of national character. It is probable that the sterilization statutes of the several American states and national sterilization statute of Germany will, in legal history, constitute a mile stone which marks the control by the most advanced nations of the world of a major aspect of controlling human reproduction, comparable in importance only with the states [sic] legal control of marriage.

Experience has shown that a nation or community can establish its own racial and family-stock standards, and can work toward them just as effectively as husbandsmen can establish and achieve certain definite standards in plant and animal breeding. While the biological essence is the same in human eugenics and in applied genetics, their “social techniques” are, of course, entirely different.

Just as nations have codified their sanitary laws, one of the legal and scientific tasks for each of the nations in the near future is to codify its own eugenical statutes -- particularly those relating to immigration, deportation, marriage and sterilization.

(b) Text of the German Sterilization Statute:

German text, kindly supplied to the Eugenical News by the Hon. Otto C. Kiep, Consul General of Germany in New York, and translated into English by A. Hellmer.

Excerpt from the Reichs Statute, Part I, No. 86, dated July 25, 1933.

Law for the Prevention of Defective Progeny, dated July 14, 1933.

The Government of the Reich has enacted the following Law:

Paragraph 1.

(I) Whoever is afflicted with a hereditary disease can be sterilized by a surgical operation, if --- according to the experience of medical science --- there is a great probability that his descendants will suffer from serious bodily or mental defects.

(2) Hereditary diseases under this law are:

1. Hereditary feeblemindedness,

2. Schizophrenia,

3. Manic-depressive insanity,

4. Hereditary epilepsy,

5. Huntington’s Chorea,

6. Hereditary blindness,

7. Hereditary deafness,

8. Serious hereditary bodily deformities.

(3) Furthermore those suffering from Alcoholism can be sterilized.

Paragraph 2.

(1) Petition can be made by the subject to be sterilized. If this individual is incompetent, mentally deficient or has not yet completed his eighteenth year, a legal representative has the right to make application; the consent of the court of guardianship is required. In cases of limited competency the petition has to be approved by the legal representative. If the subject is of age and in charge of a caretaker, his consent is required.

(2) The petition is to be accompanied by a certificate from a physician recognized in the German Reich, testifying that the person named for sterilization has been enlightened on the nature and consequence of sterilization.

(3) The petition can be withdrawn.

Paragraph 3.

Sterilization can be requested by

1. the public health physician,

2. for the inmates of a hospital, custodial institution or of a penitentiary, the

superintendent.

Paragraph 4.

Petition is to be in writing or recorded with the District Eugenical Court. The facts upon which petition is based should be supported by a medical certificate or confirmed in some other way. The district court has to notify the public health physician.

Paragraph 5.

Decision rests with the Eugenical Court of the district to which the person nominated for sterilization belongs.

Paragraph 6.

(1) The Eugenical Court is to be part of a Tribunal. In consists of a judge, acting as chairman, a public health physician and another physician approved by the German Reich and particularly versed in Eugenics. An alternate is to be appointed for each member.

(2) As chairman must be excluded: one who has decided upon a petition from the court of guardianship, according to Paragraph 2, item 1. If the public health physician has made the petition, he is excluded from the decision.

Paragraph 7.

(1) The proceedings of the Eugenical Court are not public.

(2) The Eugenical Court has to make the necessary investigations. It can hear witnesses and experts and order the personal appearance as well as a medical examination of the person to be sterilized, who can be summoned in case of unexcused absence. The Civil code applies to the hearing and swearing-in of witnesses and experts, as well as to the exclusion and declining of judges. Physicians who have been questioned as witnesses or experts are obliged to testify, regardless of medical ethics. Legal authorities as well as institutions have to give information to the Eugenical Court upon request.

Paragraph 8.

The court has to decide according to its free conviction, after considering the entire results of the procedure and testimony. The decision is based upon a majority of votes after verbal consultation. The court decision should be stated in writing and signed by the members acting as judges. The reasons for ordering or suspending sterilization must be indicated. Notification of the judgment should be served on the applicant, the public health physician, as well as on the individual whose sterilization has been ordered or, in case the latter is mentally incompetent, on his legal counsel.

Paragraph 9.

Persons designated in Paragraph 8, sentence 7, can take an appeal from the decision within a peremptory terms of one month from the date of serving such notice. This appeal has a postponing effect. The Supreme Eugenical Court decides upon this complaint. If complainants have failed to lodge the appeal, rehabilitation in status quo is admissible under the civil law.

Paragraph 10.

(1) Supreme Eugenical Court is part of the Supreme Court of the country and comprises its district. It consists of one member of the Supreme Court, one public health physician and one additional physician, approved by the German Reich, who is especially versed in Eugenics. A representative must be appointed for each member. Paragraph 6, item 2, stands accordingly.

(2) Paragraphs 7 and 8 apply to the procedure of the Supreme Eugenical Court.

(3) The judgment of the Supreme Eugenical Court is final.

Paragraph 11.

(1) The surgical operation necessary for sterilization should be performed only at a hospital and by a physician approved by the German Reich. This surgeon can perform the operation only when the order for sterilization has been made final. The Supreme Court of the country decides upon the hospitals and physicians to whom the operation for sterilization can be entrusted. The operation cannot be performed by the physician who requested the sterilization or attended the trial as juryman.

(2) The surgeon performing the operation has to submit a written report on the sterilization with a statement regarding the applied technique to the physician in charge.

Paragraph 12.

(1) When the court has finally decided upon the sterilization, the operation has to performed even against the will of the subject to be sterilized, insofar as he has not made the petition alone. The public health physician has to attend to the necessary measures with the police authorities. Insofar as other measures are inefficient, compulsory sterilization is admissible.

(2) When circumstances arise requiring another trial of the case, the Eugenical Court has to resume the proceedings and temporarily suspend the sterilization. If this appeal has been rejected, resumption of proceedings is admissible only, if new facts have come to light, which justify the sterilization.

Paragraph 13.

(1) The costs of the court proceedings should be covered by the State funds.

(2) The costs of the surgical operation should be covered by the sick fund in the case of persons insured, and by the charity organization in the case of needy persons. In other cases the costs, up to the minimum doctors’ fee and the average hospital fee of public hospitals, should be paid by the State funds, beyond that by the sterilized individual.

Paragraph 14.

A sterilization not carried out according to the rules of law, as well as the removal of germ glands are only permissible if performed by a skilled physician and for the avoidance of a serious danger to the life or health of the person on whom and with whose consent the operation has been performed.

Paragraph 15.

(1) Persons involved in the procedure or in the performance of the surgical operation are pledged to secrecy.

(2) Whoever acts against this ethical rule of silence shall be punished with imprisonment up to one year or fined. Prosecution can only follow a motion. Motion can also be made by the chairman.

Paragraph 16.

(1) The execution of this law is the duty of the governments of the countries.

(2) The superior government authorities designate --- excepting rules given in Paragraph 6, item 1, sentence 1 - and in Paragraph 10, item 1, sentence 1 --- the place and district of the deciding court. They nominate the members and their representatives.

Paragraph 17. The Reichminister for the Interior, with the consent of the Reichminister of Justice, issue the judicial and administrative orders required for the execution of this law.

Paragraph 18.

This law goes into effect the 1st of January, 1934.

Berlin, July 14, 1933.

The Chancellor of the Reich, Adolf Hitler,

The Reichminister of the Interior, [Wilhelm] Frick,

The Reichminister of Justice, Dr. [Franz] Guertner.

(c) The Outlook.

Students of eugenics the world over will watch with keen interest the operation of this new statute from many points of view, for example: (1) the legal position of eugenical sterilization in national jurisprudence, (2) its application on the nation-wide rather than the local or state basis, (3) its biological efficiency as a practical means for race improvement, besides many other aspects.

1. The centenary of this law was commemorated in 2007; for more information about the law, its impact, and this centenary remembrance, see *Indiana Eugenics History and Legacy 1907-2007*, created by Indiana University-Purdue University: <http://www.iupui.edu/~eugenics/>. [↑](#footnote-ref-1)
2. For more on Laughlin, see the brief biographies provided by the University of Missouri library (<http://library.missouri.edu/exhibits/eugenics/laughlin.htm>) and the Truman State University library (<http://library.truman.edu/manuscripts/laughlinbio.asp>). [↑](#footnote-ref-2)
3. The Virginia law: <http://www.eugenicsarchive.org/html/eugenics/index2.html?tag=1241>. [↑](#footnote-ref-3)
4. For a short history of this journal, see <http://library.missouri.edu/exhibits/eugenics/eugenical_news.htm>. [↑](#footnote-ref-4)
5. The Supreme Court case was *Buck v Bell*: <https://www.law.cornell.edu/supremecourt/text/274/200>. [↑](#footnote-ref-5)