

# The Historical Research of Legislative Process of the Eugenic Protection Act and maternal and child health administration in Japan

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## Purpose and Method of Research

### ■ Purpose

Now, more than 60 years after the end of World War II, the range of available options concerning pregnancy and birth are broader than ever. When considering the future administration of maternal and child health, it is important to reflect on past frameworks concerning pregnancy and birth. This study aims to elucidate the historic process of legislations, including the pre-war National Eugenic Act as well as the Eugenic Protection Act and the present Maternal Protection Act.

### ■ Method

#### 1. Study design

Historical research based on interviews, historic data and the literature

#### 2. Study period

August 1, 2012 through March 1, 2013

#### 3. Data collection

Interviews, historic data and the literature

#### 4. Data analysis

Policy impacts are analyzed by matching such data as the birth rate and death rate of expectant mothers, interviews, historic data, etc.

#### 5. Ethical consideration

The study was approved by the Research Ethics Committee of the Japanese Red Cross College of Nursing (Approval number: REC No 2012-53 as of July 20, 2012)

## Result

### ■ The Birth of Eugenics and Japan

- 1865: “Hereditary Genius” by Sir Francis Galton, UK
- 1883: “Inquiries into the Human Faculty and its Development” (Galton) published, in which the term “Eugenics” was used
- Publication of a eugenics papers → A view developed in Japan that linked Eugenics and the national stance
- Movement concerning Eugenics worldwide  
1907: The US state of Indiana adopted legislation about sterilization (aimed to control eugenically inferior genes) → This policy spread across many US states as well as Europe
- Nazi Germany saw “Eugenics” as a tool to save its population from racial inferiority and improve its hereditary superiority, thus to strengthen Germany’s ethnocentric nationalistic drive  
→ “the Law for the Prevention of Genetically Diseased Offspring” was enacted (and forced on to many Jews)

- Hisomu Nagai (University of Tokyo) and others established “the Eugenic Marriage Popularization Society” (aimed to strengthen the blood of the Yamato Race)  
→ Submission of “National Eugenic Protection Bill”  
→ enactment of the National Eugenic Act in 1940
- Status of eugenic surgery under the National Eugenics Act is shown in Table 1.

Table 1 Status of eugenic surgery under the National Eugenics Act (Ministry of Health investigation data)

	Male	Female	Total
1941	47	47	94
1942	83	106	189
1943	62	90	152
1944		18	18
1945		1	1
1946	20	39	59
1947	5	20	25

Source: Tenrei Ota (1976)  
“Birth Control in Japan - History of the last 100 Years”  
(compiled by the author based on an excerpt)

## Result

### ■ Difference between birth control for maternal and child health and Malthus' population theory

“Birth control” → translated using the expression “sanji seigen (birth limitation)”

Resulted in

Misunderstanding of “birth control” including abortions

To avoid criticism of limiting the population size, the expression “birth control” was used. This term then gradually gained popularity.

Margaret Sanger's birth control movement aimed to prevent terrible waste of mothers and children. (Sanger's) birth control was, in many cases, a necessary and natural procedure in terms of benefit for a woman of any class who is to become a mother, as well as the child. When practiced by the proletarian class, benefits of birth control cannot be denied from any point of view. However, in respect of the method of practice, it is necessary to promote the cheapest, easiest, most secure and least harmful method. (Kikue Yamakawa)

\* Underlines by the author

Different concept from Malthus (control of population growth based on the population theory)

## Result

### ■ National Eugenic Act came into effect

1938: enactment of the National General Mobilization Act in preparation for all-out battle



Enhancing Japan's military might and strengthening the health and hygiene of the citizens (as the production force)

- National Eugenic Protection Bill (“National purity shall be protected and nurtured, while the inheritance of inferiority shall be eliminated” (Goro Arakawa) was tabled at the Imperial Diet several times

### 1940: Enactment of “National Eugenic Act”

1. Eugenic surgery was indicated for those suffering one of the specified diseases if the child was also extremely likely to suffer the same disease
2. Whether eugenic surgery was to be performed or not was decided by the regional director taking the view of the Central Eugenic Board into consideration
3. Eugenic surgery would be performed by a designated medical practitioner under the orders of the Minister of Health or the regional director

## Result

### ■ Post-war confusion and the major increase in the productive population

- Children under 15 years old accounted for approximately 24% of the increase, while the “productive population” of those between 15 and 59 years of age constituted 70% of the population. The birth rate was high while the infant death rate declined
- The birth rate in 1947 was 34.4% (per 1000 of the population), exceeding the pre-war level (see Figure 1)
- “Decline of birth rate from the popularization of birth control will be significant to control the population size” (Masahiko Nishiuchi)

Issues concerning public health and maternal health [sic]

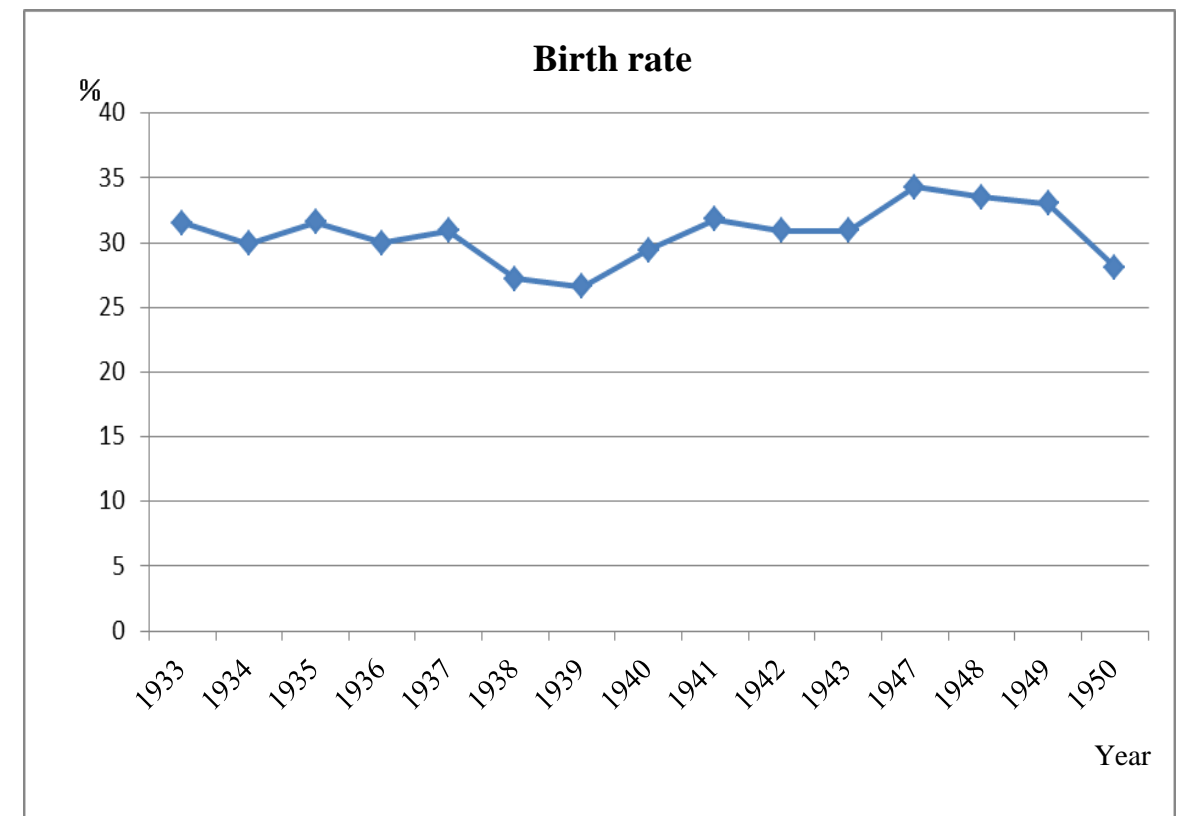
Increasing stillbirths due to artificial abortion

Proposed as solutions for population overgrowth by the GHQ:

- (1) Develop manufacturing industries to import food
- (2) Emigration
- (3) Birth control

February 1946

Figure 1 Birth number and rate (per 1000 of the population), birth sex ratio and total fertility rate for the indicated years



Notes 1: Years 1944 to 1946 were not included due to a lack of data. The figures for the years 1947 to 1972 do not include the data for Okinawa Prefecture  
2: The total number of births for 1926, 1930 and 1935 included one of unknown sex  
3: Population of Japan was used to calculate the rates and ratio  
Data sources: “Population Statistics” from National Institute of Population and Social Security Research and “Vital Statistics” from MHLW



## Result

### ■ Legislation of Eugenic Protection Act was hurried

The bill, assuming a Eugenics point of view ... aimed also to **protect the maternal life and health**, holding the view that artificial abortion was only legal when it was deemed medically necessary to **save the mother's life**. This bill is also intended to provide a wider legal ground to approve abortion from **the point of view of maternal protection**. In short, when objectively rational, it may be performed only with the consent of the mother herself and her spouse.”  
(Yasaburo Taniguchi) \* Underlines by the author

### Summary of the Eugenic Protection Act

1. In the interests of the prevention of specified diseases and maternal protection, in case of a certified disease, a medical practitioner can perform eugenic surgery with the consent of the mother herself and her spouse
2. If the prefectural eugenic protection board or central eugenic protection board deemed it appropriate to perform eugenic surgery, a designated medical practitioner can perform eugenic surgery
3. When certain conditions deemed necessary for maternal protection are met, and if the mother herself and her spouse consent or the regional eugenic protection board deems an artificial abortion appropriate, a designated medical practitioner can perform an artificial abortion
5. A regional eugenic protection board, where decisions concerning artificial abortion cases are made, a prefectural eugenic protection board, where decisions concerning eugenic surgery are made, and a central eugenic protection committee, where decisions concerning eugenic surgery are made and matters necessary for eugenic protection are handled, shall be established
6. For the purpose of providing marital advice from a eugenic point of view and to facilitate popularization of the knowledge necessary for eugenic protection, a Eugenic Marriage Advice Office shall be established

\* Underlines by the author

## Result

### ■ Positions of the organizations and individuals who oppose artificial abortion

- Revision of Eugenic Protection Act (1949): Allowed artificial abortions on economic grounds
- Revision of Eugenic Protection Act (1952): Allowed artificial abortions only based on the medical decision by a designated medical practitioner under the Eugenic Protection Act and consent by the mother herself and her spouse

Purpose of legislation:

Allowing artificial abortions, which used to be the only option for poor families with many children

**Allowing economic grounds**  
 → Go to the doctor and he'll fix it for us any time (an easy solution)

- The period between 1949 and 1951 saw a dramatic increase in artificial abortions by “review” (Table 2, Katsuyoshi Takahashi)
- The actual number of eugenic protection procedures itself was few. Most procedures were performed for maternal protection. When taking population growth into consideration, the rate is actually in decline (Table 3)
- “The concern about counter-selection of the race” by artificial abortions, Eugenic Protection Act needed revising. In the interest of maternal protection, birth control rather than artificial abortion (Takahashi)

Table 2 Status of artificial abortions

	1949	1950	1951
Voluntary	145,021	168,961	179,593
Reviewed	101,083	320,150	458,757
Total	246,104	489,111	638,350

Source: No 12, Eugenic issues and population policies; Volume 26, Collection of reference sources on sexual and reproductive rights issues, Fujishuppan (2001) (compiled by the author based on an excerpt)

Table 3 Status of eugenic protection procedures (Ministry of Health investigation)

		1949	1950	1951
Voluntary	Hereditary diseases	167	235	237
	Leprosy	97	103	107
	Maternal protection	5,356	10,792	15,409
	Total	5,620	11,130	15,753

Source: No 12, Eugenic issues and population policies; Volume 26, Collection of reference sources on sexual and reproductive rights issues, Fujishuppan (2001) (compiled by the author based on an excerpt)



## Result

### ■ From the late 1960s to enactment of the Maternal Protection Act

- Advanced economic growth period: Urban employment grew, causing the migration of male workers from the rural regions into big cities, while rural women remained home carrying on with farming until giving birth → impact on the death rate of expectant mothers
- Expectant mothers' death rate in Japan during the period between 1955 and 1965 was markedly high (Table 4)



- Necessity for birth control
- New movements on the stance on artificial abortions, either pro or against
- Criticism from the international society against Japan's Eugenic Protection Act

Eugenic Protection Act  
Revised to the Maternal  
Protection Act

**Table 4 Death rate of expectant mothers in the respective countries (Data for years indicated; against 100,000 live births)**

Country	1955	1965	1975	1985	1995	2005	2010
<b>Japan <sup>1)</sup></b>	<b>178.8</b>	<b>87.6</b>	<b>28.7</b>	<b>15.8</b>	<b>7.2</b>	<b>5.8</b>	<b>4.2</b>
Canada	75.8	32.3	7.5	4.0	4.5	'04) 5.9	'04) p 5.9
US	47.0	31.6	12.8	7.8	7.1	18.4	'05) 18.4
France	61.1	32.2	19.9	12.0	9.6	5.3	'07) 7.6
Germany <sup>2)</sup>	156.7	...	39.6	10.7	5.4	p 4.1	'06) 6.1
Italy	133.3	77.0	25.9	8.2	3.2	'03) p 5.1	'07) p 2.3
Holland	60.9	26.9	10.7	4.5	7.3	p 8.5	'08) p 4.3
Sweden	49.4	13.8	1.9	5.1	3.9	p 5.9	'07) p 1.9
Switzerland	104.3	37.6	12.7	5.4	8.5	p 5.5	'07) p 1.3
UK <sup>3)</sup>	65.7	18.0	12.8	7.0	7.0	7.1	'07) 7.3
Australia	64.0	57.0	5.6	3.2	8.2	'04) p 4.7	'06) p 3.4
New Zealand	44.1 <sup>4)</sup>	21.6	23.0	13.5	3.5	p 10.4	'06) p 15.2

Sources: WHO "World Health Statistics Annual"

UN "Demographic Year Book"

Japan "Vital Statistics 2010" (Statistics and Information Department)

Note: "p" indicates a provisional figure

Notes 1: Data presented as figures against 100,000 live births for international comparison

2: Data for 1985 and before are those of the former West Germany

3: Data for 1985 and before are those of England and Wales

4: Excluding the Māori population

# Discussion

1. Malthusianism, derived from Malthus' Principle of Population, new Malthusianism, and Darwin's "Origin of Species" all lead to the birth of Eugenics and the philosophy based on it.
2. Although the pre-war birth control movement was not based on a population theory such as Malthusianism or new Malthusianism, but was in pursuit of women's rights and maternal protection, because "birth control" was translated using the Japanese expression for "sanji seigen (birth limitation)," it was misunderstood to include artificial abortions. It is possible that people did not understand the concept correctly at the time.
3. During the post-war confusion, the increased number of black-market abortion cases harming maternal health, the difficulty of raising and educating children because of poverty, rapid population growth and similar circumstances, urgent legislation of the Eugenic Protection Act was required. However, another aspect of this legislation was that by allowing artificial abortions on economic grounds, artificial abortion became a popular solution, disregarding maternal protection.
4. The raising criticism from the international society had a major impact on the revision of Eugenic Protection Act and legislation of the Maternal Protection Act.
5. Although the recent advancement in science and technology broaden the options for pregnancy, birth and parenting, its impact is often unforeseeable. We are now entering a difficult era for policy decisions, in a different way from the post-war situation when science was not advanced.

## Discussions

- Malthusianism, derived from Malthus' Principle of Population, new Malthusianism and Darwin's "Origin of Species" all lead to the birth of Eugenics and the philosophy based on it.
- Although the pre-war birth control movement was not based on a population theory, but was in pursuit of women's rights and maternal protection, because "birth control" was translated using the Japanese expression for "sanji seigen (birth limitation)," it was misunderstood to include artificial abortions.
- During the post-war confusion, artificial abortions came to be allowed on economic grounds, and artificial abortion became a popular solution, disregarding maternal protection.

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