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Title: *Making Babies, Making Families: What Matters Most in an Age of Reproductive Technologies, Surrogacy, Adoption, and Same-Sex and Unwed Parents*
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Making Babies, Making Families: What Matters Most in an Age of Reproductive Technologies, Surrogacy, Adoption, and Same-Sex and Unwed Parents
By Mary Lyndon Shanley
Review by Ann Margaret Eames

In topics ranging from adoption and surrogacy to *in vitro* fertilization, Making Babies, Making Families: What Matters Most in an Age of Reproductive Technologies, Surrogacy, Adoption, and Same-Sex and Unwed Parents, by Mary Lyndon Shanley, explores the value laden arguments surrounding the various (and growing) number of ways a family is created in a search for answers to such questions as *what is a family?* and *what makes someone a parent?* Arguments attempting to confine the definition of a family to what Shanley terms the “as if” model (heterosexual couple with defined gender roles) are routinely refuted by the reality that families can and do exist in a growing number of “nonconforming” or “alternative” ways. As a result, the need for changes in the law and philosophies on which such laws are based is evident. In the end there are no single or simple answers to the questions explored. Rather, Shanley presents competing viewpoints and her own proposal as to which values should take priority in these debates. Calling for respect for all family forms, Shanley’s analysis is committed to the concepts of liberty, equality, relationship, and care.

Topics are explored in five chapters that include adoption, unwed fathers’ rights, gamete donation, surrogacy, and same-sex parents. The book covers families created with the aid of technology and those created by agreement such as adoption and contract pregnancy. Each chapter provides a historical overview of the topic including references to cultural, philosophical, and social beliefs, as well as relevant case law and statutes. Through these references the current state of the law on these subjects is revealed as inadequate, thoroughly split, and in dire need of updating and uniformity.

Shanley argues that continued efforts to model and confine parental rights in accordance with the “as if” form are fruitless as that model becomes more and more inapplicable. Instead, Shanley calls for a paradigm shift away from the “as if” model to a recognition of the increasing number of family forms and the parental rights issues that accompany them. In making this shift, Shanley advocates for greater respect and a stronger voice for women putting children up for adoption, for contract pregnancies to be allowed but not enforceable, and for limits on the marketing of gametes. Above all, and

central to each of these propositions, Shanley calls for a greater focus on the child's needs and rights in determining parental rights.

Characterizing the primary relationship of parent to child as one of stewardship, Shanley recognizes that we are all connected in web of social and biological relationships. Central to her thesis is the idea that these relationships must be acknowledged in order to ensure that the rights of those involved are not intruded or sacrificed in the quest for a family form that more and more ceases to be the norm. Whether by adoption or with the aid of reproductive technology, the many players in the creation of a family may include a genetic mother, a genetic father, a gestational mother, an (anonymous or known) sperm donor, an (anonymous or known) egg donor, and a lesbian partner of a woman who carries the child. In addition, various intermediaries also impact the family including the adoption agency, the doctor's office, the courtroom, the legislature, and society. Underlying all of these players is of course the child whose interests must not be compromised in efforts to ensure the rights of others.

The ways a family is created are undeniably growing which Shanley recognizes as not only unavoidable but desirable as well. Beginning with the topic of adoption, Shanley presents the arguments surrounding adoption across racial and ethnic lines and whether adoption records should be open. Supporting both transracial and open adoption, Shanley argues the traditional practice of trying to form adopted families to appear as a biological family is based upon the presumption that only one "normative" model of family exists, a presumption convincingly refuted throughout the book.

In exploring the rights of unwed fathers, Shanley argues that a genetic or biological relationship alone may not be a sufficient basis for legal parenthood. Focusing on a combination of nature and nurture, Shanley proposes that in order to seek legal recognition as a parent, the father must make some effort at establishing a relationship with the child. Similarly, in her chapter on same-sex parents, Shanley proposes a new legal category of "limited parenthood" that expands the group of those with parental rights. Shanley again recognizes that nature and nurture are equally important in determining parental rights and more importantly in forming a child's identity. While continuing with her child-centered rationale, Shanley's concepts consist more of generalized ideas rather than refined proposals capable of application to the myriad of real life situations that Shanley readily acknowledges exist.

Analyzing gamete donation and surrogacy (or contract pregnancy), Shanley advocates making these practices free from market forces. This means that genetic material should not be priced and calls for a movement away from the view that a surrogate mother does "work" that results in a "product", the child. A movement away from these market views acknowledges the intricate connection that exists between a donor or surrogate and the child. While this connection does not necessarily give one the right to a social relationship, the connection is an undeniable piece of a child's identity. Seeing the importance of this connection on both ends, Shanley argues that information on gamete donors should be available to an adult created by the donation and that surrogacy agreements should be allowed but not enforceable. While attempting to address the needs of all the individuals involved, the practical implications of these policies are unexplored.

Despite the increasing variety of family forms, running from those aided by a complex technological process where a child's existence begins in a petri dish to those

created by a contractual agreement, similar questions abound throughout. While the number of family forms is increasing, so are the issues surrounding the rights of the individuals involved. Persuasive arguments are made that by limiting legal recognition of parental rights to those with genetic ties or legal adoption rights, the rights of others that arguably are “parents” are being ignored to the detriment of not only the adult, but to the child as well.

There are a number of counter-arguments presented on every issue. While Shanley is effective in expressing her own views, she gives these various counter-arguments their due time. This book explores ideas and philosophies that invoke strong emotions and debate and are relevant to all readers, as we all have come from some form of family. While effective in sparking profound thoughts on these issues, the book is not a heavy read. Shanley does not attempt to propose what the law should be, but, just as the title of her book states, discusses “what matters most” in making such determinations.

This book is not a resource for one looking to learn the current state of the law on parental rights, as there is limited reference to existing law. At the same time, a reading of this book, with its sparse reference to current law, exposes the inadequacy of the law’s evolution on this subject and encourages thinking on a broader base of how new laws should be formulated in this important area affecting all of our lives.