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Paternity and Child Welfare

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This theoretical and conceptual analysis, rooted and organized by frameworks and empirical literature, aims to explain biases against fathers in the United States' family court system. Positive paternal involvement has been shown to be correlated with positive child outcomes, placing an emphasis not just on quantity of paternal involvement, but quality as well. Despite these findings, fathers are societally expected to be less involved than mothers. Fathers are also in positions to be held financially hostage even when alternatives to pregnancy are legally accessible, suggesting that paternal financial contributions are viable substitutes for paternal involvement. The court of law and the court of public opinion may be in opposition as to where we go from here.

Keywords: Child Welfare, Family Court System, Fatherhood, Financial Abuse, Gatekeeping, Abortion

Paternity and Child Welfare

The Fourteenth Amendment states, “no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Historically, United States Federal Case Law contains several supreme court cases on the topic of fathers’ rights, a minimum of five of which relate to the sub-topic of alternative (non-maternal) placement of children.

In the case of *Stanley v. Illinois* (1972), an Illinois statute declared that upon the death of the child’s mother, children of unmarried fathers are to be declared dependents without any hearing regarding the fathers’ parental fitness or a determination of neglect. Illinois required such a hearing before the State could assume custody of a divorced couple’s children, or an unmarried mother’s children. An unmarried father, whose children were declared wards of the state and placed in guardianship upon the death of their mother, brought due process and equal protection challenges against the State of Illinois.

The United States Supreme Court held that under the Due Process Clause of the Fourteenth Amendment, the unmarried father was entitled to a hearing on his parental fitness before his children could be placed with the State. The Court also held that where unwed mothers and divorced parents were granted such a hearing, a denial of a hearing to unwed fathers violated the Equal Protection Clause of the Fourteenth Amendment.

The United States Supreme Court recognized that the Constitution protects an unwed father’s parental rights. However, the unwed father in this case had custody of his children before his wife’s death. The Supreme Court framed the protected interest as follows: “The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection.” This case left the question of whether or not an unmarried father who did not raise his children had any constitutionally protected parental rights unanswered.

In the case of *Quilloin v. Walcott* (1978), the consent of a father was not required before a child born out of wedlock could be placed for adoption under one Georgia statute. Under a different Georgia statute, the consent of both parents was required before a child born in wedlock could be placed for adoption. A mother, whose child was born out of wedlock, who then married a different man who was not the father, consented to her new husband’s adoption of the child. Subsequently, the biological father attempted to block the adoption and secure visitation rights. The trial court granted the adoption on the basis that it was in the “best interests of the child,” and the Georgia Supreme Court affirmed.

The United States Supreme Court held that the unwed father’s substantive rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment were not violated by the application of the “best interests of the child” standard. The Court reiterated the constitutionally protected relationship between a parent and child, but distinguished this case from others. The Court held that in a case in which the unwed father never sought actual or legal custody of his child, he is not entitled to veto authority over the adoption of his child.

The Supreme Court addressed the question left unanswered after *Stanley* here. In justifying this distinction, the court said the following: “[The unwed father] has never exercised legal or actual custody over his child, and thus has never shouldered any significant responsibility with respect to the daily supervision, education, protection, or care of the child.” The case permitted “difference[s] in the extent of commitment to the welfare of the child” by an unwed father to be considered in determining if his constitutional rights were violated.

In the case of *Caban v. Mohammed* (1979), an unwed couple who lived together in New York for five years had two children together. A New York law permitted a child's unwed natural mother to withhold her consent and block the child's adoption, but did not permit a child's unwed natural father to do the same. The natural parents each attempted to adopt the children, and the New York court granted the natural mother and stepfather's petition to adopt. The court stated that the natural father was foreclosed from adopting the children because the natural mother had withheld her consent.

The United States Supreme Court held that the New York law in question violated the Equal Protection Clause of the Fourteenth Amendment. The Court analyzed the case through its intermediate scrutiny standard for questions regarding gender-based discrimination, and held that the statutory distinction did not bear "a substantial relation to the proclaimed interest of the State in promoting the adoption of illegitimate children."

This case was a victory for unwed fathers, though still based on a significant paternal relationship where the unwed father had established a substantial relationship with the children, lived with the children when they were very young and was listed on their birth certificates. The terms of the relationship required for constitutional protection of putative fathers' parenting rights remained unclear.

In the case of *Lehr v. Robertson* (1983), a woman gave birth to a child out of wedlock and married a man who was not the biological father eight months later. After a little over a year of marriage, the mother and her husband filed an adoption petition. Since the State of New York maintained a "putative father registry," whereby a man could demonstrate his intent to claim paternity of a child born out of wedlock, registering meant that a putative father became entitled to notice of any proceeding to adopt that child. The child's biological father did not enter his name on the registry. Even though the judge presiding over the adoption petition knew from records reviewed that the biological father had filed a paternity petition for that child, he entered the adoption order without giving notice to the biological father. The father filed a petition to vacate the adoption, claiming the judge's failure to provide notice violated his constitutional rights. The United States Supreme Court held that where a putative father had never established a substantial relationship with his child, the State's failure to give him notice of adoption proceedings, even though the State knew he was claiming paternity, did not violate the Due Process Clause or Equal Protection Clause of the Fourteenth Amendment. The Court noted that a father's opportunity to "accept some measure of responsibility for the child's future" based on the biological relationship with his child would permit him to "enjoy the blessings" of parenthood and have a positive effect on the child's development. If a biological father fails to take these steps, "the Federal Constitution will not automatically compel a state to listen to his opinion of where the child's best interests lie."

The Court stated the following: "When an unwed father demonstrates a full commitment to the responsibilities of parenthood by coming forward to participate in the rearing of his child, his interest in personal contact with his child acquires substantial protection under the due process clause, but the mere existence of a biological link does not permit equivalent constitutional protection."

In the case of *Michael H. v. Gerald D.* (1989), a biological father who had established a paternal relationship with his child filed an action to establish paternity and visitation rights. Furthermore, the child claimed she had a right to maintain a relationship with her biological father and her mother's husband. A California statute in place created a presumption that a child born to a married woman living with her husband is the child of the marriage. The California court granted summary judgment for the husband, who was presumed to be the father under California law.

The United States Supreme Court held that the California statute creating the presumption that a child born into a marriage is the child of that marriage did not violate the biological father's procedural or substantive due process rights. Nor did it violate the child's asserted due process or equal protection rights to maintain a relationship with two different fathers.

The Supreme Court took the position of asserting the putative father did not establish that he had any constitutionally protected liberty interest. The integrity of the family unit, where a child is born during and into a marriage, is discussed as being the more important interest that should be protected. A biological connection and active relationship between the biological father and child was not enough to establish a fundamental liberty interest.

Justice Brennan wrote a dissenting opinion, joined by Justices Marshall and Blackmun. This dissent predominantly takes issue with the almost exclusive focus on tradition as a limitation on Constitutional liberties. Justice White wrote a separate dissenting opinion arguing that the California statute, as applied, violated the Due Process Clause of the Fourteenth Amendment.

The resolutions that have come about thus far in the United States Supreme Court hearings regarding fatherhood and fathers' rights have been, in my opinion, unsatisfactory. Biologically, fathers contribute to half of a child's being, yet only this half is required to prove their parenthood in court. There is a saying, "innocent until proven guilty." In the realm of parenthood, the saying seems to be "mother until proven father." Although between Stanley (Stanley v. Illinois, 1972) and Michael (Michael H. v. Gerald D., 1989), there have been some key victories for fathers and lines in the sand regarding paternal parenthood have been made clearer, the fact remains that unlike motherhood, fatherhood, when contested or even questioned, has to be actively established in courts of law. Social service agency practices have responded to US Supreme Court proceedings by having significantly different standards for engaging fathers of children in foster care. (O'Donnell, 1999 & O'Donnell 2001) In order to comport with applicable professional codes of conduct, agency staff must go beyond the minimum standards of paternal engagement and recognize the value that both parents can bring to a child's life.

Data compiled from a variety of sources, including the U.S. Census, National Center on Child Abuse and Neglect, National Fatherhood Initiative, National Center for Education Statistics and several other scholarly reports shows that 24 million children in America, or one out of every three, live in homes without biological fathers. A child with a nonresident father is 54 percent more likely to be poorer than his or her father. Fatherless children are twice as likely to drop out of school. Children growing up without fathers are at a far greater risk of child abuse as there is a 77 percent greater risk of being physically abused, an 87 percent greater risk of being harmed by physical neglect, a 165 percent greater risk of experiencing notable physical neglect, a 74 percent greater risk of suffering from emotional neglect, an 80 percent greater risk of suffering serious injury as a result of abuse and overall, they are at a 120 percent greater risk of being endangered by some type of child abuse.

Maternal involvement has been researched thoroughly and findings, from Publishers Weekly (2004) to The International Dictionary of Psychoanalysis (2005) to Health & Wellness (2010) to even Animal Behaviour (2011) and almost every journal, book, magazine and literary work in between, have generally been in agreement with common sense: that the bond a child shares with a mother is the most prominent bond there is. That being said, this literature review aims to focus on the relatively un-researched: paternal involvement (in comparison to research on maternal involvement). I cannot emphasize enough that in no way, shape or form does this topic aim to devalue maternal involvement in order to value paternal involvement. Rather, it aims to highlight the importance of paternal involvement independently from maternal involvement.

Those who stress increased paternal involvement have quite a few arguments. Children's development is influenced by the quantity and quality of paternal involvement in their care. High levels of paternal involvement are associated with significant and highly desirable outcomes for children and families (Prior & Wilson, 2011). Paternal involvement plays a big role in the outcomes for children. While Prior & Wilson stress both quantity and quality, for the topic of paternal involvement, quantity is in fact a prerequisite to quality. Even if interactions are of a high quality, if the quantity isn't present, the quality counts for little to nothing (depending on the age of the child(ren)). Certainly, nobody will encourage poor quality of paternal

interaction however, it is important to first encourage interaction (quantity) before encouraging good interaction (quality) due to the aforementioned reason.

Children's development is influenced by the quantity and quality of paternal involvement in their care, across all stages of development. High levels of paternal involvement are associated with a range of significant and highly desirable outcomes (Lamb, 2004). When quality paternal interaction is achieved (again, meaning that quantity is also achieved), children of all ages seem to do better. Different ages will always have different needs but quality paternal involvement is universally applicable as a significant asset toward children's outcomes.

Furthermore, studies have reported an inverse relationship between the level of positive paternal involvement and children's behavior problems (Amato & Rivera, 1999). Amato & Rivera make a deductive statement in the sense that not only does quality paternal involvement lead to quality children outcomes but that quality paternal involvement leads also to fewer poor outcomes for children. This is quite a powerful statement in the sense that when there is inductive evidence and deductive evidence toward a topic or idea, the argument is strengthened by a seemingly mathematical (input-output) equation of highly reliable validity. Children in families without a father figure are vulnerable to more adjustment problems and poorer academic outcomes (Sawyer, et al. 2001). Sawyer provides one example of Amato & Rivera's point: children tend to struggle in their respective environments when their father isn't involved in their lives. Children face a unique dilemma that adults do not. Because of their experience and knowledge base, they are constantly learning and re-learning ways to maneuver through their respective environments. That being said, adjusting to this variability while continuing to excel in a constant (in this example, education) is a skill that is sharpened by the quality presence of a father in children's lives.

The end-game of encouraging paternal involvement doesn't end with involvement alone. In fact, a father who spends lots of time interacting with his children but does so in a critical or demeaning way may be doing harm rather than good, for example, having children who demonstrate both lower and less stable self-esteem than other children (Kernis, et al. 2000). Switching angles and looking at poor-quality paternal involvement, Kernis points out that fathers can have a negative impact on children's outcomes as well. High quantity, low quality paternal involvement can in fact be counterproductive, however this does not devalidate my earlier point of the relationship between quantity and quality in the realm of paternal involvement. Acknowledging that poor fathering leads to poor children's outcomes doesn't mean we approach the problem with the angle of reducing quantity, but rather improving quality (save for high-risk situations such as sexual assault, violent physical abuse, etc.). This is an idea that is stressed in theory but rarely so in practice. Moreover, classification and stability of problem severity in pre-school boys referred for oppositional behavior has been shown to be related to fathers' life stress, attitudes toward parenting, psychological symptoms, positive involvement and harsh discipline practices (DeKlyen, et al. 1998). DeKlyen provides support to Kernis' point of the impact of negative paternal involvement, providing a specific example of Kernis' point. In this example, pre-school boys specifically showed the tendency of developing maladaptive behaviors in correlation with their fathers' negative parenting strategy and/or poor mental health. Kernis & DeKlyen's research further validates the degree of impact of paternal involvement with examples that continue to work like a mathematical equation.

Though rather obvious, it should be stated again that paternal involvement is only the beginning. The goal is actually positive paternal involvement. The results for fathers of positive involvement are related to a range of healthy psychosocial outcomes, psychological and social aspects of sharing parenting are associated with marital happiness, parental competence, and closeness to children. (Ehrenberg, et al. 2001) High quantity, high quality paternal involvement not only means better outcomes for children, but also better outcomes for parents (including mothers). High quantity, high quality fathering leads to a "team" feeling between mothers and fathers, bringing them closer in their relationship together as they become closer to their child (sounds like a line from a Disney movie but it is factual as researched by Ehrenberg).

Fathers' typically more physical, unpredictable and arousing play is greatly enjoyed by children, particularly boys, and this unique paternal style contributes to children's attachment security (Newland, et al. 2008). At a young age, both boys and girls tend to enjoy learning about their bodies. With fathers' typically physical play involving tackling, pushing, nudging, high-fiving, etc., children find a different style of play than what is typical of mothers who tend to play more carefully and cautiously with their children in the interest of children's safety. As children grow older, boys tend to continue to enjoy physical play (i.e. sports) while girls, not as much (Manning, 2021). This is one of the reasons a father-son relationship usually remains of a more playful nature than that of a father-daughter relationship since fathers can usually continue to play physically with their sons whereas daughters are not as appreciative of this style as they age.

Yet, despite the significant benefits of positive paternal involvement, and in contrast to maternal involvement, paternal involvement remains a matter of choice rather than being considered obligatory as shown by the fact that despite an increase in their availability to children, many fathers spend minimal time alone with their children (Craig, 2006). Fathers are in a unique position where within society, their involvement isn't as assumed as maternal involvement. Where maternal involvement is expected, paternal involvement is merely considered a bonus.

Consequently, there is very wide variation between fathers in degrees of involvement and the aspects of care they participate in (Lamb, et al. 1987). Fathers are expected to be less involved than mothers and may see this as a hint that perhaps they should be less involved than mothers. Fathers will think to themselves, "am I not expected to be as involved in my child's life because I shouldn't be?". Systems within society are built to accommodate mothers and only acknowledge fathers. Meaning that almost all agencies from prevention to foster care operate with the strategy of reuniting child with mother while doing little more than getting information regarding father. In my personal experience, I've witnessed situations where a child comes into foster care and is placed with a foster mother before (s)he is placed with their father (even when the father had nothing to do with the child coming into foster care and lives separately from the mother)! Essentially, the unstated statement in such an instance is that mother is number one, all other women are number two (foster homes are almost never approved unless there is a woman in the home but the presence of a man in the home is rarely relevant to the approval of a foster home) and father is number three!

Furthermore, mothers who lack confidence in the parenting skills of men are likely to limit the involvement of fathers in raising their children, say Jay Fagan and Marina Barnett, professors of Social Administration, Temple University (USA Today, 2002). Their study of paternal involvement and paternal competence found that maternal gate-keeping is a significant factor in the relationship between a child and his/her father.

In the child welfare sector of social services, much of the aforementioned data serves a cursory role. Few, if any, are willing to make a case against the value of paternal involvement, especially positive paternal involvement, but the encouragement of paternal involvement amongst most professionals remains glaringly scarce. My personal feeling is that this is because of the misconception that encouraging one means discouraging the other, as in encouraging paternal involvement means discouraging maternal involvement. This is an outlook that can only be addressed with time and experience, showing folks that one need not take anything away from the other.

Specifically, in foster care, the general hypothesis is that children with positive paternal involvement thrive over children with general-to-negative paternal involvement, who thrive over children with little-to-no paternal involvement. Following this hypothesis, assuming its validity, leads us to follow specific steps: first, to get those fathers who are little-to-not involved in his child(ren)'s life to be involved in any way possible. This may not be the most attractive option to most seasoned professionals, especially if that father has shown evidence that he'll in fact be a negative influence. Once generally-to-negatively involved, then the next step would be to head toward positive involvement.

It is my opinion that we cannot transition from no involvement directly to positive involvement. We cannot go from 0-to-60 without touching 1 through 59 and similarly, I feel that the subject of paternal involvement should be approached in a gradual sense. But this is only my hypothesis, which reviewers could choose to agree or disagree with. I trust that most, however, would agree that when it comes to the topic of paternal involvement, we've yet to hit the tip of the iceberg in regards to both theory and practice. In order to foster increased positive paternal involvement, there is great need for the dissemination of easily accessible, evidence-based information regarding its importance and value (Fletcher, et al. 2008).

Pertaining to child custody, statistics from the US Census Bureau in 2002 show that while 85% of custody decisions go to sole custody by mothers, less than 5% of custody decisions go to sole custody by fathers, with 10% being under joint custody. Of the 12 million one-parent families, 10 million are maintained by women (group excludes remarriage). Furthermore, while 40% of children whose fathers live outside the home have no contact with their father, the other 60% had contact an average of 69 days within the preceding year. Finally, statistics showed that 87% of mothers and 73% of fathers reported that they hugged their child(ren) or showed them physical affection at least once a day. Similarly, high percentages reported telling their children daily that they love them. With these statistics in mind, there has been more recent case law that further defines and establishes parenthood, and to an unfortunately lesser extent, fatherhood.

In the case of *Troxel v. Granville* (2000), Tommie Granville and Brad Troxel had two daughters during their relationship, but never married. After the two separated, Brad lived with his parents (the daughters' paternal grandparents) and regularly brought his daughters to their home for weekend visitation. Troxel committed suicide, but the Troxel grandparents continued to see the daughters on a regular basis. Several months later Granville informed the Troxels that she wished to limit their visitation to one short visit per month. The Troxels filed a petition for visitation, requesting two weekends overnight visitation per month and two weeks of visitation each summer.

Granville asked the court to order one day per month with no overnight stay. The Superior Court ordered visitation of one weekend per month, one week during the summer, and four hours on each of the Troxels' birthdays. Granville appealed, during which time she married Kelly Wynn. The Washington Court of Appeals remanded the case, with the Superior Court finding that the visitation was in the children's best interests.

Nine months later, Wynn adopted the daughters. The Court of Appeals reversed the order, finding that under statute, nonparents lacked standing unless a custody action was pending. The Court did not pass on Granville's constitutional challenge to the visitation statute. The Court found the statute unconstitutional because it was overbroad in that any person could petition for visitation at any time, and also the presumption that a fit parent would act in the best interests of the child was not recognized. The decision struck down a Washington State Law that allowed any third party (i.e. grandparents) to petition state courts for child visitation rights over parental objections. It was stated that, "choices parents make about the upbringing of children are sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard or disrespect."

In the case of *Baxter v. Baxter* (2005), Henry & Jody Baxter and their six-year-old son lived in Australia. Jody Baxter wanted to return home to visit family in Delaware and the agreement was that Jody and their son would go to the U.S. and Henry would join them for Christmas a few weeks later. Jody subsequently wrote to Henry about two weeks into the vacation to indicate that she had met a man, wanted to divorce Henry and keep custody of their son. Henry protested and filed suit to protect his parental rights and have his son returned to Australia.

The case found its way to the 3rd Circuit Court of Appeals, where Judge Alito and his two colleagues in the 3rd Circuit concluded that law required that the boy be returned to his father in Australia. The decision was based on the fact that there was a disagreement as to whether the family meant to relocate permanently to Delaware and that the divorce and custody case should be decided in Australia under international law.

Alito's view on spousal notification and on custody law was said to signal a view on fathers' rights, which could bode well for fathers in judicial decisions in the future. With a willingness to acknowledge the role of fathers in reproductive rights, many in the fathers' rights community saw Alito as a potentially sympathetic justice in issues related to custody and parental rights.

The case of *Dubay v. Wells* (2007) has been dubbed, "The *Roe v. Wade* for Men." In *Roe v. Wade* (1973), Texas statutes made it a crime to procure or attempt an abortion except when medically advised for the purpose of saving the life of the mother. Appellant Jane Roe sought a declaratory judgment that the statutes were unconstitutional on their face and an injunction to prevent defendant, Dallas County District Attorney, from enforcing the statutes. Appellant alleged that she was unmarried and pregnant, and that she was unable to receive a legal abortion by a licensed physician because her life was not threatened by the continuation of her pregnancy and that she was unable to afford to travel to another jurisdiction to obtain a legal abortion.

Appellant sued on behalf of herself and all other women similarly situated, claiming that the statutes were unconstitutionally vague and abridged her right of personal privacy, protected by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments. The Court found that an abortion statute that forbids all abortions except in the case of a life saving procedure on behalf of the mother is unconstitutional based upon the right to privacy.

In the fall of 2004, Matt Dubay and Lauren Wells became involved in a romantic relationship. Dubay claimed in court documents that he informed Wells he had no interest in becoming a father. Dubay also claimed in court documents that in response, she said she was infertile and that, as an extra layer of protection, she was using contraception. The parties' relationship later deteriorated and shortly thereafter, Wells informed Dubay that she was pregnant, allegedly with Dubay's child. She chose to carry the child to term and the child was born in 2005. Dubay claimed in court documents that he consistently told Wells that he did not want to be a father, throughout the pregnancy, and after the birth of the child.

Some of the questions raised by this case were, do Michigan's child support laws apply to men and women equally? Michigan does not force women to make child support payments for children that they do not want to parent. Should a man have responsibility placed on him when his decisions were based on misleading information provided by someone else about her ability or intentions to have a child? Do states pursue men too aggressively for child support payments? The State of Michigan stated that "the needs of the child for support from both parents outweigh any of the circumstances surrounding the birth, "... and *Roe v. Wade* (1973) already decided that women have the ability to decline parenthood in the event of an unintended pregnancy.

Ultimately, the case was dismissed in District Court (2006) and in the US Court of Appeals (2007). It was stated that, "The Fourteenth Amendment does not deny the State the power to treat different classes of persons in different ways." "Dubay's claim that a man's right to disclaim fatherhood would be analogous to a woman's right to abortion rests upon a false analogy. In the case of a father seeking to opt out of fatherhood and thereby avoid child support obligations, the child is already in existence and the state therefore has an important interest in providing for his or her support." Dubay declined to appeal the case to the US Supreme Court.

The question posed by *Dubay v. Wells* (2007) is, to what extent does a woman have the right to hold a man obliged? Consider, that while the decision of intercourse is one made by both parties in agreement, the decision on the extent of the consequence from that intercourse is made by one party alone, the woman. Granted, the act of carrying a child to term is the biological responsibility of the woman, but does that mean that she can decide to punish the man even if his intentions of wishing not to become a parent had been made clear early enough to seek an abortion?

In instances where a man wanted a woman to carry a child to term, and the woman did not, the woman could terminate the pregnancy against the man's wishes. Can a man, encompassing 50% of the child's genetics, and therefore a hypothetical equal-say, force a woman to carry a child to term? Clearly the answer is no. In this instance, while both man and woman had the choice of intercourse, only one party has the choice of parenthood pertaining to both parties. This case is an example that while the state hangs its hat on "the best interest of the child," when it comes to men wishing for parenthood while the woman does not, this notion is not held because what would be in better interest of a child than life? When a man wishes to be a father and a woman wishes not to be a mother, thereafter executing an abortion, has the mother really acted in "the best interest"? Is termination of life considered to be in "the best interest"?

Flip the script and you have an instance where the woman wants to carry a child to term but the man has always and clearly maintained that he does not. As he cannot force the woman to terminate the pregnancy, his parenthood is forced upon him against his will on the basis of "the best interest of the child," a principle we clearly showed is a fallacy uncovering gender bias against men.

Biology is generally used as an argument against this notion. While the man's part in the process (biologically speaking) is intercourse only, the woman is responsible for both intercourse as well as the carrying of the child. Somehow, this is to mean that the man has lesser say in the matter than the woman? How much lesser say does he have? Regardless of who is carrying the child, genetics will show that 50% of who the child is will be the man. Does carrying the child give the woman a 60/40 split in say? 70/30? 90/10? What is the right amount of "handicapping" that this equation should have? Society expects men to provide 50% contribution to their child but 0% decision-making.

The solution, though complex and far from politically correct, involves a man, immediately upon notification of conception by notarized letter by the woman, registering his position on parenthood with his local family court. If he wishes to become a father, we would register that choice with the court and, if the woman is in agreement in favor of parenthood, she would do the same and carry the child to term with full and enforceable expectations that the man will provide for their child until s/he is at least eighteen years old. The scenario is equally simple when neither man nor woman wishes for parenthood at this time, in which case the cost of termination and any subsequent services (whether psychological, medical, etc.) would be defaulted to a 50-50 split between man and woman, unless one party voluntarily decides to cover more than their share.

When it gets complicated is when there is a dispute on parenthood by the man and the woman. The solution when a man wishes to be a father, but the woman does not, would require that the woman take sole responsibility of funding the abortion and any subsequent necessary services. Although the man wishes for parenthood, he cannot hold the woman hostage by forcing her to carry the child to term, a period of nine months.

The solution when a woman wishes to be a mother, but the man does not, would require that the man register his contention in court immediately upon learning of the pregnancy, thereby giving the woman ample time to execute an abortion, paid for solely by the man (along with subsequent services). However, if the woman declines the abortion, she cannot hold the man hostage (just as a man cannot hold a woman hostage), for a period that equates to a minimum of eighteen years, instead taking on full responsibility of

raising the child herself, with no enforceable expectations of support, whether financial or otherwise, from the man.

The aforementioned solutions provide the fairest judgment in all four scenarios. Neither party is put in a position to hold the other hostage and both parties are expected to invest in their positions of choice. However, as with many cases, the biggest opponent of fairness and justice in the court of law is the influence of the court of public opinion. While the court of public opinion regularly mis-values or even blatantly omits relevant facts, the court of law employs a plethora of certified, experienced professionals to seek and pass judgments on heavily reviewed, full gamut of scrutinized facts. As such, mature men and women must make the difficult choice to acknowledge the strengths of the court of law and the weaknesses of the court of public opinion, the flip-side of which seems to be the expertise of most individuals, giving way to the signature fragrance of ignorance that has come to be associated with many.

REFERENCES

- Amato P, Rivera F. Paternal involvement and children's behavior problems. *J. Marriage Fam.* 1999; 61: 375–84.
- Animal Behaviour 79.5 (2010): 1055+. General OneFile. Web. 16 Oct. 2011.
- Baxter v. Baxter, US Court of Appeals, 3rd Circuit, No. 04-3228., (2005).
- Caban v. Mohammed, 441 U.S. 380, 99 S.Ct. 1760 (1979).
- Craig L. Does father care mean fathers share? A comparison of how mothers and fathers in intact families spend time with children. *Gend. Soc.* 2006; 20: 259–81. DOI: <https://doi.org/10.1177/0891243205285212>
- DeKlyen M, Biernbaum MA, Speltz ML, Greenberg MT. Fathers and preschool behavior problems. *Dev. Psychol.* 1998; 34: 264–75. DOI: <https://doi.org/10.1037/0012-1649.34.2.264>
- Dubay v. Wells, US Court of Appeals, 6th Circuit, No. 06-2107., (2007).
- Ehrenberg MF, Gearing-Small M, Hunter MA, Small BJ. Childcare task division and shared parenting attitudes in dual-earner families with young children. *Fam. Relat.* 2001; 50: 143–53. DOI: <https://doi.org/10.1111/j.1741-3729.2001.00143.x>
- Fletcher R, Vimpani G, Russell G, Keating D. The evaluation of tailored and web-based information for new fathers. *Child Care Health Dev.* 2008; 34: 439–46. DOI: <https://doi.org/10.1111/j.1365-2214.2008.00811.s>
- Health and Wellness: Illness among Americans. Barbara Wexler. 2010 ed. Detroit: Gale, 2011. 1-33. Information Plus Reference Series.
- International Dictionary of Psychoanalysis. Ed. Alain de Mijolla. Vol. 1. Detroit: Macmillan Reference USA, 2005. 368-369.
- Kernis MH, Brown AC, Brody GH. Fragile self-esteem in children and its associations with perceived patterns of parent-child communication. *J. Pers.* 2000; 68: 225–52. DOI: <https://doi.org/10.1111/1467-6494.00096>
- LambME, ed. *The Role of the Father in Child Development*. Hoboken, NJ: Wiley, 2004.
- Lamb ME, Pleck JH, Levine JA. Effects of increased paternal involvement on fathers and mothers. In: LewisC, BrienMO, eds. *Reassessing Fatherhood. New Observations on Fathers and the Modern Family*. London: Sage, 1987; 109–25. DOI: https://doi.org/10.1300/j002v09n03_06
- Lehr v. Robertson, 463 U.S. 248, 103 S. Ct. 2985 (1983).
- Levy, C.S. (1973). The value base of social work. *Journal of Education for Social Work* 9 (1), 34-42. DOI: <https://doi.org/10.1080/00220612.1973.10671941>
- Levy, C.S. (1972). Values and planned change. *Social Casework* 53 (8), 488-493. DOI: <https://doi.org/10.1177/104438947205300805>
- Linzer, N. (1999). *Resolving ethical dilemmas in social work practice*. Boston, MA: Allyn & Bacon., ISBN 0-205-29041-8.
- Manning, M. L. (2021). Play development from ages eight to twelve. In *Play from birth to twelve* (pp. 154-161). Routledge. DOI: <https://doi.org/10.4324/9781003249702-21>
- Michael H. v. Gerald D., 491 U.S. 110, 109 S. Ct. 2333 (1989).
- Newland LA, Coyl DD, Freeman H. Predicting preschoolers' attachment security from fathers' involvement, internal working models, and use of social support. *Early Child Dev. Care* 2008; 178: 785–801. DOI: <https://doi.org/10.1080/03004430802352186>
- Prior, Margot R., and Katherine R. Wilson. "Father involvement and child well-being." *Journal of Paediatrics and Child Health* 47.7 (2011): 405+. Academic OneFile. Web. 16 Sep. 2011. DOI: <https://doi.org/10.1111/j.1440-1754.2010.01770.x>

Publishers Weekly 26 Apr. 2004: 68+. General OneFile. Web. 16 Oct. 2011.

Quilloin v. Walcott, 434 U.S. 246, 98 S. Ct. 549 (1978).

Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147, (1973).

Sawyer MG, Arney FM, Baghurst PA et al. The mental health of young people in Australia: key findings from the child and adolescent component of the national survey of mental health and well-being. Aust. N. Z. J. Psychiatry 2001; 35: 806–14. DOI: <https://doi.org/10.1046/j.1440-1614.2001.00964.x>

Stanley v. Illinois, 405 U.S. 645, 92 S. Ct. 1208 (1972).

Troxel v. Granville, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49, (2000).

USA Today Apr. 2002: 2. General OneFile. Web. 16 Oct. 2011.