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Title: Control of Men's Fertility and the Destruction of Fatherhood

Synopsis

- [1] A man has no legal right to know if a child is his.
- [2] If a man without Parental Responsibility conducts a DNA test on a child who is not old enough to consent, and without the mother's consent (or someone else with PR), then he breaks the law and could be imprisoned for up to 3 years, Ref.[1].
- [3] For 5.4% of children the man they believe to be their biological father is not, **Note 1, Ref.[2] and Figure 1**. This has health implications for these children throughout their lives.
- [4] The birth control pill provides women with a covert means of controlling their fertility. There is no equivalent for men. Men cannot render themselves temporarily infertile by such means so as to guard themselves against an unwanted pregnancy.
- [5] It is a woman's right to choose. So a man may see the destruction of his only chance at fatherhood, or he may be obligated to become a father against his wishes. In the latter case he will still be obliged to support the child financially.
- [6] And yet, the Children Act 1989 abolished "the rule of law that a father is the natural guardian of his legitimate child", Ref.[3]. In short, a man has no choice, no rights and limited means of contraception; he just has financial responsibility.
- [7] A man has Parental Responsibility (PR) if he is married to the mother when the child is born, or if he is named on the birth certificate as the father. Biological paternity is irrelevant to both these criteria.
- [8] Definitive and unimpeachable proof of biological paternity does not automatically confer PR, and is not sufficient to guarantee that the father will be granted PR even if he applies to court.
- [9] If a man is not married to the mother, his legal status as a father is entirely dependent on the mother's consent. If she does not want him to be recognised as the father then she is legally entitled to prevent it and he can override this only via a court order.
- [10] On applying to the court for PR, the court will decide whether to grant PR based upon the level of commitment the putative father has shown to the child, the degree of attachment between him and the child, and his reasons for applying for PR. In effect he has to pass an exam to attain PR, unlike a birth mother who is granted PR automatically.
- [11] If the mother has prevented the unmarried father's contact with the child, perhaps from birth, then he will have had no opportunity to display the behaviours the court is looking for and he may find acquiring PR problematical.
- [12] Since June 2020, divorce is now automatic upon unilateral application. *De facto*, the status of PR does not provide the father with any protection as regards his involvement in his children's lives.
- [13] In a move that appears to be unjustified in law, the Ministry of Justice have declared that "there is no automatic right to contact between a child and parent", **Note 2**. As 92% of non-resident parents are fathers, in practice this means for the most part that fathers have "no automatic right to contact" with their own children, regardless of PR. In England & Wales more than 130,000 fathers find themselves newly cast into this position annually.

Cultural / Policy Bias

Traditionally the only assurance of paternity was through the mother's fidelity, and this was socially constrained by taboos against sex before marriage and out of wedlock births. These constraints are now non-existent. But paternity can now be rigorously confirmed/refuted by DNA testing. No sooner had cheap, convenient and highly reliable DNA testing become available than legal restrictions were raised to prevent men who did not already have PR carrying out such a test legally without the mother's permission.

Rationalising this state of affairs, the narrative is that it is social fatherhood, not biological fatherhood, that matters – and to think otherwise is to have “a thin view of fatherhood”, Ref.[5]. This disingenuous perspective does not bear the briefest scrutiny. Firstly, no one is going to accuse mothers of having a “thin view of motherhood” if they prefer to be given their own baby when they leave a maternity ward rather than a baby chosen at random because genetics are irrelevant and all that matters is social maternity.

But, in any case, social fatherhood is not protected either. Quite the opposite. *De facto* fatherhood is a temporary status conferred upon a man on sufferance by the mother and can be effectively, if not officially, revoked by a sufficiently determined hostile mother. This does not always happen on parental separation, of course. But it does happen in around 40% of cases, which is about 50,000 fathers in England and Wales being estranged from their children annually.

Stable parenting used to be the norm because social, cultural, religious and legal constraints prohibited, or strongly discouraged, dissolution. Men were attracted to the institution because fatherhood could be expected to be permanent and because accepting the responsibility was socially rewarded by conferring status. Now fatherhood is impermanent and carries no respect.

This brief note has not considered the effect of parental loss on the children, but this is the essential subtext. A view has gained ground that fathers play no essential role in child rearing, that fathers are not required, a view given sly legitimacy by expressions such as “families come in all shapes and sizes”, which subliminally suggests they are all equivalent. The data suggests otherwise.

It is not only fatherlessness within a given family which damages, but its endemic nature in society - especially in poorer socioeconomic communities. Boys raised in man-deserts, educated prejudicially by women, taught that they are toxic, denied empathy, and disadvantaged increasingly in every sphere as they grow older because they are so “privileged”, are then criticised for “failure to launch”.

Those men who are successful in life's competition can still be very successful indeed. But an increasing proportion of men are becoming disenfranchised from every aspect of life.

References

- [1] Human Tissue Act 2004, [Human Tissue Act 2004 \(legislation.gov.uk\)](http://legislation.gov.uk)
- [2] William Collins, [*The Empathy Gap*](#), Ips publishing (see chapter 15)
- [3] [Children Act 1989 \(Section 2\)](#) see clause (4)
- [4] Ministry of Justice, [Assessing Risk of Harm to Children and Parents in Private Law Children Cases, Final Report](#). June 2020.
- [5] Heather Draper. (2007). [Paternity fraud and compensation for misattributed paternity](#). Journal of Medical Ethics 33(8), 475-480.

Conclusions

- Men have little control over their own fertility (beyond the option to remain celibate for life).
- The status of “father” is precarious, being subject to the whims of others: the mother and the State.
- But fathers retain traditional financial obligations, despite having few commensurate rights.
- This is not a sustainable situation, as young men increasingly understand that fatherhood has become a mugs game, and indigenous fertility rates continue to fall, already well below replacement level.

Recommendations

I have no cure to offer. This sociological disease may be fatal, leading to the extinction of the culture in which it takes root and leading to replacement by a culture which is capable of reproducing itself.

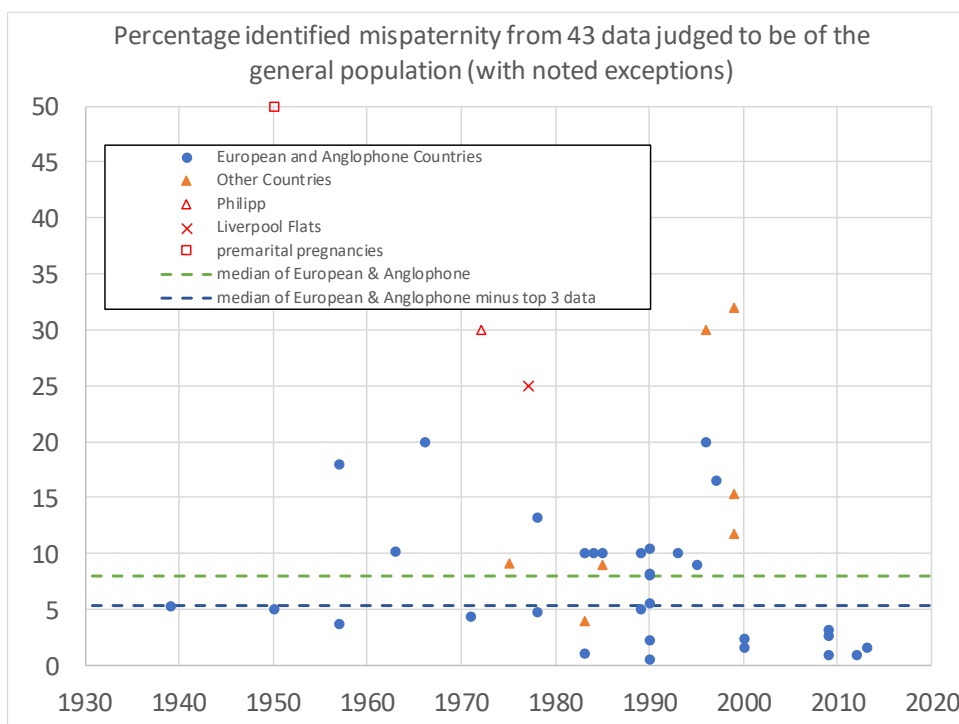
Notes

Note 1: Mispaternity

Ref.[2], Section 15.2, discusses the available data on “mispaternity”, i.e., the ostensible father proving not to be the biological father upon testing. One must be very careful with such data because most of it originates from cases where paternity has been challenged, and hence will be biased towards high rates of mispaternity which will not be characteristic of the general population. Ref.[2] selects out such cases to produce a reduced dataset where there was no pre-existing suspicion of misattributed paternity. The 43 data where testing was not done due to paternity dispute and where there was no reason prior to testing to expect a particularly high or particularly low mispaternity rate comprises 35 cases from European or Anglophone countries and 8 cases from other countries. These data are plotted in Figure 1, below.

Ignoring three high-lying data points whose provenance is suspect, and ignoring the non-European/Anglophone data which are also relatively high, the median of the remaining European/Anglophone data is a mispaternity rate of 5.4%. (For comparison, for those datasets where there was prior suspicion the median mispaternity was 25%).

Figure 1: Percentage of identified mispaternity from data with no prior anticipation of bias (after Ref.[2], Fig.15.1)



Note 2: MOJ claim that “there is no automatic right to contact between a child and parent”

This claim has been made in an MOJ report published June 2020, Ref.[4], Section 3.1.3 (page 26).

This report, and its associated literature review, is subject to a request for Judicial Review by Terrence White and Benjamin Garrett (which, at the time of writing, has gone to appeal after initial refusal). The particular claim that “there is no automatic right to contact between a child and parent” has been specifically challenged in this application for Judicial Review. The Government’s Legal Department, in their Grounds for Resisting the application, have reiterated the claim in para 24 of, Case Number CO/3650/2020 In the High Court of Justice Queen’s Bench Division Administrative Court between Terrence White and Benjamin Garrett, Claimants, and The Lord Chancellor, Defendant

which states, *“In any event, the Report does not misstate the law. There is no automatic right to parental contact.”*

To be clear about the magnitude and significance of this claim, the assertion by UK government is that there is no right for a child to have contact, even with their happily married, stable and competent parents, either mother or father, unless and until there is some sort of governmental intervention to grant or create that right. This is what the absence of an “automatic right” means.

One might have supposed that what was intended was a rebuttal of any “absolute right of parental contact”, i.e., that an automatic right might be overturned in some circumstances. But the Government’s Legal Department has explicitly reiterated their meaning to be that *there is no automatic right to parental contact*”.

This is a remarkable presumption of power which neither the Government nor the judiciary actually possess in law. A detailed statement against this illegal presumption has been made by the Appellants in,

Case Number CO/3650/2020 Bundle Page 2 - 1 In the Court of Appeal between Terrence White and Benjamin Garrett, Appellant / (Claimant), and Lord Chancellor, Secretary of State for Justice, Defendant. Appellants Skeleton Argument Continued in Respect to Appeal Ground C.