國立政治大學 106 學年度 碩士招生考試試題

考試科目	社會議題分析 9/211	系所別	法律科際整合研究所	考試時間	2月19日(日)第二節

一、請先閱讀這則新聞報導，然後回答底下的問題：（70%）

83 歲傅達仁開刀 6 次求安樂死　發表新書改生前追思會

蘋果日報 2016 年 12 月 07 日

83 歲前體育主播傅達仁 3 個月前發現自己生病，因膽管阻塞不但切除膽囊，胃也切一半，4 個月內體重從 74 公斤瘦到 62 公斤，暴瘦 12 公斤，期間進出醫院 10 多次，開刀 6 回，他今受訪透露已作好最壞打算，一心求安樂死，「就走到最後一步，不行了也沒辦法」，並打算把原定 27 日舉行的新書發表會改成生前追思會，思想十分豁達。

傅達仁今接受訪問時透露，他上書給蔡英文總統，是希望為民請命，因為他以 84 歲高齡，近 3 個月來接受 6 次手術，都是膽管的問題，也把膽囊摘除，手術期間不能吃東西相當痛苦，在醫院更看到王祖賢爸爸也因為癌症侵蝕而難受，因為不分藍綠，為民請命通過有限制的安樂死法案。

總統府發言人黃重諺今天受訪指出，今天下午總統府收到了這封來自傅達仁的陳情信，「我們會就具體內容做進一步的了解，並且請相關單位來協助處理。也請傅達仁先生保重身體」。

傅達仁說，他從 74 公斤瘦到 62 公斤，使得 180 公分的他身體吃不消，本來大腸也檢查出息肉，醫生說化驗出來不太好，還有攝護腺腫大，都因過瘦醫生不敢開刀，他感嘆：「直到去年我都還很好，但今年就這樣，幸虧我老婆跟著我進出醫院，不然真不知如何才好。」

他也難過表示，病了之後，坐也不是，躺也不是，站也不是，前後依靠自己跟健保資源花了大概上百萬元，而且都是找名醫診治，不過膽管阻塞無法開刀，因為不斷發燒，只能裝支架，還有不斷打消炎藥、抗生素，每天都感覺很痛苦。育有 1 子 1 女的傅達仁，也規劃好身後事，打算把原定 27 日舉行的新書發表會改成生前追思會。傅達仁表示自己是為了全民，不是為了個人，「大家都在討論一例一休和平權，卻沒有人注意到老人問題，我才會站出來」，他表示家人其實不贊成他安樂死，但他心意已決。

請你針對內容中的相關議題詳細提出你的評論與分析。評分的重點不是針對你的立場，而是針對你的論證內容與論理過程。

備註	一、作答於試題上者，不予計分。 二、試題請隨卷繳交。

考試科目	社會議題分析	系所別	法律科際整合所	考試時間	2月19日(日)第二節

二、英文命題部分（30%）

Read the U.S. Supreme Court decision below and answer the questions that follow.

Buck v. Bell, 274 U.S. 200 (1927)

Mr. JUSTICE HOLMES delivered the opinion of the Court.

This is a writ of error to review a judgment of the Supreme Court of Appeals of the State of Virginia affirming a judgment of the Circuit Court of Amherst County by which the defendant in error, the superintendent of the State Colony for Epileptics and Feeble Minded, was ordered to perform the operation of salpingectomy upon Carrie Buck, the plaintiff in error, for the purpose of making her sterile. 143 Va. 310. The case comes here upon the contention that the statute authorizing the judgment is void under the Fourteenth Amendment as denying to the plaintiff in error due process of law and the equal protection of the laws.

Carrie Buck is a feeble minded white woman who was committed to the State Colony above mentioned in due form. She is the daughter of a feeble minded mother in the same institution, and the mother of an illegitimate feeble minded child. She was eighteen years old at the time of the trial of her case in the Circuit Court, in the latter part of 1924. An Act of Virginia, approved March 20, 1924, recites that the health of the patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives, under careful safeguard, &c.; that the sterilization may be effected in males by vasectomy and in females by salpingectomy, without serious pain or substantial danger to life; that the Commonwealth is supporting in various institutions many defective persons who, if now discharged, would become a menace, but, if incapable of procreating, might be discharged with safety and become self-supporting with benefit to themselves and to society, and that experience has shown that heredity plays an important part in the transmission of insanity, imbecility, &c. The statute then enacts that, whenever the superintendent of certain institutions, including the above-named State Colony, shall be of opinion that it is for the best interests of the patients and of society that an

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inmate under his care should be sexually sterilized, he may have the operation performed upon any patient afflicted with hereditary forms of insanity, imbecility, &c., on complying with the very careful provisions by which the act protects the patients from possible abuse.

The superintendent first presents a petition to the special board of directors of his hospital or colony, stating the facts and the grounds for his opinion, verified by affidavit. Notice of the petition and of the time and place of the hearing in the institution is to be served upon the inmate, and also upon his guardian, and if there is no guardian, the superintendent is to apply to the Circuit Court of the County to appoint one. If the inmate is a minor, notice also is to be given to his parents, if any, with a copy of the petition. The board is to see to it that the inmate may attend the hearings if desired by him or his guardian. The evidence is all to be reduced to writing, and, after the board has made its order for or against the operation, the superintendent, or the inmate, or his guardian, may appeal to the Circuit Court of the County. The Circuit Court may consider the record of the board and the evidence before it and such other admissible evidence as may be offered, and may affirm, revise, or reverse the order of the board and enter such order as it deems just. Finally any party may apply to the Supreme Court of Appeals, which, if it grants the appeal, is to hear the case upon the record of the trial in the Circuit Court, and may enter such order as it thinks the Circuit Court should have entered. There can be no doubt that, so far as procedure is concerned, the rights of the patient are most carefully considered, and, as every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that, in that respect, the plaintiff in error has had due process of law.

The attack is not upon the procedure, but upon the substantive law. It seems to be contended that in no circumstances could such an order be justified. It certainly is contended that the order cannot be justified upon the existing grounds. The judgment finds the facts that have been recited, and that Carrie Buck "is the probable potential parent of socially inadequate offspring, likewise afflicted, that she may be sexually sterilized without detriment to her general health, and that her welfare and that of society will be promoted by her sterilization," and thereupon makes the order. In view of the general declarations of the legislature and the specific findings of the Court,

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obviously we cannot say as matter of law that the grounds do not exist, and, if they exist, they justify the result. 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. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. *Jacobson v. Massachusetts*, 197 U. S. 11. Three generations of imbeciles are enough.

But, it is said, however it might be if this reasoning were applied generally, it fails when it is confined to the small number who are in the institutions named and is not applied to the multitudes outside. It is the usual last resort of constitutional arguments to point out shortcomings of this sort. But the answer is that the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similarly situated so far and so fast as its means allow. Of course, so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached.

Judgment affirmed.

Questions:

1. What were the facts, issues, and holding of the case?
2. Please make your comments on the opinion of the Court, and it would be better if you can use this case and your comments to analyze a current social issue in Taiwan or another country.

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