In virtually every culture throughout history blood ties have been considered paramount, transcending even such bonds as marriage, nationality, and ethnicity. The very language of such bonds bespeaks the importance of blood ties: One’s native country is referred to as the “fatherland.” Although every society of necessity provides for adoption, custody of children is universally assigned to their biological parents unless there is some strong reason to assign them to others. And when adoption is deemed appropriate, close relatives are generally considered the preferred adoptive parents.

The rare exceptions to these rules tend to confirm the propriety of tradition. Totalitarian societies have often encouraged children to ignore and even to betray and vilify their parents and other relatives who do not hew to the mandatory ideology or whose status renders them politically unacceptable. Thus in Hitler’s Germany children were urged to turn in parents who questioned Nazi rule and propaganda. Stalin’s Soviet Union and Mao’s Red China went a step further and exhorted children to denounce and even abuse parents who were deemed not to come from the working class, regardless of their adherence to the dominant party line.

A milder experiment with demoting blood ties was made in the early days of the Israeli kibbutzim. Children were raised in group homes and saw their parents only on weekends and holidays. This system was introduced because of both the economic need for as many working adults as possible and socialist rejection of bourgeois ideas about the family and gender. Although the experiment caused no disaster, most families did not like it. As soon as economic improvement permitted, people chose to return to traditional practices of having children raised by their parents in the parental home.  

In Western societies blood ties are now subject to a different sort of attack. Much of the attack stems from the homosexual movement. The central goal of this movement is to establish the equivalence of homosexuality with heterosexuality. This goal requires not only the elimination of any government discrimination against homosexuality, but also the equal legal recognition of supposed homosexual equivalents to heterosexual institutions (such as same-sex “marriage” and traditional marriage); the use of state power to compel individuals and private organizations (often including religious organizations) to accept this idea (as by laws forbidding private discrimination against

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1 Schott-van den Eynden Professor of Law, Case Western Reserve University School of Law.
2 [Cite]
homosexuality); and the use of government systems to promote this idea of equality as official state doctrine (as by promoting this idea of equality in public schools).

The traditional family thwarts the goal of homosexual equality. Marriage has always been exclusively heterosexual. It must be transformed by granting equal recognition to homosexual relationships as “marriage”—at the least. The raising of children by their (married) biological parents has always been considered the best arrangement for both children and adults and, therefore, the legal and social the norm. Since homosexual relationships cannot create children, this norm, too, must be topped. Total homosexual equality requires that biological parenthood be pronounced no better than any other arrangement for the raising of children. This article will discuss that position.

I. A Thought Experiment

Consider this thought experiment. Imagine that in the nation of Egalitaria a young married couple—let’s call them Mary and Joseph—are at the local hospital, where Mary has just delivered the couple’s first child, whom they name Chris. Mother and child are fine, so soon after the delivery Mary and Joseph ask hospital personnel when they might be able to take their child home.

They are informed that Egalitaria has just introduced a new law on the custody of newborn children. When a child is born, people are permitted to petition the designated court to be awarded custody of the child. A petition may be filed by an individual or a group of any number. The court then awards custody of the child to the petitioner it considers best suited to raise the child. The biological parents are permitted to file a petition, but no preference is given to them.

Mary and Joseph are surprised to learn this, but they have been told that the purpose of the new system is to institute equality, and they support equality. They quickly draft and file a petition seeking custody of Chris. The only other applicant is a cohabiting (but unmarried) homosexual couple. Their application was drafted by a lawyer and is much more polished than Mary and Joseph’s, which they drafted themselves since they could not afford a lawyer. Nonetheless, Mary and Joseph are optimistic because they believe that a child should have a mother and a father and connection to his other blood relatives and that there is a natural loving bond between children and their (biological) parents.

Since there is no biological reason to limit recognized homosexual relationships to two people, homosexual equality arguably requires recognition of polygamy. And if the human reproductive unit—one woman and one man—deserves no special legal or social status, arguably marriage should not be legally recognized at all. [Cites]
In a couple of days, however, the court awards custody of Chris to the homosexual couple. In explaining its decision the court first chastises Mary and Joseph for the homophobia implicit in their claim that a child should have a mother and a father. The court states that every educated person knows that there is no disadvantage in having two parents of the same sex (or even in having just one parent). The court adds that this homophobia alone raises doubts about the suitability of Mary and Joseph as parents.

The opinion concedes that Mary and Joseph are orderly, law-abiding citizens and that with Joseph’s income as a carpenter they could care adequately for the child. However, it notes that both ended their education after finishing high school, whereas both members of the homosexual couple have college and advanced degrees. They also have much higher income and social standing than Mary and Joseph. In sum, the best interests of the child favor the homosexual couple.

Mary and Joseph then beg the court to be allowed at least to have occasional contact with their child so that they can see “their child” growing up and he will know his “real parents.” They also mention that they have a large and loving family and they hope to have more children in the future. They claim that it is in the best interests of them and of Chris to have Chris be a regular part of this family, including possible future brothers and sisters.

The court first rebukes Mary and Joseph for referring to Chris as “their child” and claiming to be his “real parents.” Their biological connection with Chris is irrelevant; it entitles them to no more rights regarding Chris than the doctors and nurses who delivered and tended the child in the hospital. _A fortiori_, the most distant biological relatives have no legal cognizable interest in contact with Chris, nor does he with them. As for the plans of Mary and Joseph to have more children, the court notes that this is speculative; that the biological connection with brothers and sisters is also legally and socially irrelevant; and that, in any case, given Mary and Joseph’s obvious deficiencies as potential parents, it is unlikely that they would be granted custody of any child they might bear in the future.

Because the attitudes of Mary and Joseph warn of trouble, the court not only rejects their petition for occasional contact with Chris but also issues an injunction forbidding them to make any effort to contact Chris without the consent of his legal parents. The latter have indicated that, because of Mary and Joseph’s homophobia and blatant lack of concern for the best interests of the child, they will not permit Mary and Joseph or any other blood relatives to have any contact with Chris.

The court does, however, decide that Mary and Joseph’s biological connection with Chris is legally relevant in one respect: It decrees that since they begot Chris, they
are responsible for the hospitals costs of his delivery and care until the moment when the homosexual couple takes custody of Chris.

II. Adoption Vs. Biology

Every child in a homosexual house has lost at least one biological parent. Loss of a parent is universally regarded as a great misfortune. If the child has one biological parent; the other adult is a step-parent. In fables step-parents are typically hostile to their step-children. Homosexual couples with children often experience competition or jealousy over parenting, and the children often exhibit a preference for or “primary bond” with one parent. If one is the child’s biological parent, it would be natural for the child to identify the other as secondary, or as not a true parent at all.

Alternatively, the child in a homosexual house has lost both parents. This is universally regarded as a tragedy. Adoption can be a great blessing for children whose parents are unable or unwilling to care for them, but even adoption by a traditional married couple is not equal to the biological family.


6 See Louis DeSerres, Preserve Marriage--Protect Children’s Rights, in What’s the Harm?, supra note x, at 106 (“This biological imbalance can also be the source of numerous tensions and conflicts that are not likely to benefit the child. . . .”).

7 See David M. Brodzinsky, Long-Term Outcomes in Adoption, 3 The Future of Children 153, 153 (Spring, 1993) (“A selective review of the literature indicates that, although most adoptees are well within the normal range of functioning, as a group they are more vulnerable to various emotional, behavioral, and academic problems than their peers living in intact homes with their biological parents.”); Gail Slap et al., Adoption as a Risk Factor for Attempted Suicide During Adolescence, 108 PEDIATRICS 330 (Aug. 2001) (“Attempted suicide is more common among adolescents who live with adoptive parents than among adolescents who live with biological parents.”); Michael Wierzbicki, Psychological Adjustment of Adoptees: A Meta-Analysis, 22 J. CLINICAL CHILD PSYCH. 447 (1993) (meta-analysis of 66 published studies finding that adoptees had significantly higher levels of maladjustment, externalizing disorders, and academic problems that nonadoptees); Matthew D. Bramlett et al., The Health and Well-Being of Adopted Children, 119 PEDIATRICS, Supp. 2007, at S54. See also Sharon Vandivere et al., Adoption USA: A Chartbook Based on the 2007 National Survey of Adoptive Parents 5 (2007), which found inter alia:

[C]ompared to the general population of children, adopted children are more likely to have ever been diagnosed with—and to have moderate
as biological parents, then, they must be better than traditional married couples as adoptive parents. There is no empirical or inductive evidence to suggest that this is true.

Adopted children often crave knowledge of and contact with their biological parents and are challenging laws that prevent them having it. In effect, these children assert the natural importance of blood ties and a human right to access to their biological parents. The law increasingly acknowledges such a right. The Convention on the Rights of the Child, for example, recognizes the right of every child, “as far as possible . . . to know and be cared for by his or her parents.” Because homosexual couples cannot biologically create children, however, the SSM movement must deny the importance of blood ties and any right of children to access to their biological parents.

III. Parents and Gender

Advocates of same-sex parenting claim there is no difference between having a mother and a father and having two guardians of the same sex. This, too, is implausible.

or severe symptoms of—depression, ADD/HAD, or behavior/conduct disorder. . . . [P]arental aggravation (for example, feeling the child was difficult to care for, or feeling angry with the child . . . is more common among parents of adopted children than among parents in the general U.S. population (11 compared with 6 percent).


10 See infra note x and accompanying text.

11 See Louise B. Silverstein & Carl F. Auerbach, Deconstructing the Essential Father, 54 AM. PSYCHOLOGIST 397 (1999).
Men and women differ in significant ways. A growing body of studies confirms: “Mothers and fathers contribute in gender specific and in gender complementary ways to the healthy development of children.” “Fathers tend to do things differently, but not in ways that are worse for the children. Fathers do not mother, they father.” The contribution of fathers benefits their children. The presence of fathers in the home also benefits the neighborhoods where they live.

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13 Byrd, supra note x, at 5; Ilanit Gordon et al., Oxytocin and the Development of Parenting in Humans, 68 Bio. Psych. 377 (Aug. 15, 2010) (finding that hormonal differences between men and women are associated with different parenting behavior). “In the last 20 years, everyone’s been talking about how important it is for fathers to be involved.” Sara S. McLachlan, professor of sociology and public affairs at Princeton University, quoted in Laurie Tarkan, Fathers Gain Respect from Expert (and Mothers), N.Y. Times, Nov. 3, 2009, at D5. See also Marriage and the Public Good, supra note x, at 18; Wade Horn & Tom Sylvester, Father Facts 153 (2002); Eleanor E. Macoby, Two Sexes: Growing Up Apart, Coming Together (1998); Thomas G. Powers et al., Compliance and Self-Assertion: Young Children’s Responses to Mothers Versus Fathers, 30 Developmental Psych. 980 (1994); Robin Fretwell Wilson, Undeserved Trust: Reflections on the ALI’s Treatment of De Facto Parents, in Reconceiving the Family: Critique on the American Law Institute’s Principles of the Law of Family Dissolution 90, 106-10 (Robin Fretwell Wilson, ed. 2006); A. Sarkadi et al., Father’s Involvement and Children’s Developmental Outcomes: A Systematic Review of Longitudinal Studies, 97 Acta Paediatrica 153 (2008) (review spanning 20 years of studies including over 22,000 children found that fathers reduce behavioral problems in boys and psychological problems in girls, enhance cognitive development, and decrease delinquency).

In a recent study, fathers who were counseled in parenting spent more time with their children, “and the children were much less aggressive, hyperactive, depressed or socially withdrawn than children of fathers in the control group.” See Tarkan, supra. Studies with animals have found behavioral and even neurological deficiencies in mammals raised without fathers. See Shirley S. Wang, This Is Your Brain Without Dad, Wall St. J., Oct. 27, 2009, at x.

14 Child psychologist Dr. Kyle Pruett, quoted in Tarkan, supra note x, at D5.

15 “[C]ontrolling for income and all other factors, youths in father-absent families . . . had significantly higher odds of incarceration than those of other-father families.” Cynthia C. Harper & Sara S. McLanahan, Father Absence and Youth Incarceration, 14 J. Res. on Adolescence 369, 385-86 (2004)

16 See Sara McLanahan & Gary Sandefur, Growing Up with a Single Parent: What Hurts, What Helps? 137 (1994) (noting that crime is higher in communities with higher proportions of single-mother families); Amy L. Anderson,
Because of problems like these, “the American College of Pediatricians believes it is inappropriate, potentially hazardous to children, and dangerously irresponsible to change the age-old prohibition on homosexual parenting, whether by adoption, foster care, or by reproductive manipulation.”17 Most European countries bar adoption by gays and lesbians.18 A complete prohibition on adoption or foster care by homosexual couples would be inappropriate. In worn-torn, impoverished countries there are starving orphans who would be better off if they were adopted by a carefully screened homosexual couple. However, adoption by homosexual couples should be limited, requiring a showing that no better placement is possible.

IV. SAME-SEX COUPLES AND ARTIFICIAL REPRODUCTION

Not surprisingly, some homosexuals are using artificial means of reproduction.19 Recognition of SSM arguably requires that artificial reproduction (including cloning) be legalized. Since homosexuals cannot create children sexually, the principle of equality arguably entitles them to other means of reproducing.20 This argument has already been accepted in countries that have validated SSM.21

Individual and Contextual Influences on Delinquency: The Role of the Single-Parent Family, 30 J. CRIM. JUST. 575, 582 (2002) (finding that eighth graders attending schools with a higher proportion of teens from single-parent families committed more violent offenses, regardless of their own family structure).


19 See BALL, supra note x, at 166 (stating that “changes in reproductive technology have made it possible for lesbians and gay men to have biological children”).

20 See Anthony C. Infanti, Dismembering Families, Univ. of Pittsburgh Legal Stud. Research Paper No. 2009-11 (April 2009), available at http://www.ssrn.com/abstract=1374492 (arguing that denial of a federal tax deduction for the medical costs of artificial reproduction “contributes to the subordination of lesbian and gay families as well as many other nontraditional American families”). See also DeSerres, supra note x, at 104-05. Under the Universal Declaration of Human Rights the right to marry includes the right to found a family. UNITED NATIONS, UNIVERSAL DECLARATION OF HUMAN RIGHTS, Art 16.1. To complete this bootstrap circle of reasoning, after SSM is invoked to justify gays’ use of artificial reproduction, the possibility of artificial reproduction is then cited to justify SSM. See Karen Streuning, Looking for Liberty and Defining Marriage in Three Same-Sex Marriage Cases, in MORAL ARGUMENT, RELIGION, AND SAME-SEX MARRIAGE: ADVANCING THE PUBLIC GOOD 19, 38 Gordon A. Babst et al., eds. 2009).

21 See DeSerres, supra note x, at 104 (citing a French parliamentary report); Elizabeth Marquardt, How Redefining Marriage Redefines Parenthood (Dec. 1, 2010),
Artificial reproduction generally entails the separation of the resulting child from one or both of its biological parents. To plan deliberately to separate a child from one or both parents seems to be child abuse. At least in theory, biological parents can act in their own interests; infant or unborn children cannot. Although baby selling is illegal, adults can give or take pay for egg or sperm donations or surrogate motherhood and take steps to prevent the resulting children from having any legal rights against, or contact with, or even knowledge of the identity of their parents. In this way some men have sired hundreds of children.

Artificial reproduction is more problematic than adoption because the former is harder for the law to monitor. Every adoption must be approved by a court charged to protect the child. Artificial reproduction gets little legal oversight. The children created are subject to the whims of adults. Artificial reproduction is also different in that it is irreversible. If an adoption goes awry it can be rescinded, but the artificial creation of a human being cannot be undone. Neither artificially created children nor adoptees have an adequate natural family to which they can return. The difference between the two is that for the artificially created child this happens by the design of the custodial parents.

The law has paid little attention to the rights of children regarding their biological parents because in the past there was no threat to these rights. Children lived with their natural parents unless the parents died, voluntarily surrendered them, or were found unfit by a court. Through artificial reproduction children may be separated from their

available at, http://familyscholars.org/2010/12/01/how-redefining-marriage-redefines-parenthood/ (stating facts indicating that use of third party sperm and egg donors to conceive children “does appears to be increasing in jurisdictions that have recognized same-sex marriage or similar arrangements”). The likelihood that recognition of SSM would “normalize” artificial reproduction also casts doubt on Dale Carpenter’s claim that recognition would reduce “the number of scenarios in which you have multiple adults vying for children.” Dale Carpenter, The Unconservative Consequences of Conservative Opposition to Gay Marriage, in WHAT’S THE HARM?, supra note xx, at 319, 323.

22 See Camille W. Williams, Planned Parent-Deprivation: Not in the Best Interests of the Child, 4 WHITTIER J. CHILD & FAM. ADVOC. 375 (2005); SOMERVILLE, supra note x, at 147 (drawing ethical distinction between accidental and deliberate destruction of “children’s links to their biological parents, and especially for society to be complicit in this destruction”).


biological parents without any of these conditions being present. This separation damages children. Children artificially conceived and raised apart from their biological fathers “hunger for an abiding paternal presence.”

Some of the dangers of artificial reproduction were adumbrated in Aldous Huxley’s novel, *Brave New World*. In this world, people are created in factories. Each is endowed with genes appropriate to a certain function and status. Some are given low intelligence but a strong physical constitution so they can perform menial, physical labor. Others get high intelligence and serve as the ruling class.

Some details of Huxley’s vision now seem unlikely to occur, but the overall picture is a prescient warning. Artificial reproduction could enable the wealthy to manufacture genetically superior offspring. This would increase class (and perhaps racial) inequality. In short, it would create genetic castes. Artificial reproduction could actually limit reproductive choice. Those with access to reproductive technology would face a Hobson’s choice of either using it to fabricate the most advanced product or, by eschewing technology for natural reproduction, condemn their children to genetic inferiority. It could also worsen gender inequality.

Some people have superior talents that bring them more prestige, fame, and respect than others enjoy. We accept these inequalities because they seem accidental and randomly bestowed. These inequalities would be hard to justify if talents were manufactured products available only to the wealthy. There is another possibility that

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25 Kyle Pruett, *Fatherneed* 207 (2000); see also David Popenoe, *Life Without Father* (1996). See also Barbara Dafoe Whitehead, *Answered Prayers: Where Is Technological Reproduction Taking Us?*, Commonweal, Oct. 20, 2006, at 133 (citing study finding widespread identity problems among such children resulting from artificial insemination); The Revolution in Parenthood, *supra* note 54, at 17 (stating that damage to children raised by same-sex couples may be greater when “[a]dults purposefully conceive a child with the clear intention of separating that child from a biological parent.”). See also Elizabeth Marquardt, Norval D. Glenn & Karen Clark, *My Daddy’s Name Is Donor: A New Study of Young Adults Conceived Through Sperm Donation* 5 stating that “on average, young adults conceived through sperm donation are hurting more, are more confused, and feel more isolated from their families. They fare worse than their peers raised by biological parents on important outcomes such as depression, delinquency and substance abuse.”) (Inst. for American Values 2010); Alessandra Rafferty, *Donor-Conceived and Out of the Closet*, Newsweek, Feb. 25, 2001, at x.


homosexuals usually ignore. If, as seems likely, genes are at least a substantial factor in determining sexuality, before long science may identify the genes that contribute to homosexuality. In a culture that honors untrammeled reproductive freedom, what objection could there be to parents’ choosing to screen out “gay genes”? 

In the novel The Elementary Particles by French writer Michel Houellebecq the problems of the human race are “solved” by eliminating love and replacing natural reproduction with cloning so that all people are genetically identical. This certainly does eliminate inequality, but what then is the purpose of life? Most people would consider this world not idyllic but horrible. It might be better to avoid these problems of artificial reproduction by severely restricting its use to begin with.

More generally, artificial reproduction threatens relationships between children and parents. What will happen to the bonds between parents and their first child when the parents get a genetically enhanced newborn that is bigger, stronger, smarter, healthier, and better looking than the older child? In short, what will happen to relations between parents and children when children become manufactured products? Artificial reproduction also threatens to transform what it means to be human. We consider ourselves a different species from Neanderthals and other earlier humanoids. At what point would genetically enhanced beings become so different from us as to become a different species, one that renders homo sapiens as obsolete as the Neanderthals now are? For these reasons some consider most artificial reproduction a denial of the child’s human rights.

For these reasons some consider most artificial reproduction a denial of the child’s human rights. Because of its dangers many foreign countries regulate artificial reproduction.

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30 This scenario is not entirely fanciful. An online sperm and egg bank is being established that will accept only donations from beautiful people so that ugly people can have beautiful children. See Dating Site Creates Online Sperm and Egg Bank, NEWSWEEK, Available at http://www.newsweek.com/blogs/techtonic-shifts/2010/06/21/dating-site-creates-online-sperm-and-egg-bank.html.

31 “The obligations we owe to human beings include not to manufacture them; not to make them into objects or commodities; and to respect their right not to be designed by another human being.” SOMERVILLE, supra note x, at 122.

32 See generally CAHN, supra note x; MERIN, supra note x, at 254 (stating that “all European countries except the Netherlands explicitly prohibit lesbians (and single women) from obtaining” alternative reproductive services).
A total ban on artificial reproduction may go too far. In some cases a married woman and man cannot conceive a child by coitus but only by in vitro fertilization. It is hard to see a strong objection to this, which does not involve separation of the child from its biological parents. Permitting any artificial reproduction, however, puts the law on a very slippery slope. Immediately there will be demands based on the cry of “equality” to permit every form of artificial reproduction. Such demands must be resisted.

V. THE IMPORTANCE OF BLOOD TIES

Most people instinctively value blood ties. The American slave hymn, Sometimes I Feel Like a Motherless Child, moves most people. Many couples that have difficulty in conceiving a child make heroic efforts to do so, often at great expense and enduring humiliating

Nonetheless, there is a movement to reduce or eliminate the social and legal significance of the biological nexus between parents and children. It is argued that “parents” should be those who really perform normal parenting functions. This would deny biological parents of any rights in their children and deprive children of any right in their biological parents, which is even more disturbing.

Because homosexuals can get children only through adoption or artificial reproduction, homosexual activists support the movement to disparage blood ties. William Eskridge says that recognizing SSM “involves the reconfiguration of the family, de-emphasizing blood, gender, and kinship ties. . . . Gay experience with ‘families we choose’ delinks family from gender, blood, and kinship. Gay families . . . often form no more than a shadowy connection between the larger kinship groups.” As David Blankenhorn says, children in a homosexual household will not be treated as the victims

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34 The hymn stems from the practice of deliberately separating a slave mother and child by the sale of one or another. See WILLIAM E. BARTON, HYMNS OF THE SLAVE AND THE FREEDMAN 17 (n.p.d.).

35 They are not the only supporters. Feminists who want to diminish or abolish the rights of biological fathers (including sperm donors in artificial insemination) are also advocates. See Susan Frelich Appleton, Gender and Parentage: Family Law’s Equality Project in Our Empirical Age 6-7 (June 21, 2010), available at http://ssrn.com/abstract=1628232.

36 See id.

of a tragedy; rather “it will be explained to everyone, including the children, that something wonderful has happened!” 38 Homosexuals may tell children conceived by artificial insemination that they do not have a mother or a father. 39

As Eskridge suggests, validating SSM would affect not only children in homosexual households. By changing the meaning of parenthood it would affect all children. Traditionally biological parents have inalienable duties to their children. As the adages say, you can choose your friends but not your relatives, and home is where they can’t turn you away. “De-emphasizing blood” and validating “families we choose” imply that biological parents may choose to eschew those duties. If biology is irrelevant, parents have no more rights in or responsibility to their biological children than any other adults. The law could abandon consistency and continue to impose duties on biological parents despite “de-emphasizing blood” in favor of “families we choose,” but the new social meaning of parenthood will make it harder to enforce those duties.

Ironically, many same-sex couples who do have children tacitly confirm the importance of blood ties. They often arrange get an infant who is the biological child of one member of the couple. Many people go further and argue for a “birthright of children to be connected to their mothers and fathers.” 40 As a French parliamentary commission put it, “The interests of the child must outweigh the exercise of the freedom of adults.” 41 The United Nations Convention on the Rights of the Child states that each child “shall have, as far as possible, the right to know and be cared for by his or her parents.” 42 David Blankenhorn argues that “children have the right, insofar as society can make it possible, to know and to be cared for by the two parents who brought them into this world.” 43

39 See Jerry Mahoney, Mom/Not Mom/Aunt, N.Y. TIMES, July 16, 2010, at x (reporting that the author and his homosexual partner were told by their surrogacy agency “not to use the ‘m-word. ‘This child will have two fathers,’ the staff member scolded. ‘He or she will have an egg donor and a surrogate, but no mother.” See also supra note 53.
40 Daniel Cere, War of the Ring, in DIVORCING MARRIAGE: UNVEILING THE DANGERS IN CANADA’S NEW SOCIAL EXPERIMENT 9, 11 (Daniel Cere & Douglas Farrow eds., 2004). See also Margaret Somerville, What About the Children?, in id. at 67.
43 Blankenhorn, supra note x, at xx. See also Daniel Cere, Toward an Integrative Account of Parenthood, in WHAT IS PARENTHOOD? X, x (Daniel Cere & Linda McClain, eds. forthcoming) (referring to children’s rights “to a maternal bond” and to “be connected to their genetically-related parents”).
The law has begun to recognize a right of offspring of artificial insemination to know who their fathers are.44 If children born of “surrogate mothers” have not demanded to know who their mothers are, that is only because surrogacy is so new that few children of surrogates are old enough yet to assert their rights.

Does a mere right to know one’s biological parents go far enough? These children have already been denied the right to grow up with their real parents. If that happened because their guardians had bought or stolen the child from the parents, we would consider the child gravely wronged and injured. How is the child any less wronged or injured by artificial reproduction?

Some argue that children live in homosexual homes already and will continue to do so even if we do not recognize SSM, so we may as well recognize it and give those children the resulting benefits.45 This argument assumes, however, that recognizing SSM will affect only homosexuals who marry and will not diminish the existing benefits of marriage. This discussion here shows, however, that recognizing SSM will profoundly change the meaning of marriage from a child-centered institution to one intended primarily for the gratification of adults. This change would diminish respect for marriage and probably impair its benefits to children.

Recognizing SSM may not even generate much benefit for children in homosexual households. The benefits of marriage to children arise mainly from binding biological parents. With SSM, this is impossible. Many gay couples have children because one of the child’s biological parents left the other and now lives with another adult. I know of no evidence that children benefit if those two people are married, even if they are of different genders. It is speculative that children in a gay household will benefit if the adults are in a recognized marriage. The number of children in gay households is also small, so that any benefits to those children would likely be outweighed by damage to the much larger number of other children.46


45 See Carpenter, supra note x, at 320.

46 Dale Carpenter gives some numbers that are hard to reconcile. At one point he estimates the number of such children as “at least a million.” Carpenter, supra note x, at 320. However, he also recites an estimate of 777,000 same-sex couple households and says that “about 20% or all male couple households in the United States and one-third of all female couple households in the United States are raising children.” Id. That would mean 200,000-250,000 such households, which would have to have an average of four to five children each to bring the total of children to 1,000,000. That seems unlikely.
Conclusion

Homosexuals have often been unjustly abused in America and in most societies both now and in the past. The gay movement typically characterizes its goal to be to end discrimination against homosexuals and to achieve equality with respect to sexual orientation. So stated, the movement seems unobjectionable to many people.

However, the gay movement’s demand for equality is not limited to abolishing legal discrimination but extends to establishing the social and normative equality, the equal status and equal recognition, of homosexuality as official national policy. The effort to disparage the biological family is often portrayed as an esthetic issue, a matter of taste. The social and legal preference for heterosexuality is said to reflect nothing more than the personal taste of the majority for heterosexual acts and their dislike of homosexual acts. In this view, the favored status of heterosexuality is no more just than the laws of theocracies that dictate what clothes people may wear and what food and beverages they may consume.

However, the demand for equal recognition necessarily entails profound social changes, changes that have never been made by any human society in history. In particular, the social and legal respect accorded to the biology of human reproduction pose a huge obstacle to the gay movement. Only a woman and a man can create human life, and the biological family has always been of premier importance in all human society. For homosexuals to achieve equal social status, the social and legal significance of the biological family must be eradicated.

Eradicating the legal and social recognition of the biological family necessitates the elimination of any rights of biological parents in their biological children and any rights of children in their biological parents. It necessarily leads to the scenario of Mary and Joseph presented earlier in this article. That scenario would lead to terrible results for society by such measures of material conditions as gross national product, school performance, and drug abuse that social scientists typically use to gauge the health of a society.

Much more important, though, is that eradicating the social and legal significance of the biological family would effect a dramatic change in the meaning of human existence. In all societies, the biological family has been considered central to human well-being. The gay movement deems this attitude as irrational and homophobic. I and, I believe, most people disagree. We believe that the importance of the biological family is part of human nature, part of how we are physiologically programmed. Extirpating the significance of the biological family will deprive us of much of what it means to be human.