

'Walking Wallets and One-Stop Sperm Shops':

How Men Fear That Women See Them in the Postmodern Reproductive Age

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Lyndal Dornan may not be a household name, but the way she has chosen to live her life—and to speak proudly and publicly about it—is likely to strike terror in many men's hearts. Dornan had long told friends and family that if she didn't have a partner she would have a baby on her own. When she did conceive one night after purposely 'forgetting' to use contraception, she began decorating the nursery, informing the father that he could be as involved or uninvolved as he wished. Lyndall admits to having a hard time "picture[ing] [her]self in a conventional relationship", and argues that single parenting can often be easier because, when decisions need to be made about her needs or the child's, she doesn't have to consult or defer to someone else.

Dornan's story, which appeared in the *Sunday Age* magazine in 1998, was among the first to highlight the revolutionary reproductive decisions being quietly made by a small number of single women. There have been a slew of such cases but none that stirred up the sort of moral panic generated by Leesa Meldrum's High Court victory. That a single infertile woman should be found by the nation's highest legal authority to have a right to infertility treatment—and, by implication, to mother alone—literally had some commentators, politicians, men's rights activists, and religious leaders frothing at the mouth.

Children are being denied their 'right' to know their true biological identity! To be raised by their mothers and fathers! The Australian Family Association's Bill

Muehlenberg even when so far as to insist that the creation of a child with the “express purpose of denying it a father” was “child abuse.”

But while the panic took place in the language of children’s interests, it soon became clear that this wasn’t what it was really about at all. It wasn’t the rights and interests of children that were driving the debate. What was driving it were the rights and interests of men.

The real source of the male moral panic

So what fears are stirred up in men by the stories of Lyndall Dornan, Leesa Meldrum, and the other cases of single women seeking to have a go at motherhood alone? Of what are they so afraid? The answer, it seems to me, is that women are sidelining them in the important business of creating families and raising children in them. That, to put it another way, in the often zero-sum game of reproductive politics, women are increasingly holding all the cards and turning men into little more than means to their mercenary reproductive ends: namely, walking wallets or one-stop sperm shops.

To understand the source of such male anxieties we need to go back a few decades to the time when countries like Australia, the United States, and the UK were introducing child-support legislation that effectively transformed the age-old definition of a father from the man married to a child’s birth mother to the man whose sperm contributed to the child’s creation. It hadn’t been much before this that workforce opportunities for women began to expand and pensions for single parents became available, enabling mothers for the first time in recent history to support themselves and their children without the help of a man.

The new child support laws, which would coerce men into taking fiscal responsibility for the fruit of their loins, were lauded by politicians as a boon to women and children. In fact, they were largely designed to solve a more pressing political problem: the spiralling cost to taxpayers of single-parent pensions. By sheeting home to individual men the financial cost of keeping women and children out of poverty, lawmakers saw themselves as killing two birds with one stone. They could keep women and children off the breadline while at the same time keeping the cost to the 'general public' of such 'charity' to a minimum.

Overnight, the world changed for men. From a situation in which they were largely in control of their relationships with women—most women lacked the financial capacity to leave unhappy or abusive marriages—and whether and how much they might support the children of those relationships in the event of separation (most didn't), women began initiating the majority of marital break-ups while government agencies used set formulas to assign child-support liabilities, capable of being deducted automatically from the man's salary.

The new child-support regime ended the happy-go-lucky days when men could boast—as some did, according to one Australian family law specialist—that they didn't even know how many children they had. Now the onus was on the man whom a woman named as the biological father either to disprove his paternity or pay up.

Courts in Australia and overseas have enforced the new biological definition of fatherhood without mercy or exception. They have consistently invalidated contracts

between consenting adults that release the biological father from fiscal responsibility for his progeny. In one US case, a woman who convinced her reluctant boyfriend to impregnate her by signing a “hold harmless” agreement had it thrown out of court. In the same way, known sperm donors continue to be named by the courts as fathers of the children they sire, even if impregnation took place via a syringe. In the high profile and ultimately tragic Australian custody case *Re Patrick*, a gay man’s application for increased contact with a child conceived with his sperm was opposed by the lesbian mothers raising the child. The Court granted the man’s wish not only because of his “genuine and profound paternal love” for the boy but because the child shared his “genetic blueprint.”

Outside Australia, an unshakeable commitment to the ‘biological father pays’ formula has seen the man’s financial liability upheld even when he had a mental disability, was unconscious, or under age—and thus a victim of statutory rape—at the time of sexual intercourse. It has also led the British High Court to refuse a plea by two infertile women to be allowed to implant frozen embryos their former partners wanted destroyed. The Court found it unfair that the men would be compelled to assume fiscal responsibility for children they didn’t want. Indeed, the only legal exception to the state’s drive to use biological paternity as the basis for allocating rights and responsibilities for children is when men donate their sperm to infertile couples. In Australia, State and Federal legislation enacted in the mid-1980s exempts such biological fathers from both rights and obligations to any resulting children.

What men fear most: Paternity fraud and the cuckold

Lurking behind such startling redefinitions of fatherhood is the DNA paternity test. With it, the ancient wisdom summed up pithily by Lord Kilbrandon—“maternity is a matter of fact, paternity one of mere inference”—has been stood on its head. Where once grudging assumptions of female fidelity—or chastity belts—led to the legal assignment of paternal rights and responsibilities to the husband of the child’s mother, DNA tests now allow these to be delegated to men on the basis of highly accurate biological evidence. Once male consent, expressed through his willingness to get or stay married to a child’s mother, was the ultimate arbiter of whether a man accepted the father role. Now an immutable biological fact holds sway.

While Fathers’ Rights groups laud paternity tests for giving men the same certainty of paternity and thus ‘peace of mind’ as women have always had about their maternity, the furore surrounding high profile ‘paternity fraud’ cases suggests that, in some contexts, such certainties have added considerable fuel to the fire started by the biological assignment of child-support obligations. Paternity fraud cases offer headline-grabbing tales of men as many fear they have become in the post-modern reproductive scene: rejected as partners and fathers by unfaithful and deceiving women who are legally vindicated in their post-separation desire to treat them as little more than walking wallets. Fathers’ Rights groups portray such “cuckolded,” “deceived,” and “hustled” men as the inevitable outcome of a world in which the power of untrustworthy women has spiralled out of control and, as a consequence, men’s role in the family is neither valued nor assured.

The figures are rubbery, but estimates are that somewhere around 10 per cent of children have not been sired by the man they believe to be their father. Fathers' Rights groups, however, often quote figures that are much higher, as well as lionising men who have found themselves 'victims' of paternity fraud but have fought back in the courts. Men like Carnell Smith, who cancelled all contact with his child as well as child support payments after a DNA test he took, in the face of demands by his former girlfriend to increase the amount of his payments, proved his 12-year old daughter wasn't 'his'. Or Texan Morgan Wise who has been in court attempting to disavow paternity of his three boys, aged 7, 8 and 10, ever since a DNA test revealed only his eldest daughter is related to him biologically.

In Australia and the UK, not only are men able to shrug off financial responsibility for their children if tests prove 'negative'; those divorced since the new definition of fatherhood came in can pursue refunds which, if they're ordered by the courts, are the sole responsibility of the child's mother. Even those divorced before the new child maintenance laws came into effect are not without legal remedy for being 'defrauded' of their paternity. In 2002, Melbourne man Liam Magill was awarded \$70,000 for the pain and suffering he experienced upon discovering that his ex-wife had falsely told him that he was the father, as one of the quality newspapers put it, of two of "her lover's children." More recently, another father took his case to the courts to plead for a \$75,000 "refund" of school fees and child support after discovering that another man was his child's biological father.

In the US things are far less clear-cut. While in some States 'negative' paternity tests do put an end to a man's financial commitment to a child, in others social definitions

of fatherhood prevail and such results are inadmissible. Moreover, conservative US columnist Cathy Young recently wrote about a US Department of Health and Human Services report that has given support to social definitions of paternity, though clearly for the Department's own self-serving reasons. The report urged child support agencies to collect maintenance not just from now-divorced dads but also from men who parented or financially supported children in *de facto* marriages.

If you want to get a blast of anger to singe your eyelashes, try reading some of the men's movement 'literature' and website rants on paternity fraud. I especially like the observation of one Angry Harry that the failure of some men to achieve "economic justice" in paternity fraud cases—namely, the cancellation of their child support payments and the refund of those paid in the past—and the denial of the "truth about their parentage" to children are consequences of a conspiracy between powerful politicians and the women's movement to "victimise, cheat and damage" the "male gender"! But while the keen sense of hurt, anger, and indignation experienced by the authors of such tracts is beyond doubt, the question still remains whether there are good grounds for the moral panic that surrounds the quest of single women for sperm, and is given expression in high profile paternity fraud cases like those being run by Morgan Wise, Carnell Smith and Liam Magill? It is clear men are panicking, but how reality-driven is the picture they paint of the current imbalance of power between the sexes?

Are men's losses women's gains?

The answer is "not really." Sure, contemporary women now have historically unparalleled sexual freedom and the post-industrial service economy is providing

many with their first taste of economic independence, but this hasn't changed the fact that women's access to power, status and influence in the 'commanding heights' of the economy and on the political stage is still tiny compared to that of men. At last count, for instance, only six of the largest 500 US corporations had a female chief executive officer, with the equivalent figures being none and four per cent for Australia and the UK. Similarly, only 22, 18, and 13 per cent of elected representatives in Australia, the UK and the US respectively are female, with neither Australia nor the US ever having had a female prime minister or president. And it's worth noting that female parliamentarians in Sweden, the country with the highest elected representation of women in the world, constitute only 43 per cent.

But according to veteran chronicler of the men's movement and respected Australian journalist Tom Morton, what's bugging many men is that women's horizons are expanding just as men's opportunities, both economic and social, are being foreclosed. It is full-time unskilled blue-collar jobs—male employment, in other words—that are disappearing from the economy, and at precisely the time that women's economic dependence on men is lessening. The problem, as some men see it, is that women are forcing them to renegotiate the traditional gender contract and to give up some of the privileges they have long enjoyed in it from what Morton calls "a position of declining power." This has left many men wondering what, if they are not needed to win the bread, they must do to remain relevant to family life. Become better lovers? Participate more in child-care and homemaking?

But the decline of the breadwinner role only partially explains some men's feelings that women's gains in reproductive power have been made at their expense.

Because while women at the top end of town are no longer shopping for breadwinning men, men at the bottom end of town are finding it increasingly difficult to win the bread. Unemployed or stuck in insecure, low-paid jobs, these men are less likely to partner in the first place. When they do, they separate more often and find it more difficult to re-partner than men who are more securely employed. Hopelessly unattractive to securely employed women, such men were found by researchers Bob Birrell and Virginia Rapson also to struggle to woo less-educated women who might be willing to embark on the old-fashioned exchange of her sexual and domestic services for a part of his wage—if he had one. Compared to the predictability of a sole parent pension, these men find that they often look like little more to a prospective partner than another pair of dirty socks to pick up around the house.

Despite the politicians' hype, the sad fact is that women have also gained little from the legal redefinition of fatherhood. Not only do women have to bear the brunt of male anger at the sometimes inconsistent application of the new rules and the devaluing of social fatherhood, they have also suffered unexpected losses to their reproductive freedom. The UK frozen embryo case, for instance, saw two women's freedom to become pregnant limited because child-support laws would have mandated that their now-estranged husbands bear financial responsibility for their resulting biological child. In addition, court decisions about child support that nullify contracts entered into voluntarily by competent women do little to enhance the public perception of women as full and responsible citizens and adults. And, finally, women as a group gain nothing by the conservative revitalisation of the 'you play, you pay' mentality once used to deny women access to contraception and abortion. It is both

inappropriate and outdated for children to be seen as appropriate ‘punishment’ for the sexual activity of either women or men.

Children, of course, are the biggest losers. Even the most ardent Fathers’ Rights supporters concede that nearly all attempts by fathers to disavow paternity or to claim refunds or compensation terminate the relationship between the father and the children he once called ‘his’. However, most defend the man’s decision to pursue a just outcome, allocating most of the blame for the children’s distress and embarrassment to ‘mothers who cheat and lie’. When such wronged men are invited to express regret about the loss of their relationship with their children only some do, and then rarely convincingly. For instance, reporter Brooks Egerton asked Morgan Wise, who divorced his wife after discovering he’d been ‘defrauded’ about the paternity of three of his four children, whether he would give up his very public legal battle to disown them if it meant he’d never see them again. He responded, “So be it.”

The main—and, it seems, only—winner from the new arrangements is the State. As intended by the politicians who initiated the definitional change of fatherhood, it is taxpayers who have reaped the rewards. For instance, of the 530 million pounds the British government expected to save in the first year of the changes, single parents (mostly mothers) were expected to see only 50 million of it.

Ending the moral panic and protecting women’s reproductive rights

It would be nice to see men take a deep breath and look more realistically about what women’s decisions about having children alone are, and are not, saying about how

much they like and value men as partners and fathers. It is also vital that they do so, because it won't be long before another woman like Meldrum appears on the horizon and challenges the state law that continues to deny her access to donor sperm because she's single. And each time male moral panic erupts around such issues, there is a risk that, by the time the dust settles, women will find themselves worse off than before it all started, not better. Don't forget that Australian women nearly lost some of the protections offered to them by the Commonwealth Sex Discrimination Act last time this topic dominated the evening news.

Why do I think it won't be long before another Victorian woman steps up to finish what Meldrum started? Because, while Meldrum's High Court victory meant the paragraph in the law that referred to a woman's marital status was dropped, the requirement that a woman seeking treatment be "clinically infertile" was retained. What this means is that the vast majority of women wanting medically screened donor sperm will be denied access because they are clinically fertile, failing to conceive only because they lack a man with whom to have regular, unprotected sex. This denial of services to what are often termed the "socially infertile" is, more than clearly, the marriage requirement in sheep's clothing.

So, how to prevent another moral panic? I've got two main suggestions.

Reality check

The first thing that men must realise is that, while their anxieties about their role in women's lives and in forming families are understandable, they aren't rational. Most of the women in the *Sunday Age* magazine article said it. Leesa Meldrum said it. The

39,000-strong Australian Women's Health Study showed it, as do numerous small-scale studies and anecdotal evidence: The vast majority of women *do* want to partner up with men and settle down and raise a family. This is not to say there aren't new tensions between the sexes caused by the wide availability of new medical technologies and rapid legal, social, and economic change. But while for better-educated women this boils down to a change in the job description for Mr Right, it does not alter her desire to find him. "Men and women miss each other," journalist Wendy Dennis reassures each sex in her book about contemporary relationship difficulties. "They miss each other a lot [and] ... *long* to reconcile." While time is largely what's needed for the better-off end of town to adjust, more and better-paid jobs are just what the doctor ordered for the for the less well off.

Redefining fatherhood as a social relationship

Self-serving governments sailed into dangerous waters when they redefined fatherhood as biological. Some men's rights activists concede that historical carelessness about their fertility and unwillingness to support their progeny after divorce may have led to the biologising of fatherhood and the easy acceptance of anonymous sperm donation. After all, shooting their wad and walking away with nary a backward glance was, as American ethicist Daniel Callahan noted in far more delicate language, what men have always done; why not institutionalise this tendency for good use?

But hounding down children's biological fathers, or prohibiting anonymous sperm donation, or refusing some women access to it, is not the answer to this age-old problem. Men can be made accountable for children *without* putting women or

children at financial and emotional risk. This can be done by making fatherhood a matter of one-time-only, non-rescindable consent. Assigning rights and responsibilities for children to men, in other words, on the expressed or demonstrated commitment they make to parenting. When a man signs a child's birth certificate, for example, or adoption form, or simply assumes the work of parenting, this could be what is legally required to make him Dad.

While the advantages to men of such a change are obvious, I firmly believe children and women will benefit too. Under this regimen kids would no longer be at risk of losing the financial support—and love—of the man they call Dad when DNA skeletons rattle from the cupboard. Because biological paternity would no longer have legal bearing on a man's fiscal responsibilities to his children, there might be less business going the way of the now-thriving DNA paternity-testing industry. (Carnell Smith apparently got the idea of testing from a billboard hanging near the court where he was contesting his wife's request for increased child support payments.)

Women can only benefit from the demise of a system that gives new life to outdated notions of 'paying' with parenthood for the 'sin' of sexual activity. And legal support for long-held feminist assertions that good fathers aren't the ones who are 'there' at the time of conception but rather men who share with women the hard daily yakka of financially, physically, and emotionally caring for children could only move women one step closer to the social changes necessary for men and women to achieve equality in the workplace and at home.

There are some downsides, of course. Arguably, the meaning attached to a man's signature on a birth certificate would be altered, making the document less a statement of genetic fact and more one of social intention. However, this process is already under way in Australia: children born of anonymous sperm donation to married women have the mother's husband noted as the father on their birth certificate. Indeed, given the concern expressed by people born from anonymous sperm donation about the secrecy surrounding their conception, a changed approach to child maintenance could provide a long-overdue opportunity to alter birth certificates to include more information. Places where information could be recorded about gestational mothers, genetic mothers and fathers, as well as those committing to social parenting, would be a start.

And while it is by no means certain that defining fatherhood socially would lead to a decline in the number of men providing financial support for children, it certainly could. At the risk of stating the obvious, while children will always have a biological father, they won't—as a result of a woman's circumstance, sexual preference, or choice—all have social ones who can be pursued for child-support payments.

Governments must do what they can to reduce the social and economic constraints on men and women who wish to partner, and provide concrete assistance—in the form of fully-funded quality childcare places, skills training, and secure and well-paid part-time work—to assist women in socially fatherless families to move towards economic independence. When this is not enough they must step in to the fiscal breach, secure in the knowledge that, overall, policies based on social fatherhood provide the best outcomes not just for men and children, but for women too.

Selected bibliography

Birrell, B., and Rapson, V. (1998). *A Not So Perfect Match: The growing male/female divide 1986-1996*. Melbourne: Centre for Population and Urban Research, Monash University.

Callahan, D. (1992). Bioethics and fatherhood. *Utah Law Review*, 3: 735-46.

Cannold, L. (1999, 30 April). Women just can't win: Opinion, *The Age*, p. 17.

Dennis, W. (1992). *Hot and Bothered*. Penguin: Ringwood, p. xxviii

Egerton, B. (1999) "DNA tests alter legal landscape for dads," *Dallas Morning News*: www.ukmm.org.uk/issues/cheat.htm, 31 October

Kaye, M., and Tomie, J. (1998). Fathers' rights groups in Australia and their engagement with issues in family law. *Australian Journal of Family Law*, 12: 19-68.

McIntosh, D. (1998). Going it alone. *The Age, Sunday Life!* Melbourne, 1 November: 10-12

Morton, T. (1997) *Altered Mates: The Man Question*. St Leonards: Allen & Unwin.

Sheldon, S. (2001) 'Sperm bandits': Birth control fraud and the battle of the sexes. *Legal Studies*, 21: 460-480.

Young, C. (2002) "Dad blood", Reasononline, <http://www.readson.com/0211/co.cy.dad.shtml>, 31 October

First published in 2005, Heather Grace Jones and Dr Maggie Kirkman (eds) *Sperm Wars: the rights and wrongs of reproduction*. Sydney: ABC Books