

**The Government Cannot Grant Personhood:  
How Eugenics Has Engulfed our Society and Violated Inalienable Rights**

Emily Huseman  
A Nation Divided: Assessing Freedom & the Rule of Law in a Post 2020 World  
February 8, 2022

On June 19<sup>th</sup>, 2020, the Tennessee state legislature passed the Fetal Heartbeat Bill, which outlawed abortions due to the gender, race, or Down syndrome diagnosis of the unborn child. Governor Lee explained his reasoning for signing the bill, saying, “Every life is precious, and every child has inherent human dignity. Our law prohibits abortion based on the race, gender, or diagnosis of Down Syndrome of the child... protecting our most vulnerable Tennesseans is worth the fight.”<sup>1</sup> It is estimated that selective-sex abortions have prevented 45 million females from being born since 1970.<sup>2</sup> Preborn children with Down syndrome have also been aborted in significant numbers, with 67% of prenatal Down syndrome diagnoses ending in abortion in the United States alone.<sup>3</sup> The Tennessee Fetal Heartbeat Bill intended to end such discrimination by prohibiting abortions performed solely due to the perceived eugenical value of the preborn child.

Abortion is a modern-day method of eugenics.<sup>4</sup> Although modern science has proven human life begins at conception, United States case law has not guaranteed the personhood for all living human beings.<sup>5</sup> Legal precedent based upon landmark Supreme Court rulings such as *Buck v. Bell* and *Roe v. Wade* have inferred personhood of living humans is subjectively based upon the health, development, and social factors surrounding the life. This infers that the power to

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<sup>1</sup> Mariah Timms, “Appeals Court Upholds 'Reason Bans,' Denying Abortions over down Syndrome, Gender or Race,” *The Tennessean* (Nashville Tennessean, November 21, 2020), last modified November 21, 2020, accessed January 22, 2022, <https://www.tennessean.com/story/news/politics/2020/11/20/tennessee-abortion-laws-court-says-reason-bans-go-into-effect/6365765002/>.

<sup>2</sup> James Kingsland, “Sex-Selective Abortions Could Lead to 4.7 m 'Missing' Female Births,” *Medical News Today* (MediLexicon International, August 4, 2021), last modified August 4, 2021, accessed January 23, 2022, <https://www.medicalnewstoday.com/articles/preference-for-sons-could-lead-to-4-7-m-missing-female-births#Worst-case-scenario>.

<sup>3</sup> Jaime L. Natoli et al., “OBGYN,” *Obstetrics and Gynecology* (John Wiley & Sons, Ltd, March 14, 2012), last modified March 14, 2012, accessed January 23, 2022, <https://obgyn.onlinelibrary.wiley.com/doi/full/10.1002/pd.2910>.

<sup>4</sup> “Eugenics in the United States: The Forgotten Movement,” *Chênrière: The Nicholls Undergraduate Humanities Review* (The Nicholls Undergraduate Humanities Review, July 20, 2021), last modified July 20, 2021, accessed January 23, 2022, <https://www.nicholls.edu/cheniery/2021/05/20/eugenics-in-the-united-states-the-forgotten-movement/>.

<sup>5</sup> Dr. Fred de Miranda, “When Human Life Begins,” *American College of Pediatricians* (American College of Pediatricians, March 2004), last modified March 2004, accessed February 2, 2022, <https://acpeds.org/position-statements/when-human-life-begins>.

grant personhood is vested in the government to legislate who should and should not be given inalienable rights associated with personhood. If the government can grant personhood, it must be a sovereign and infallible institution to make such judgments. Rather than vesting ultimate authority in government legislation to grant who possesses inalienable rights, the framers of the Constitution believed the government is a fallible institution void of the sovereignty to grant personhood to living human beings. Abortion reflects the ideology that authority to grant personhood derives from the infallibility of humanity, revolting against the framework of checks and balances the Constitution is constructed upon.

### **Eugenics in America**

The Fetal Heartbeat Bill was blocked shortly after it went into effect by a preliminary injunction issued by a federal district judge. In September of 2021, the Appellate Court of the Sixth District upheld the ruling.<sup>6</sup> Abortions up until twenty weeks of gestation merely because of the unborn child’s undesirable gender, ethnicity, or Down syndrome diagnosis remains legal to obtain throughout Tennessee.

A major sponsor that challenged the Fetal Heartbeat Bill was Planned Parenthood Federation of America Inc. Planned Parenthood is currently the largest abortion provider in the United States, performing 354,871 abortions in the 2019-2020 year.<sup>7</sup> Planned Parenthood’s founder, Margaret Sanger, was deeply influential in advocating eugenic ideology during the early twentieth century in America. Sanger’s work in the eugenics movement mirrored her belief in the need for “elimination and eventual extirpation of defective stocks—those human weeds which threaten the blooming of the finest flowers of American civilization.”<sup>8</sup> Sanger and other eugenicists believed such “weeds” that needed to be eliminated from society through contraceptives and sterilization included the feeble-minded, shiftlessness, and imbeciles.

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<sup>6</sup> “Appeals Court Blocks Tennessee Abortion Bans,” *American Civil Liberties Union* (American Civil Liberties Union, September 15, 2021), last modified September 15, 2021, accessed January 23, 2022, <https://www.aclu.org/press-releases/appeals-court-blocks-tennessee-abortion-bans>.

<sup>7</sup> “Planned Parenthood 2019-2020 Annual Report,” *Planned Parenthood* (Planned Parenthood Federation of America Inc., n.d.), accessed January 23, 2022, [https://www.plannedparenthood.org/uploads/filer\\_public/67/30/67305ea1-8da2-4cee-9191-19228c1d6f70/210219-annual-report-2019-2020-web-final.pdf](https://www.plannedparenthood.org/uploads/filer_public/67/30/67305ea1-8da2-4cee-9191-19228c1d6f70/210219-annual-report-2019-2020-web-final.pdf).

<sup>8</sup> Snopes Staff, “Fact Check: Did Margaret Sanger Decry Slavs and Jews as ‘Human Weeds’?”, *Snopes.com* (Snopes Media Group, August 1, 2015), last modified August 1, 2015, accessed January 23, 2022, <https://www.snopes.com/fact-check/margaret-sanger-weeds/>.

The term “eugenics” was first coined by Francis Galton in 1883, who purported that society should provide monetary incentives to those who married based on eugenic purposes.<sup>9</sup> Galton was the first cousin of Charles Darwin, who created the theory of evolution in his books, *On the Origin of Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life and Descent of Man*. The theory of evolution rejected the prevalent Christian belief at the time which viewed the world, including humankind, as being made by a Creator. Rather than being created, Darwin’s theory of evolution proposed that humans evolved over millions of years from apes. Only the genetically fittest and adaptable organisms survived, a concept known as natural selection.<sup>10</sup> The introduction of evolution dramatically shifted the widely accepted theistic worldview to an atheistic worldview, paving the way for the Progressive Era. Among those deeply influenced by evolution was Galton, who rejected the belief that each human is created in the image of God. He became an ardent advocate in spreading evolution concepts, drawing from the conclusions Darwin made in *Origin of Species* to apply evolutionary principles to eugenics.<sup>11</sup> Concepts Galton adopted from evolution included the belief that some races were more developed than others. Whites were perceived as more thoroughly developed than other races, who were classified as “lower organisms.”<sup>12</sup>

By 1914, the eugenics movement had proliferated in America to include the American Eugenics Society, American Breeders Association, and the Eugenics Record Office (ERO). The director of the ERO, Henry Laughlin, created his Model Sterilization Law, which stated the “socially inadequate” in society should be sterilized. The language from his Model Sterilization Law was utilized

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<sup>9</sup> Steven A Farber, “U.S. Scientists' Role in the Eugenics Movement (1907-1939): A Contemporary Biologist's Perspective,” *Zebrafish* (Mary Ann Liebert, Inc., December 2008), last modified December 2008, accessed January 23, 2022, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2757926/>.

<sup>10</sup> “Evolution,” *Answers in Genesis* (Answers in Genesis, n.d.), accessed January 23, 2022, <https://answersingenesis.org/evolution/>.

<sup>11</sup> Editors of Encyclopaedia Britannica, “Francis Galton,” *Encyclopædia Britannica* (Encyclopædia Britannica, inc., January 13, 2022), last modified January 13, 2022, accessed January 23, 2022, <https://www.britannica.com/biography/Francis-Galton>.

<sup>12</sup> Answers in Genesis, “Did Darwin Promote Racism?,” *Answers in Genesis* (Answers in Genesis, December 11, 2020), last modified December 11, 2020, accessed January 23, 2022, <https://answersingenesis.org/charles-darwin/racism/did-darwin-promote-racism/>.

in Virginia's Eugenic Sterilization Act, which legalized compulsory sterilizations in the state to rid Virginia of those deemed as "defective persons."<sup>13</sup>

After the Virginia Eugenic Sterilization Act was enacted in 1924, the state ordered Carrie Buck, a resident in the Virginia State Colony for Epileptics and Feeble-Minded near Lynchburg, VA, to be sterilized for feeble-mindedness and promiscuity. Buck's state-appointed guardian appealed the sterilization order. In 1927, *Buck v. Bell* was taken before the United States Supreme Court. The state argued that the sterilization of Buck "did not impose cruel and unusual punishment, the law afforded inmates due process of law, and it represented a valid exercise of police power, which stemmed from the state's obligation to protect the public's health and safety." On May 2<sup>nd</sup>, 1927, the Supreme Court upheld the state order to sterilize Buck under the Virginia Eugenic Sterilization Act in an 8-1 decision.<sup>14</sup> Justice Holmes delivered the opinion of the Court, writing:

"We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world, if 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."<sup>15</sup>

Margaret Sanger echoed the decision of the Court in "My Way to Peace" in 1932, arguing that the United States Population Congress should be "apply a stern and rigid policy of sterilization and segregation to that grade of population whose progeny is tainted or whose inheritance is such that objectionable traits may be transmitted to offspring." Segregation would include preventing them

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<sup>13</sup> "Origins of Eugenics: From Sir Francis Galton to Virginia's Racial Integrity Act of 1924," *Eugenics: Three Generations, No Imbeciles: Virginia, Eugenics & Buck v. Bell* (Claude Moore Health Sciences Library, 2004), last modified 2004, accessed January 23, 2022, <http://exhibits.hsl.virginia.edu/eugenics/2-origins/>.

<sup>14</sup> Brendan Wolfe, "Buck v. Bell (1927)," *Encyclopedia Virginia* (Virginia Humanities, January 1, 1970), last modified January 1, 1970, accessed January 23, 2022, <https://encyclopediavirginia.org/entries/buck-v-bell-1927/>.

<sup>15</sup> "Buck v. Bell, Superintendent of State Colony Epileptics and Feeble Minded.," *Legal Information Institute* (Legal Information Institute, n.d.), accessed January 23, 2022, <https://www.law.cornell.edu/supremecourt/text/274/200>.

from reproducing by forcing them to live on “farmlands and homesteads for these segregated persons where they would be taught to work under competent instructors for the period of their entire lives.” To carry out the plan outlined for the Population Congress, the first step would be to control the intake and output of said “morons, mental defectives, epileptics” and secondly, to take inventory of the secondary group consisting of “illiterates, paupers, unemployable, criminals, prostitutes, dope-fiends” by classifying them into special departments overseen by the government and then segregating them into secluded farm areas. She asserted that five million Americans should be segregated using this method that labeled them as “mental and moral degenerates.”<sup>16</sup>

This ideology and ruling of *Buck v. Bell* led to more than 60,000 Americans being forcibly sterilized in 32 states during the 20<sup>th</sup> century.<sup>17</sup> Those deemed as “imbeciles” and “unfit” were given the option to either be sterilized, imprisoned or to live on secluded farmland for the rest of their life. The law directly impacted a majority of uneducated, lower-class Hispanic, black, and American Indian women. Margaret Sanger also targeted the African American community to push birth control and contraceptives through The Negro Project. In a letter to her associate Dr. Clarence Gamble, she explained that the African American community must trust them in order for the program to be successful. Sanger wrote, “We do not want word to go out that we want to exterminate the Negro population, and the minister is the man who can straighten out that idea if it ever occurs to any of their more rebellious members.”<sup>18</sup> Gamble worked in the Negro Project, funded Sanger’s other projects, spoke at her conferences, and supported the Nazis’ sterilization program. He believed that Nazi Germany set a pattern “other nations and groups must follow.”<sup>19</sup>

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<sup>16</sup> Margaret Sanger, “My Way to Peace,” *Issues 4 Life* (Issues 4 Life Foundation, n.d.), accessed January 30, 2022, [https://www.issues4life.org/pdfs/1932\\_peaceplan\\_margaretsanger.pdf](https://www.issues4life.org/pdfs/1932_peaceplan_margaretsanger.pdf).

<sup>17</sup> Alexandra Stern, “Forced Sterilization Policies in the US Targeted Minorities and Those with Disabilities – and Lasted into the 21st Century,” *Institute for Healthcare Policy & Innovation* (The Regents of the University of Michigan, September 23, 2020), last modified September 23, 2020, accessed January 30, 2022, <https://ihpi.umich.edu/news/forced-sterilization-policies-us-targeted-minorities-and-those-disabilities-and-lived-21st>.

<sup>18</sup> “Letter from Margaret Sanger to Dr. C.J. Gamble,” *Genius* (Genius, December 10, 1939), last modified December 10, 1939, accessed February 6, 2022, <https://genius.com/Margaret-sanger-letter-from-margaret-sanger-to-dr-cj-gamble-annotated>.

<sup>19</sup> Dinesh D'Souza, *The Big Lie: Exposing the Nazi Roots of the American Left* (Washington, D.C.: Regnery Publishing, 2017).

Sanger argued that implementing the objectives outlined in “My Way to Peace,” particularly sterilization and segregation, was for the defense of the unborn in the name of eugenical health. A copy of this plan was published in the April 1932 issue of Sanger’s magazine, the *Birth Control Review*.<sup>20</sup> The following year after Sanger’s “My Way to Peace” was published, an article entitled “Eugenic Sterilization, an Urgent Need” was written by Ernst Rudin in the journal. Rudin was the chief architect of the Nazi sterilization program happening at the time in Germany. In addition to being the chief architect of the sterilization program, Rudin was a mentor to the infamous doctor, Joseph Mengele.<sup>21</sup>

Joseph Mengele began working at the Auschwitz concentration camp in 1943 as a physician and research scientist. He was influenced by eugenics scholars and believed eugenics was for the betterment and health of society. Mengele was fascinated with genetic research in twins especially. He began researching the inmate Jewish, Slavs, gypsy, and Russian twin children of Auschwitz who bestowed abnormalities. Experiments included electroshock treatment, chest injections, and eye injections. Other experiments included sewing twins together or injecting one twin with lethal so the child would die at the same time as the other twin. Extracting certain body parts of the children, such as the eyeball, was sent to medical facilities in the name of scientific research.

Mengele never felt remorse for his actions. He believed that because the children would die anyway, it was better to use their lives to further scientific research.<sup>22</sup> After the war, he fled to Argentina and became an abortionist.<sup>23</sup>

Mengele essentially acknowledged that each subject of his experiments was a living child, but believed that child was void of personhood. From the perspective of eugenic advocates in Nazis Germany and America, the question that asked if the human was living was irrelevant. Rather, the pertinent question asked whether the human was valuable enough to be a person with rights.

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<sup>20</sup> Steven W. Mosher, “A Margaret Sanger Sampler,” *The Wall Street Journal* (Dow Jones & Company, June 16, 1997), last modified June 16, 1997, accessed February 6, 2022, <https://www.wsj.com/articles/SB866395797223768000>.

<sup>21</sup> Dinesh D'Souza, *The Big Lie: Exposing the Nazi Roots of the American Left* (Washington, D.C.: Regnery Publishing, 2017).

<sup>22</sup> Ibid.

<sup>23</sup> Nathaniel C. Nash, “Mengele an Abortionist, Argentine Files Suggest,” *The New York Times* (The New York Times, February 11, 1992), last modified February 11, 1992, accessed February 6, 2022, <https://www.nytimes.com/1992/02/11/world/mengele-an-abortionist-argentine-files-suggest.html>

Necessary qualifications to be given personhood were based off the individual's mental status, physical well-being, and current racial preferences of society.

The Supreme Court ruling of *Buck v. Bell* led to thousands of Americans being sterilized or forced by the government to a certain area without the freedom to reproduce. Throughout Nazi Germany the government also forced thousands of people, deemed by the government as not valuable enough for personhood, to be sterilized or killed. The Nazis cited *Buck v. Bell* in defense of their actions when they were tried for war crimes during the Nuremberg Trials after World War II.<sup>24</sup> The question the Nazis essentially proposed asked why America had the power to take away personhood from their imbeciles in society through eugenic programs, but the German government did not have the right to. Today, *Buck v. Bell* has not been overturned. Although compulsory sterilizations have ceased in the nation, laws permitting the termination of unborn children because of eugenical factors currently exist. Such laws share the same premise that Nazi Germany and American sterilization programs were constructed upon: eugenic value. The same question the Nazis criminals asked during the Nuremberg Trials must be applied to the modern issue of abortion. Does the United States government have sovereignty to legislate who is a human worthy of personhood?

### **Is the Government Sovereign to Grant Personhood?**

“After Texas rendered the constitutional right to abortion meaningless and other states continued to attack access to care, the 6th Circuit’s decision to block Tennessee’s six-week abortion ban and reason ban brings some relief,” said Alexis McGill Johnson, president and CEO of Planned Parenthood Federation of America, after the Fetal Heartbeat Bill was blocked in 2021.<sup>25</sup> The usage of “constitutional right” in Johnson’s statement infers she believes the federal government of the United States beholds the authority to grant personhood of the developing child in utero by permitting abortions. While abortion is never mentioned in the Constitution, the landmark Supreme Court case *Roe v. Wade* legalized abortions in all fifty states in 1973.<sup>26</sup>

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<sup>24</sup> Brendan Wolfe, “Buck v. Bell (1927),” *Encyclopedia Virginia* (Virginia Humanities, January 1, 1970), last modified January 1, 1970, accessed January 30, 2022, <https://encyclopediavirginia.org/entries/buck-v-bell-1927/>.

<sup>25</sup> “Appeals Court Blocks Tennessee Abortion Bans,” *American Civil Liberties Union* (American Civil Liberties Union, September 10, 2021), last modified September 10, 2021, accessed February 2, 2022, <https://www.aclu.org/press-releases/appeals-court-blocks-tennessee-abortion-bans>.

<sup>26</sup> The Editors of Encyclopaedia Britannica, “Roe v. Wade,” *Encyclopædia Britannica* (Encyclopædia Britannica, inc., December 10, 2021), last modified December 10, 2021, accessed February 5, 2022, <https://www.britannica.com/event/Roe-v-Wade>.



The Due Process Clause examined in the ruling of *Buck v. Bell* was also used to rule that the right to abortion was constitutional in *Roe v. Wade*. In *Buck v. Bell*, the Court ruled that the compulsory sterilization laws did not violate the Due Process Clause.<sup>27</sup> The Due Process Clause is found in Section 1 of the Fourteenth Amendment: “nor shall any State deprive any person of life, liberty, or property, without due process of law.” Although the Supreme Court interpreted the Constitution broadly in *Buck v. Bell* with respect to the Due Process Clause, the keyword “liberty” pertaining to the case was neglected to be examined. The legality of *Buck v. Bell* led to infringements of liberty for the plaintiff, Carrie Buck, and thousands of other Americans deemed as a lesser class. Even though legal precedent declares compulsory sterilizations constitutional to this day, forced sterilizations are now widely recognized as deeply immoral and flawed. In 1974, the Virginia Sterilization Law was repealed.<sup>28</sup> In 2001, the Virginia House Assembly made a resolution, stating that:

Under this act, those labeled ‘feeble-minded,’ including the ‘insane, idiotic, feeble-minded, or epileptic could be involuntarily sterilized, so that they would not produce similarly disabled offspring...another regrettable aspect of the eugenics laws was their use of respectable, ‘scientific’ veneer to cover activities of those who held blatantly racist views...the General Assembly hereby expresses profound regret over the Commonwealth’s role in the eugenics movement in this country and the incalculable human damage done in the name of eugenics.<sup>29</sup>

The ruling of *Roe v. Wade* was an extension of permitting legal, eugenic practices by terminating human life in the womb.<sup>30</sup> The Court’s ruling interpreted

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<sup>27</sup> “Buck v. Bell (1927),” *The Embryo Project Encyclopedia* (Arizona Board of Regents, January 1, 2012), last modified January 1, 2012, accessed February 3, 2022, <https://embryo.asu.edu/pages/buck-v-bell-1927>.

<sup>28</sup> “Eugenics in Virginia: Buck v. Bell and Forced Sterilization,” *University of Virginia* (Rector and Visitors of the University of Virginia, 2004), last modified 2004, accessed February 6, 2022, <http://exhibits.hsl.virginia.edu/eugenics/4influence/#:~:text=During%20the%201940s%2C%20however%2C%20eugenical,the%20General%20Assembly%20in%201974>.

<sup>29</sup> House Joint Resolution No. 607, *Virginia Legislative Information System* (Virginia Legislative Information System, February 14, 2001), accessed February 8, 2022, <https://lis.virginia.gov/cgi-bin/legp604.exe?011%2Bsum%2BHJ607>.

<sup>30</sup> Dr. Fred de Miranda, “When Human Life Begins,” *American College of Pediatricians* (American College of Pediatricians, March 2004), last modified March 2004, accessed February 2, 2022, <https://acpeds.org/position-statements/when-human-life-begins>.

the Due Process Clause to protect against state action in a women's right to privacy concerning abortion, but did not take into account the life or liberty of the person in utero.<sup>31</sup> The President of Planned Parenthood at the time of the ruling, Alan Guttmacher, advocated for using abortion as a method of eugenic control.<sup>32</sup> Regarding abortion, Guttmacher said, "the quality of parents must be taken into account" for "feeble-mindedness," echoing the language used in the Court's opinion of *Buck v. Bell*. G. Williams, a legal scholar cited in the Court's opinion in *Roe v. Wade*, purported infant infanticide in his literature. In his book *Sanctity of Life and Criminal Law*, he wrote, "a eugenic killing by a mother, exactly paralleled by the bitch that kills her misshapen puppies, cannot confidently be pronounced immoral."<sup>33</sup>

*Buck v. Bell* and *Roe v. Wade* both allowed the government to bar personhood from citizens based on eugenic value under the veneer that it was for the betterment of society. The right to life and liberty issued in the 14<sup>th</sup> amendment was denied to those who were forcibly sterilized and those developing in the mother's womb as a result. The government has demonstrated that it can legally justify deciding who is worthy of personhood. However, the most impertinent question asks where the government derives such authority to make such laws. The answer lies in determining if the government beholds absolute sovereignty to grant personhood. For absolute sovereignty to exist, the government cannot be an inherently immoral and fallible institution. If the government is immoral and fallible, it is liable to obliterate human rights by making mistaken judgments when deeming personhood. The opportunity for mass tyranny and genocide will be present, because the government will corruptly redefine the meaning of moral absolutes, subjectively deny rights to certain people groups, and use its absolutized power through granting personhood to its political advantage. Eugenics, through forced sterilization and abortion, cannot be trusted to be in the benefit of society, as the government declares, because the government is susceptible to deceit. Forced sterilizations, stopping the life of a developing unborn child, and forcing minorities to concentration camps becomes not a better society, but instead a society living under a corrupt government with boundless authority to execute evil.

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<sup>31</sup> "Roe v. Wade," *Oyez* (Oyez, n.d.), accessed February 3, 2022, <https://www.oyez.org/cases/1971/70-18>.

<sup>32</sup> Danielle D'Souza Gill, *Choice: The Abortion Divide in America* (S.I.: Center St., 2021).

<sup>33</sup> *Box v. Planned Parenthood of Indiana and Kentucky*, 587 U.S. 14 (2019) [https://www.supremecourt.gov/opinions/18pdf/18-483\\_3d9g.pdf](https://www.supremecourt.gov/opinions/18pdf/18-483_3d9g.pdf).

Conversely, if the government is an infallible and moral institution, it does possess the sovereignty to decide personhood. The citizens of the country can rest assured that the government is incapable of practicing wrong and is continually working for all things good on their behalf. If the government in Nazis Germany possessed absolute sovereignty to grant personhood because it was inherently good, the Nazis criminals in the Nuremberg trials should not have been punished. Under the presupposition that government is inherently good, performing deadly medical experiments on children is seen as contributing to genetic research, forcibly sterilizing the disabled is said to benefit the State, and ending the life of an unborn child because he or she is not the right gender is viewed as a mere choice. Abortion and other methods of eugenics are established within the belief that the government has sovereignty to grant personhood because it is morally and righteously capable.

James Madison, referred to as “the Father of the Constitution,” did not believe the government was infallible.<sup>34</sup> His theory of a republic government was based upon his understanding of human nature.<sup>35</sup> In *Federalist Paper* No. 51, Madison writes, “What is the government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern me, neither external not internal controls on government would be necessary.”<sup>36</sup> Madison and other Founding Fathers of the United States were deeply influenced in this philosophy by Baron de Montesquieu. In Montesquieu’s *Spirit of the Laws*, he writes:

Political liberty is to be found only in moderate governments; and even in these it is not always found. It is there only when there is no abuse of power. But constant experience shows us that every man invested in power is apt to abuse it, and to carry this authority as far as it will go. To

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<sup>34</sup> History.com Editors, “James Madison, ‘Father of the Constitution,’ Is Born,” *History.com* (A&E Television Networks, November 13, 2009), last modified November 13, 2009, accessed February 6, 2022, <https://www.history.com/this-day-in-history/father-of-the-constitution-is-born>.

<sup>35</sup> Edwin Meese III, “The Moral Foundations of Republican Government,” *Imprimis* (Hillsdale College, April 10, 2017), last modified April 10, 2017, accessed February 6, 2022, <https://imprimis.hillsdale.edu/the-moral-foundations-of-republican-government/>.

<sup>36</sup> James Madison, “Federalist Papers No. 51 (1788),” *Bill of Rights Institute* (Bill of Rights Institute, n.d.), accessed February 6, 2022, <https://billofrightsinstitute.org/primary-sources/federalist-no-51>.

prevent abuse, it is necessary from the very nature of things that power should be a check to power.<sup>37</sup>

As a result of Montesquieu's belief that mankind would inevitably abuse power because he was corrupt, Montesquieu coined the term "separation of powers." Madison and other Founding Fathers modeled the Constitution after this ideology by creating three branches of government. Article 1 of the Constitution establishes the duties of the Legislative Branch, Article 2 outlines the Executive Branch, and Article 3 establishes the Judicial Branch. The separation of powers is connected to the checks and balances system within the Constitution that prevents one branch of government from becoming more powerful over another.<sup>38</sup> Each branch cannot be more powerful over another because each are comprised of people with the potential greed to acclaim more power. Rather than being subject to obey another branch of government, the Founding Fathers believed the Executive, Legislative, and Judicial Branch must follow a higher law. The higher law was an eternal law of moral absolutes, called Natural Law. As a result of Natural Law, natural rights are possible.

Thomas Jefferson opened the Declaration of Independence by writing "all men are created equal, that they are endowed by their Creator with certain inalienable rights, among these are Life, Liberty, and pursuit of Happiness." By using the term 'inalienable,' Jefferson established that the inherent rights to live, possess liberty, and pursue happiness were instilled in all American citizens. This statement bars the government from taking any three of these rights away, except in the case of punishment. In the same way that the government cannot arbitrarily take inalienable rights away, the government cannot give inalienable rights to anyone. Because the government is "instituted among Men, deriving from their powers from the consent of the governed," it is made up of the same finite, fallible citizens that populate the country.<sup>39</sup> Therefore, the government lacks the superiority and sovereignty to control who receives inalienable rights and who does not. The only person who possesses the sovereignty to grant or take away inalienable rights is the Lawgiver of Natural Law himself, the Creator. Jefferson wrote,

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<sup>37</sup> Baron De Montesquieu, "4.—The Same Subject Continued," in *Spirit of Laws* (New York, New York: Hafner Press, 1949), p. 150.

<sup>38</sup> "Separation of Powers," *Legal Information Institute* (Cornell Law School, n.d.), accessed February 6, 2022, [https://www.law.cornell.edu/wex/separation\\_of\\_powers\\_0](https://www.law.cornell.edu/wex/separation_of_powers_0).

<sup>39</sup> "Declaration of Independence: A Transcription," *National Archives and Records Administration* (National Archives and Records Administration, n.d.), accessed February 6, 2022, <https://www.archives.gov/founding-docs/declaration-transcript>.

The evidence of this natural right, like that of our right to life, liberty, the use of faculties, the pursuit of happiness, is not left to the feeble and sophisticated investigations of reason, but is impressed on the sense of every man. We do not claim these under the charters of kings or legislators, but under the King of kings.<sup>40</sup>

Furthermore, Jefferson believed natural rights would only be protected if the people recognized the source of natural rights. In Notes on the State of Virginia, Jefferson asked, “Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in their minds of the people that these liberties are a gift of God?”<sup>41</sup>

### Conclusion

The Founding Fathers of the United States wrote the Constitution with the presupposition that humankind is fallible to make immoral acts, such as corruption and greediness for power. The system of checks and balances was masterfully modeled within the Constitution to prevent one branch from obtaining tyrannical power as a result. Because the government is fallible, it cannot grant personhood to individuals. Government exists under the authority of Natural Law given by the Creator. The natural rights, or the inalienable rights of life, liberty, and the pursuit of happiness, apply to all citizens only under the sovereignty of the Creator that established natural rights.

The practice of eugenics emerged at the same time Natural Law was being discarded for the theory of evolution. Instead of recognizing a Creator who granted personhood, evolution proposed that humans were a result of genetic mutations without a creator. Eugenics applied the theory of evolution to evaluating humans. Rather than human and person being synonymous, a dichotomy was created between the two. Natural rights were no longer objective but based on each person’s eugenic traits. Because there was not a sovereign Creator, evolutionists believed humans with the best eugenic traits were sovereign

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<sup>40</sup> “Thomas Jefferson to John Manners, 12 June 1817,” *National Archives and Records Administration* (National Archives and Records Administration, June 12, 1817), last modified June 12, 1817, accessed February 6, 2022, <https://founders.archives.gov/documents/Jefferson/03-11-02-0360>.

<sup>41</sup> Chester James Antieau, “Natural Rights and the Founding Fathers-the Virginians,” *Washington & Lee University School of Law Scholarly Commons* (Washington & Lee University School of Law Scholarly Commons, 1960), last modified 1960, accessed February 8, 2022, <https://scholarlycommons.law.wlu.edu/wlulr/vol17/iss1/4>.

to decide who should be a person instead. This ideology led to thousands being discriminated against, segregated, and forcibly sterilized by the State in America and Nazi Germany. Most recently, eugenics has been continued through abortion. In some states, such as Tennessee, a woman can terminate the child in utero solely because of its race, gender, or diagnosis.

The Supreme Court cases of *Buck v. Bell* and *Roe v. Wade* broke away from the principles the Constitution was founded upon. Instead of recognizing Natural Law, both cases based the definition of personhood on subjective factors permitted by the government. By failing to acknowledge inalienable rights as objective rights applicable to every human, the government placed sovereignty on the men and women in power. By doing so, the judicial system strayed from the belief held by the Founding Fathers that viewed humankind as inherently depraved. The modern view that government holds absolute sovereignty undermines the purpose of checks and balances throughout the Constitution. Neglecting the fundamental beliefs imbedded within the Constitution has historically paved the way for violations of inalienable rights and continues to violate inalienable rights today through the modern method of eugenics, abortion.

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