



# Who's your Daddy? ART and Fatherhood

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# What is fatherhood?

- Status – position assigned to an individual in social relations by others
- Role – acting out the expectations of the status in the performance of social relations with others

# What makes a father?

- Discussions thus far have assumed unassisted (“natural”) reproduction within the framework of a nuclear family model.
- The men involved have made the required biogenetic contribution to create a child.
- But they do not necessarily want to fulfill the subsequent behavioral requirements.
- Kicking and screaming ...

# The most deliberate fathers ...

- Other couples only become parents after a great deal of effort and purposeful planning and expenditures, driven by a desire to participate in the role.
- Fertility, infertility, adoption, and kinship
- What can we learn about our assumptions?



# Assisted Reproductive Technologies

- *In vitro fertilization* and its variants, where gametes (sperm and egg) are manipulated outside the human body.
- Includes methods of third party reproduction where another person besides than the intended parents is involved in a biological way.
- Over 1% of infants conceived by ART (47,102 births and 61,561 infants in 2010)

# How does conception matter?

- Fatherhood is about inheritance and legitimacy, the assigning of rights.
- Two elements: legal and biological (now genetic) (David Schneider)
- ART enables situations that question how we assign these rights and our definition of fatherhood.

# Financial Responsibility

- “The 9-0 decision rejected the claim that a biological child of a married couple, even one born years after the father died, always qualifies as his survivor under the Social Security Act.” (L.A. Times, 5/22/12)
- Plaintiff birthed IVF twins 18 months after husband’s death using banked sperm.
- Other cases have established that estate owes nothing to these children.

# Intentionality

- Reproductive law focuses on the purpose for which gametes are obtained.
- The dead cannot intend to conceive.
- Also beginning to be applied to donor gametes – suggestion that the act of donation frees the donor from future responsibility and rights, which attach to intended parents.



# “One Sperm Donor, 150 Offspring”

- NYT, 9/5/11
- British Warnock report recommends limit of 10 offspring per donor
- ASRM says 25 births per 800,000
- “Experts don’t talk about this when they counsel people dealing with infertility,” Ms. Kramer said. “How do you make connections with so many siblings? What does family mean to these children?”

# Why ask this question here?

- The discussions here have been grounded in a genetic understanding of fatherhood.
- Fatherhood as privilege to be earned?
- “No relationship”
  
- What is the qualitative difference between a one-night stand and a donation at a sperm bank?

# Third party reproduction – how many parents can one child have?

- There are five roles that are “normally” collapsed into two individuals:
  - Female genetic contributor
  - Male genetic contributor
  - Female gestational carrier
  - Female social parent
  - Male social parent
- Tearing apart these roles is not entirely new.



**Surrogacy has a long history.**

# Now, the gestational carrier ...

- Grounded in the assumption that gestation creates a lesser bond (and thus temptation to not relinquish) without a genetic connection.

# Donor gamete vs. step families

- “Person whose romantic co-parent is not biologically related to child”
- Donor gamete parents do not need to formally adopt their children as long as they fit presumptions at birth.
- Citizenship laws grounded in genetics and do equate these two.

# Nuclear family is not “natural”

- Matrilineal societies relied on uncles.
- Women mother in groups in polygynous societies.
- We can't do an RCT to determine a gold standard, but we should not assume that our formulation is the only and best way.

# What do the kids say?

- Ask them – they know!
- Tale of two 15 year olds
- Fatherhood only exists in a bi-directional relationship with a subject.
- Do we hurt a child by imposing a “father” on them?



# Our mission

- “The mission of the NICHD is to ensure that every person is born ... wanted ...”
- ART and adopted children have at least one parent (and usually two) who want them desperately.
- We should want this for all children, and look to the people who can best fulfill this.