

# Becoming a father/refusing fatherhood: an empirical bioethics approach to paternal responsibilities and rights

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## Abstract

In this paper, we present the first stage of an empirical bioethics project exploring the moral sources of paternal responsibilities and rights. In doing so, we present both (1) data on men's normative constructions of fatherhood and (2) the first of a two-stage methodological approach to empirical bioethics. Using data gathered from 12 focus groups run with UK men who have had a variety of different fathering experiences ( $n = 50$ ), we examine men's perspectives on how paternal responsibilities and rights are generated and the significance of the genetic connection within the father–child relationship.

We do not attempt to explore men's experiences of fatherhood or their fathering practices; and neither is the analysis driven from a particular sociological perspective. Rather, we explore men's normative constructions of fatherhood in order to present accessible data that might be of significance to the philosophical/moral debate on the sources of paternal rights and responsibilities.

## Introduction

In recent years, there has been a surge of academic interest in fathers and fatherhood from a number of disciplinary fields.

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Alongside a sizeable body of literature in areas such as the impact of father involvement/absence on child development,<sup>1</sup> the changing culture of fatherhood,<sup>2–5</sup> changing UK legal attitudes towards fatherhood, expressed in debate concerning the legal status of fathers and the law and ethics surrounding child support,<sup>6–11</sup> and changing notions of family and kinship,<sup>12–14</sup> there is also a smaller, but growing, body of literature that asks somewhat more philosophical questions, such as 'what does fatherhood mean?' and 'on what are paternal rights and responsibilities (PRR) based?' These questions have been approached in a variety of different ways, and have resulted, very broadly speaking, in the development of two distinct kinds of research endeavour – one empirical and one philosophical.

Some philosophers have become interested in exploring the moral basis of PRR. There is, within that literature, a broad chasm<sup>a</sup> between those who wish to defend a biological (or genetic) conception of PRR, based on notions of genetic

<sup>a</sup>The 'broad chasm' we refer to here is intended to illustrate the difference between theories of PRR that require the presence of a genetic connection and those that do not. Arguably, this topology is imperfect, as it can be argued quite plausibly that many accounts that appear to be 'genetic' are in fact based upon morally significant causation, where the provision of genetic material is the morally significant cause, thus blurring the distinction between 'genetic' and 'morally significant cause' accounts. Both Callahan<sup>15</sup> and Nelson<sup>18</sup> appear to offer such a 'genetic-causal' account, while Engelhardt<sup>16</sup> and Hall<sup>17</sup> offer different versions of a 'genetic proprietary' account. What we refer to as 'social' accounts include other kinds of causation that do not require a genetic connection, such as intention or child welfare. For a good philosophical discussion of many of the prevalent theories of parental responsibility, see Weinberg's recent paper 'The moral complexity of sperm donation'.<sup>19</sup>

causation or property rights and ownership,<sup>15–18</sup> and those who wish to defend a non-genetic or social conception, based on notions of morally significant causation, intention or welfare.<sup>19–24</sup> There are also those who wish to build a bridge across this chasm, arguing for a pluralistic conception in which many factors, both genetic and social, may be sufficient, but none necessary, for generating PRR.<sup>25,26</sup> The main problem faced by those working within this literature is that any one account that constructs PRR as, for example, being genetic in origin, seems to rule out as fathers large groups of men who we would ordinarily consider to have good grounds for claiming PRR. A genetic conception, for example, would rule out our thinking of adoptive fathers, or stepfathers, as having PRR. Likewise, a social construction might account for an intuition that sperm donors should not have paternal rights and that adoptive fathers should, but it would also seem to ostracize many non-resident fathers who are unable to be social fathers to their offspring.

There is also a developing philosophical–legal literature exploring the moral basis of child support obligations, with a particular emphasis on gender (in)equality, questioning the basis of men's child support obligations in light of the fact that women have the option first to use contraception and secondly to terminate if contraception fails; but men have no such second option to avoid parenthood.<sup>27,28</sup> This debate rests on a number of moral questions, primarily questions of justice and moral responsibility, the answers to which will depend upon finding an adequate account of the moral significance of the various processes that might make a man a father (i.e. the provision of genetic material, the intention to be a parent, the establishment of a parental relationship), which lead to a man becoming responsible as a father for a particular child.

The other, empirical, approach to these questions does not seek to develop an *a priori* construction of fatherhood based on philosophical moral principles, but to go out and see how the concept of fatherhood works in practice, how the concept is used and how parents, in a variety of different family forms, construct 'fatherhood'. A good deal of attention, for example, has been paid to notions of kinship in donor-conceived families, exploring biological and social constructions of fatherhood and kinship more generally. Recent studies by Kirkman<sup>29</sup> and Hargreaves<sup>30</sup> have found that a tension exists between biological and social fatherhood, where men will claim to be the father of their donor-conceived child while simultaneously claiming to think about the sperm donor as the child's 'real father'. In this they replicate, or confirm, the findings of Snowden *et al.*<sup>31</sup> who found that this tension caused confusion in the concept of paternity, with fathers by sperm donation being in no doubt that the donor-conceived child was 'theirs' but nonetheless referring to the donor as the 'real' father. Similarly, other research has found that stepfathers who treat stepchildren as their own can vary in their willingness to assert that the stepchild is 'their' child,<sup>32</sup> – illustrating perhaps the significance of language and the close semantic association between the term 'father' and the act of procreation, which may not necessarily be reflective of the men's moral valuing but, rather, more reflective of linguistic norms.

While some studies focus on families that have been intentionally created by artificial reproduction, others have focused on the concept of fatherhood in other

family forms. Lin and McLanahan, for example, conducted a study of parental beliefs about the rights and responsibilities of non-resident fathers, finding that men tended to favour a 'principle of equality' with regards to the relationship between father's rights and responsibilities.<sup>33</sup> They reported that men tended to feel that their rights as fathers should not be conditional upon their fulfilment of child support obligations. Appealing to principles from the literature on distributive justice, Lin and McLanahan argue that men favour an equality principle, based on self-interest. Given that current models of child support do not couple together the fulfilment of child support obligations and visitation rights, it is in the men's interests to support an equality model where the emphasis is on an *a priori* principle of equal distribution of rights rather than a principle of equity whereby rights are earned.

Recent research conducted by Marsiglio and Hinojosa examines the concept of 'multifathering' and explores how stepfathers negotiate contact with their stepchild's biological father.<sup>34</sup> The extent to which stepfathers manage multifathering depends on various factors, including character judgements of the biological father, the ability to bond with the biological father and their conception of the importance of the genetic connection. Those stepfathers who also had biological children were more likely to understand the biological father's perspective and thus be sympathetic to the biological father's desire to maintain contact. This finding is significant to the philosophical/ethical debate because it suggests that men place a normative value upon biological fatherhood – leading to the notion that the biological father *ought* to have contact with his progeny in virtue of being the biological father. In this we find a tacit moral premise, which has not been fully explored. We might ask further questions about why this value is placed upon biological fatherhood, what this moral claim is based on and whether or not this valuing is indicative of a broadly biological conception of fatherhood? It is these kinds of questions that we are particularly interested in.

While providing valuable data and insightful analysis, the empirical approach is limited insofar as it can generally only offer descriptive analysis of the way in which fatherhood, paternal rights and paternal responsibilities are constructed in real life. The work conducted by Lin and McLanahan is rare in this respect as it attempts to provide an explanatory framework of why people hold the beliefs they do – principles of equality and self-interest – but they still fall short of exploring the moral basis of those beliefs, and the narrow explanatory framework, necessarily limited to principles of distributive justice, means that the data is interpreted to fit an 'either/or' category and therefore may miss out on other important principles that may play a part in people's reasoning. Philosophical work in this area suggests that there are a great many moral principles that may be at work, from a commitment to a given account of moral responsibility or a belief in the moral significance of the genetic connection, to promise-keeping or a belief in the overriding importance of the traditional nuclear family. To our knowledge, little empirical work has been carried out that is broad enough to allow for an exploration, in principle, of all of these concepts.

Similarly, however, the philosophical approach is also limited insofar as it generally fails to take into account the

social context in which ‘fathering’ occurs and appeals to abstract principles that would be universally applied. The drawbacks of this approach have been well rehearsed in a growing literature on the ‘social science critique of bioethics’ and the call for more contextualized, integrated approaches to applied philosophical ethics.<sup>35–39</sup> Abstract philosophical analysis of the concept of fatherhood, and deliberation on the moral sources of PRR, is useful (outside the confines of academic philosophy) only to the extent that it can help us think through the problems more clearly. If, however, we wish this philosophical ethical analysis to provide some kind of normative guidance in the real world, applied through policy for example, it has to take into account the views, perspectives and experiences of real people.<sup>40</sup> Further, the attempts by philosophers to define and ground PRR in a specific and (for the most part) singular relation seem inconsistent with sociological and anthropological work that stresses the multitude of different family forms, including a variety of different ways in which fatherhood is negotiated and constructed.<sup>41,42</sup> It seems clear that any philosophical account that begins from a singular and universalistic perspective, which aims for one-size-fits-all account of PRR, will rarely be generally applicable when placed in a variety of different social contexts. Arguably, then, the place to begin such philosophical theorizing is by examining how fatherhood, as a normative concept, works on the ground.

This article discusses some of the data gathered during an ‘empirical bioethics’ study that sought to fill the gap between these two approaches by combining the philosophical and empirical, looking at the moral significance of the genetic relation within the father–child relationship by specifically exploring men’s normative constructions of fatherhood. It sought not only to document men’s unconsidered views, but to engage with them at a deeper level, exploring the reasons they have for holding the views they do and uncovering the lower order moral principles and values that inform their higher order judgments about the moral basis of fatherhood and PRR.

Data of this kind might be valuable for a number of reasons, and the significance of the data presented in this article will depend primarily on the reasons for one’s interest. Our interest stems primarily from our belief that good theorizing in applied ethics must be grounded in real life and contextualized so that it is sensitive to the lived experiences of the people whom the theorizing would affect once applied. This claim withstanding, it is important that any philosophical theory seeking to proscribe how and why paternal responsibilities and rights should be allocated takes into account the way that real people will react to that theory – as those reactions will impact upon the extent to which the theory can be applied or is rejected. Arguably, the best way to do this is to give them a role in the theorizing process. Empirical ethics, as we have approached it here, is about a negotiation between the stakeholder (in this case, fathers and men) and the theorist (in this case, us as researchers). As Ives has argued elsewhere,<sup>40</sup> the aim is not that the data should govern the theorizing, nor that the theorizing should dominate the data – but that they develop mutually, each taking the other into account in a kind of reflective equilibrium.

Furthermore, this data will be of use to those philosophers who incorporate empirical premises into their moral

arguments. For example, some philosophers make claims about the extent to which ‘most of us’ consider parental rights to be robust and long lasting,<sup>43</sup> and others make claims about how ‘most of us’ would intuitively think that a recipient of a gonad donation would be considered a father rather than the gonad donor.<sup>44</sup> If these claims about what people find intuitive are to be used as premises in a normative argument, then such claims should at least be verified empirically. Data that show how men construct fatherhood as a normative concept, which makes explicit what men find intuitive and what they do not with regards to conceptions of fatherhood, paternal rights and paternal responsibilities, will either support or challenge such premises and thereby provide an empirical foundation for philosophical work in this area.

The first step in this process is to conduct the empirical research and present it in such a way that it is accessible to those who are engaged in applied ethical theorizing. The next step is to take that data and incorporate it into one’s theorizing as one sees fit. This paper constitutes the first of these steps, and in it we make no attempt to present any philosophical theorizing. We would suggest, in fact, that this kind of empirical bioethics might always require presentation in two stages – first the empirical data and then the philosophy – because to present both in a single paper will arguably fail to do justice to either element. It is with this in mind that we present the first of these steps – and the second will follow elsewhere.

## Methods

Data were gathered as part of a wider empirical bioethics project exploring the moral significance of the genetic connection within the father–child relationship. The project was run as a Wellcome Trust PhD studentship by Ives, with Draper, Pattison and Williams supervising. Data were gathered between April 2005 and October 2006. Local research ethics committee approval was granted in January 2005.

Ives facilitated 12 all-male focus groups ( $n = 50$ ), purposively sampled to take into account a variety of fathering experiences and grouped according to homogeneity of fathering experience. These men were not recruited in order to provide a representative sample, but to provide a snapshot of views from men who have had very different experiences (Table 1).

Participants were self-selected volunteers, recruited through the media, fertility clinics, schools, advocacy/support groups, advertising and snowballing from recruited participants. Written consent was gained from each participant prior to participation.

Discussions were based on five ‘scenarios’ (Table 2) designed to generate debate on the normative aspects of fatherhood and encourage men to focus on how the rights and responsibilities of fatherhood are acquired. These scenarios were tested in a pilot study<sup>45</sup> and were based upon controversies around fatherhood in the UK media at the time. An active mode of facilitation was employed, in which participants were questioned and challenged, turning the focus group into something akin to a philosophy seminar.<sup>40,46</sup>

Discussions were recorded, transcribed and systematically coded using ATLAS-ti. Analysis software was employed as a tool to help manage and organize the data, facilitating easy retrieval of coded segments and providing a time- and

**Table 1** Purposive sampling of characteristics for focus group

Purposive sampling criteria	Reference code
Men who are permanently resident with their children and play an active role in their upbringing	FGR
Men who are separated/not permanently resident with their children. Some men in this group had partial contact with their children and others had none. Some played an active role in their children's upbringing, but had restricted contact	FGS
Men who have donated sperm either through a licensed clinic, through an online service, or through a private arrangement with friends	FGD
Men who have undergone fertility treatment with their partners	FGE
Men who have experienced a pregnancy that was unplanned and unwelcome. Some of these men had chosen with their partners to terminate the pregnancy, some had had the pregnancy go to term against their wishes, and some had had partners who terminated against their wishes	FGP
Teenage boys aged 15–19. None of these teenagers were fathers themselves	FGT

**Table 2** Summary of scenarios used to generate focus group discussion

Scenario	Summary of content
1	A man has no entitlement to decide whether or not a pregnancy is carried to term. If it is, he is responsible for the child; if it is not he is powerless to prevent a termination
2	A man can be legally absolved of paternal responsibility if a paternity test proves he is not a genetic father, but the same result can also mean he loses paternal rights
3	Sperm donors do not have any responsibilities or right toward their genetic progeny. Donor-conceived children now have the right to identifying information about their donor-fathers
4	When an embryo is frozen as a result of IVF treatment, consent from both the man and the woman is required in order for the embryos to be used
5	A recent court case rules that the man whose sperm was accidentally used to fertilize the eggs of a woman who was not his wife was the legal father of the resulting child, but was not given custody or access rights, which instead went to the husband of the mother

space-efficient way to store the data. We, as investigators, were still responsible for asking the questions, interpreting the data and deciding when and where to code.<sup>47</sup>

Thematic analysis was conducted by Ives, and checked by Draper, Pattison and Williams, and focused on the men's moral arguments and normative constructions of fatherhood. The analysis followed an 'editing analysis' model,<sup>48</sup> which requires the analyst to act as interpreter, to identify and code meaningful data and to identify and develop emerging themes. As participants were generally unable to construct explicit moral arguments, the analysis often required an interpretation of their reasoning.<sup>49</sup> This need was minimized by an interactive facilitation method which sought to probe participant's reasons and justifications as the discussion progressed. We aimed to carry out this interpretation sympathetically, so that it was consistent with those

views and reasons that had already been made explicit. The interpretative project was an ongoing, iterative process, utilizing a method of analytic induction,<sup>50</sup> in which interpretations of the data were treated as provisional hypotheses and were introduced into proceeding groups where they were tested and re-evaluated. Analytic induction was also employed within each group, and during each session, Ives attempted to summarize and interpret the discussion as it progressed, allowing participants to reflect on, and respond to, his interpretations.

The aim of the analysis presented in this paper was to identify the moral perspectives on fatherhood that were common to all, or the majority of, participants. In this sense, we were not looking to compare and contrast the different groups, but to look for the commonalities in their moral perspectives despite their differing experiences. These common moral perspectives might then be used as a springboard for philosophizing about fatherhood and theorizing about how paternal responsibilities and rights should be allocated. In this paper, we focus only on eliciting and discussing those common moral perspectives. We have already discussed, above, how we think these data might be utilized by philosophers.

## Results

### *Father-as-carer and father-as-progenitor*

'Fatherhood' was generally perceived to be a dyadic concept, with the word 'father' being used to refer to both a 'progenitor' and a 'carer'. The roles associated with these two kinds of fatherhood were very different. To be a father-as-progenitor a man simply has to provide the sperm that leads to conception, whereas to be a father-as-carer a man has to take on a variety of social roles. **The roles associated with the father-as-carer included disciplinarian, breadwinner/provider, guardian, moral compass, sex role model, guide and friend.**

This father-as-carer role was embedded in a narrative of responsibility and constructed as a set of obligations to the child (to care for, to provide for, to protect). Conversely, the concept of father-as-progenitor was not normatively loaded and was constructed solely as a biological relationship. The difference can perhaps best be described as the **former being a state of doing, whereas the latter is a state of being.** The former involves a choice and a commitment; the latter involves biological fact.

*FGR1/04*<sup>b</sup> Actually having sex and the result of that being a pregnancy is one thing, but it's not fatherhood... Fatherhood and the development of paternal responsibility is... about developing a long-term responsibility... for the collective good of the child, and taking that responsibility right through in terms of the many kind of aspects of that child's welfare, but that doesn't necessarily relate directly to... erm, you know, the biological kind of, instantaneous creation of a child...

<sup>b</sup>The first three letters of the participant ID refers to the focus group kind and the following digit to the focus group number. The final two numbers refer to each participant number within that group. Therefore, 'FGR1/04' is participant number 4 from the first focus group run with resident fathers.



### The 'good father'

Once these semantic distinctions became clear, it also became clear that the **father-as-carer was valued much more highly than the father-as-progenitor** and was imbued with a moral significance that the father-as-progenitor was not. This was primarily because to be a successful father-as-carer, a man needs to make an effort. He has to be there for a child, and put work into the relationship. Being a progenitor was not valued in the same way – *even a frog can do that*.

FGD2/02 I think fatherhood, being a father, is actually about... emotional attachment to the child, I mean... the example that you give... where a fella ends up bringing up a child that ends up, appears not to be his own, I don't think that makes him any less of a father... having a straightforward genetic link with a child just means that you're able to produce sperm, so what, a frog can too, big deal.

What mattered was *being there* for the child. **The difference here is that the process of becoming a father-as-progenitor does not require effort or commitment**. Progenation is, to a large extent, a biological accident. Thus, the notion of being a 'good' father, in the sense that the person playing that role can be morally evaluated, was linked to being a father-as-carer.

FGP1/04 I think a lot of it is to do with... the psychological and the emotional side, it's not a case of, er, in my view... becoming quite clinical and perhaps sperm... I think it's the emotional the psychological side that's important... that's how I feel...

FGP1/01 I wouldn't totally agree there... I would say what makes you a father is the genetics, the sperm, what makes you a good or a bad father is exactly what you've just explained.

Generally, we find that a man can be a father in one of two ways, but **he can only be a 'good father' in one way – by being a father-as-carer**. A man who produces children and abandons them is a father (as progenitor), but he cannot be evaluated as a *good* or *bad* father.

The men tended not to talk about the father-as-progenitor in morally evaluative terms, and it seemed to be, for them, a **morally neutral concept** – *obvious and unimportant*.

FGR2/04 We're trying to pick apart what fatherhood is about, and I'm suggesting... that fatherhood... sometimes is not about genetics at all, and even if there's a very clear genetic link it still need not necessarily be fatherhood... I don't think this man [an absent biological father] is in any sense, except a very obvious but unimportant biological sense, the father...

### Valuing the father-as-progenitor as a means to an end

Given the moral emphasis that the men tended to place on the father-as-carer role, it is perhaps surprising that alongside this was a distinctly genetic undercurrent, which tended to construct the father-as-progenitor as the *real* and *proper* father.

FGS2/05 There is only one father of a child.

FGS2/03 Playing dad, maybe.

FGS2/05 You can't have two fathers for a child; it's impossible... so, that's my view... you can only have one father.

J1 And who's that? Is that the genetic...

FGS2/05 The *father*...

FGS2/04 Yeah.

FGS2/05 The genetic father, I don't think you can have a father who isn't... the genetic father.

A tension was clearly present with some of the men, predominantly the non-resident fathers, as they simultaneously showed a moral preference for the father-as-carer role, but steadfastly maintained that the father-as-progenitor was the 'real dad'.

FGS2/03 Yeah but surely that person who's played father's just as important, or is as important or more important.

FGS2/05 He's an important person.

FGS2/04 Yeah.

FGS2/03 He's more important than his real dad because he [the child] doesn't know his real dad possibly.

FGS2/05 **He's a more important person, but he's not the dad... he's not the real dad but he's been stepdad.**

FGS2/04 He's not a real dad... agreed...

This apparent contradiction makes sense if we consider the wider context in which these men frame fatherhood, and importantly, construct *themselves* as fathers. Many of the non-resident fathers had little or no contact with their children, and many of those who did have contact had to fight for it through the courts. One of these men talked about wanting to be a father to his son, but circumstances of geographical separation and acrimony between him and his son's mother meant that, in fact, he was merely a 'benevolent uncle'.

FGS1/04 I think a father is first of all a biological entity... I agree with the previous speaker that my son was really... my entire life. I just looked forward to the time I spent with him, but... I began to realize that as a father I was really only... a benevolent uncle, and that I had no rights, although I had joint custody... because he wasn't living with me. I was in fact 100 miles apart from him, so all the major decisions were taken by my wife. I wasn't consulted. She didn't feel like she had to consult me even though I had joint custody...

The impression given is that these men want to be 'good' fathers-as-carers but feel that they are prevented from doing so; and other men might be fulfilling the role that they see as their own, becoming fathers-as-carers in their stead and furthermore getting rights because of it.

FGS2/05 If men are getting... the legal rights to see other people's children, that includes our children, gentlemen, and you could have your partners' current lover saying 'right, I'll see... Bobby on a Saturday morning, you can have him in the afternoon, I've got my legal rights...'

By emphasizing genetic fatherhood, a non-resident or absent father may be able to carve out for himself a unique status – the *real* father – which is defined by a unique genetic connection and therefore cannot be usurped by any other man. The status of 'genetic father' is fixed and enduring in a way that the social relationship is not, and it cannot be taken away from him. In the absence of sustained social contact, the genetic connection becomes a lifeline.

The genetic connection between a father and child was also valued because it was thought to create a *natural* bond between father and child, to increase the likelihood of paternal bonding through physical resemblance, and because it was seen to be the 'normal' way to form a family in a society where deviations from the norm generate negative attention.

FGD1/03 They don't want the neighbours to be saying... 'well how come... you've got Brad Pitt's sperm and your husband's Woody Allen', you know...it's not really gonna work out, you know, if all the neighbours wonder why...

What is important here is that all of these reasons for valuing the genetic connection are directed towards facilitating a father-as-carer relationship with a child, or to protect a child from being seen as 'different'. It was valued not in itself, but instrumentally, for what it was believed to do; namely (1) to be beneficial to the child and (2) to facilitate a deeper bond between father and child.

### *Being responsible – voluntary action and foreseeable consequences*

All the men tended to subscribe to a traditional view of moral responsibility,<sup>20</sup> believing that we are morally responsible for the foreseeable consequences of our voluntary actions. Consequently, they used this as their basis for grounding paternal responsibility, the foundation of which is choice and agency. If a man had sex, they said, he is responsible for any child conceived as a result. This was not because he is genetically related to the child, but simply because he *caused* the child to exist. One of the men likened having sex to a game of Russian Roulette – knowing the risks and taking a gamble.

FGR1/02 The choice was yours and it was made the moment you slept with that person. Now that's the time... when in your mind you're taking on that risk, aren't you?

FGR1/01 Yeah.

FGR1/02 It's kind of like 'tough luck' really later on, if it doesn't work out for you, cause you've actually taken that risk from day one... if you're gonna play Russian Roulette... one time there might be a bullet in there and you have to accept that risk.

This same principle was applied to assisted conception, which served to make the recipient man responsible and absolve the sperm donor of responsibility. It is the recipient, whose decision to use the donated sperm causes the child to exist, and thus has ultimate responsibility. Again, this illustrates the fact that the men did not tend to equate genetic connectedness with responsibility, and rather associated responsibility with *causation*. Furthermore, this causation was thought to generate responsibility, whether intentional or not, even when contraception was used. Pregnancy is a known risk of sex, and anyone who voluntarily engages in sexual activity voluntarily takes that risk.

FGR2/02 [The biological father] has knowingly done an act that would lead to a child, so cause-and-effect type of relationship...

FGR2/03 It's just a consequence of action, that's all it is, whether those consequences were intended or not it's still...

FGR2/04 They were foreseeable...

However, it was recognized that there was a limit to what that responsibility could entail, and this was informed by the men's views on what kinds of responsibilities could be enforced. The following passage illustrates quite succinctly both which responsibilities were thought to be entailed and which were thought to be enforceable.

FGS1/02 Are you saying you're gonna pass a law to make a man love a child?

FGS1/03 No, not love a child, this man has to all intents and purpose been a good father, looked after the child... and then all of a sudden it's not his and... he says well 'hah, there's nothing anywhere that say's I've gotta pay for it'...

FGS1/02 But if... [you] say 'oh yes you have, you've gotta carry on supporting the child' you're imposing on him an emotion...

FGS1/03 No, not an emotion... a fiscal responsibility.

The idea seems to be that while causing a child to exist can generate a financial responsibility, it cannot generate a responsibility to be a father-as-carer. For the philosophers among us this view resonates strongly with the Kantian principle of 'ought implies can'.<sup>51</sup> It makes little sense to consider a person obligated to perform an action if it is not possible to perform it. Given that you cannot force a man to love a child, it follows that it is not plausible

for a man to be morally required to do so. Therefore, given that a father-as-carer would, by definition, love a child, it is implausible to suppose that a man could have an obligation to be a 'father-as-carer'.

### *The responsibility to be a father-as-carer*

The responsibility to be a father-as-carer was thought to be generated by voluntarily accepting and performing that role. This was expressed most clearly when the men condemned a hypothetical man who walked out on a child he had been 'fathering' upon discovering that he is not genetically related. The reason for this condemnation was simply that the man had formed a paternal relationship with the child, had accepted responsibility for the child, and thus had a responsibility to continue in that relationship – for the sake of the child.

FGS1/03 If you're the genetic father and you walk away or you split up, you're financially responsible. If you're the father [as carer] you're just as responsible because you've had the responsibility of that child from the belief that it was yours up to that moment in time you discovered it wasn't, so you're just as responsible for it whether you're the genetic father or not.

This view makes use of the **responsible for your voluntary actions' principle**. By acknowledging a child and forming a relationship where paternal father-as-carer behaviour is expected, a man voluntarily creates a relationship of dependency. If a man creates that dependency between himself and a child, then he is held responsible for the consequences and is to be condemned for abandoning these responsibilities. Here, we find the clearest separation between morally significant (father-as-carer) fatherhood and genetic fact. The men in this study did not equate the father-as-carer with genetic connectedness, and the responsibilities associated with that kind of fatherhood were not genetic in origin – but social – as one separated father observed:

FGS1/01 I'm troubled by this notion that because it's not your biological son you... should suddenly change because of the fact that the child isn't your own... [E]motionally that must be quite devastating but I think that kind of... goes against the kind of whole conception... of fatherhood in the sense that... it's not just a biological thing, it's about your relationship and your commitment to that child, and I would be a bit disturbed if... the bloke finds out the child isn't his own, [and] then decided he was gonna withdraw...

Once a man has acquired paternal responsibility, it was felt that it would be wrong to suddenly withdraw from that role, and although the men thought a man could not be forced to continue in his role as 'carer', he can, and should, be forced to continue in his role as 'provider' for his dependants.

### *Two kinds of responsibility: 'paternal' and 'material'*

The discussion of responsibility above suggests that there are two kinds of responsibility at work – one that is voluntarily assumed and one that is compulsory and *prima facie* inescapable. The former kind can be called 'paternal responsibility', and this concept covers all those responsibilities associated with being a father-as-carer that must be voluntarily accepted. The latter can be called 'material responsibility', and this is the involuntary responsibility that comes from causing a child to exist (either by being a father-as-progenitor or a willing initiating partner in an assisted reproductive project).

The relative importance of these two kinds of responsibilities was succinctly expressed in a wry comment made by one of the sperm donors.

FGD2/01 I think a computer could provide the basic needs for a child really, couldn't it? It could provide the warmth, the food, the shelter, but if the love and the understanding and the time and the patience and the care isn't there then it's just some kind of automaton, just churning out kids, isn't it really. I think that's what makes the difference between a good father and a bad father. A good father goes the extra mile and does everything for his kids but a bad father is just kind of like well, you know, just do the necessary and that's it.

Given these distinctions, it seems possible that a man could cause a child to exist (and could thus be a father-as-progenitor) and discharge his material responsibility, and yet not be considered a father in a morally meaningful (father-as-carer) sense unless he also discharged *paternal* responsibility. Thus, forcing a man to discharge his material responsibility towards a child (which occurs in the UK, through the Child Support Agency) would not make him a father to the child in any morally meaningful way.

### *Discharging responsibility as a way of earning paternal rights*

Generally speaking, the men tended to think that a man only acquires rights as a father by discharging his paternal responsibilities. By being a father-as-carer, and by fulfilling the responsibilities associated with that role, a man earns the right to be involved in a child's life and to make decisions concerning a child's upbringing and welfare.

FGT1/06 I think like anything you've got to earn it, like the more time you put in with the child then the more rights you've got to them and the more rights you have over what they do because... you pay the most attention to them, you give them the most support, so you should have the most say over them...

There was disagreement, however, about whether or not a father-as-progenitor should have rights, simply because he is the biological father. The majority view was that **only by being a father-as-carer can a man earn those distinctly**

paternal rights, such as the right to determine residency, the right to make decisions about health care, schooling, et cetera. This view was most clearly expressed when the men considered the hypothetical case of a man who is refused contact with a child he has been fathering after his non-paternity is discovered. The feeling was that because this man had invested so much in the child, had cared for it and provided for it, he had earned the right to be involved in the child's life. This right was earned and established independently of biological fact, and therefore the presence or lack of genetic connection should not, it was thought, impact upon that right.

FGP1/01 Someone... might be in this relationship believing he's a [genetic] father for 10 or 12 years and then discover the truth, or it might happen within several months. So the longer it goes on the more rights I would say he has to maintaining the responsibility and entitlement as a father.

A significant minority, mostly consisting of non-resident fathers, disputed this and wanted to say that a father-as-progenitor has an inalienable right to be in a child's life, simply by virtue of being the biological father. Concerns were expressed that a succession of the mother's lovers would be running in and out of a child's life, who would not care for the child the way that a genetic father would. The idea that a genetic connection will lead to a more stable and enduring relationship is a key theme – which has already been discussed above – and draws upon a quasi-Darwinian belief that men are not generally interested in children *per se* and that they will only care for and become involved with a child if they recognize their own genes expressed in the child. Two men from an IVF group described this feeling:

FGE1/03 I didn't appreciate until I became a father ... about your children being mini-yous, and they are, you know, whether you like it or not... my little boy is a mini-me and there's no, absolutely no questions, he looks like me, he's got the same personality as me, he's only two but I can see he's got the same temper as me... and probably the same sensitivity as me and, erm, and I don't think until you are a parent of your own child you definitely don't know that and, er...

FGE1/04 You could never develop that link with an adopted child I don't think...

The rationale given for the significance of the genetic connection is that it facilitates a social relationship – a genetic father and child are more likely to have an enduring relationship – and the claim is that this is a fact of our biology. This 'fact' is then used as a basis for a rights claim – which is essentially the claim that because the genetic father is the best placed man to look after a child, he should have a right to do so – it is in the child's interest. That this argument rests on this 'fact' re-confirms one of the central themes of this project – that the genetic connection is valued as a means to an end, rather than as an end in itself.

## Discussion

One of the main points of interest here is the fact that fatherhood, as a concept, seems to be fragmented. In this, these findings support a 'fragmentation' or 'multivalence' thesis<sup>c</sup> and suggest that a variety of men, standing in different kinds of relationship to the same child, may still be recognized as a father – or at least as having some significant paternal role to play.<sup>7</sup> The distinctions thrown up between the father-as-carer and the father-as-progenitor suggest that men are willing to accept that fatherhood can be both a biological and a social relationship. What is significant is that there was a tendency to give more moral weight to the social relationship, than to the genetic. There are, it became apparent, many ways of conceiving fatherhood – but the conception that is morally significant is the conception of fatherhood as a caring, nurturing, social relationship. This ties in with other literatures depicting the changing nature of familial relationships and notions of kinship, in which the biological, nuclear, family is giving way to more fluid constructions, where less emphasis is placed on genetic ties and more emphasis on choice and the intentional construction of familial groupings that are not limited to biology.<sup>13,14</sup> What is important to 'fatherhood' is the formation and continuation of a particular kind of relationship, which is distinct from biological kinship.

Also of particular interest is the fact that although the genetic connection was considered by a minority of participants to be very significant in terms of generating rights, the explanation offered for this view always fell back on the factual belief that a genetic relationship was a natural facilitator of a robust and enduring social relationship – showing that the genetic connection is valued instrumentally for what it is believed to do, rather than inherently for what it is.

A likely explanation for why it was the separated fathers who tended to focus on genetic constructions of fatherhood is that they are often unable to be fathers (as-carers) to their offspring, and so if they did not construct fatherhood on genetic terms, they would have less of a claim to consider themselves fathers. Given this, the separated fathers tended to favour what Lin and McLanahan<sup>33</sup> refer to as an 'equality' model of rights distribution, rather than the equity model favoured by the other participants in this study. The social circumstances of separated fathers are often such that they would be unable to earn rights by 'equity' because they are often not the men who are caring for their children on a day-to-day basis. Given that they want to remain involved in their children's lives, they appeal to the genetic connection as the indisputable 'fact' that ties them to their children, and thus the genetic connection forms the basis of their 'equality' claim to rights. Their rights to have contact with their children are equal to those of the mother because their genetic contribution to the creation

<sup>c</sup>We would like to thank an anonymous reviewer of this paper who pointed out that the term 'fragmentation' might carry with it certain negative connotations that are contrary to the point we are trying to make. We have used the term 'fragmentation' because it is already used within the literature, but we take on board the point that 'multivalence' might better convey our point while not implying that we are being critical of this conceptual reformation.



of that child is equal – and this is not affected by the amount of postnatal input they have had in raising the child. This is in direct contrast to the majority of participants, who advocated **an equity model wherein paternal rights are earned in direct proportion to the amount of postnatal (and sometimes prenatal) input he has made.** While this finding supports that of Lin and McLanahan with regards to separated/non-resident fathers, the fact that its endorsement was generally limited to separated fathers suggests that it may be a product of the particular experience of being a separated father.

Another particularly interesting finding is that the men, on the whole, tended to reject the notion that a man can earn the right to be involved in a child's life by paying child support. By making a distinction between material and paternal responsibility, and associating the morally meaningful 'father-as-carer' with the discharging of paternal responsibilities, it is apparent that unless a man is fulfilling the role of the 'father-as-carer', which simply means voluntarily accepting and discharging paternal responsibilities, he is not considered to be a father in any morally meaningful sense. Further, unless a man becomes a father in this morally meaningful sense, he cannot 'earn' the rights which would normally be associated with this kind of fatherhood (right to determine residency, health care, schooling, etc.). Thus, these paternal rights are not natural rights of the kind enjoyed by Roman patriarchs, and later defended by patriarchists,<sup>52</sup> and they are not rights which can be earned simply by paying child maintenance; but rights that are earned directly as a result of discharging paternal responsibilities, and legitimately enjoyed only by those who are prepared to put the work in.

We also find that the men adopted a causal account of moral responsibility which closely follows that advocated by some philosophers,<sup>15,18,20</sup> holding that a man is morally responsible for any child created as a foreseeable result of his voluntary actions. However, they do not limit the scope of the significant causal role to being the provider of genetic material (as Callahan<sup>15</sup> and Nelson<sup>18</sup> do), and neither do they extend the scope of the significant causal role to that played by sperm donors (as Fuscaldo<sup>20</sup> does). Rather, **providing the genetic material is one way that a man can cause a child to exist, but doing so does not always place a man in a morally significant causal relation to a child.** Sperm donors, for example, were not thought to be morally responsible for causing a child to exist because they are providing sperm for somebody else to use. It is that 'someone else', the recipient, who uses the sperm, who causes the child to exist. Accordingly, that person has a moral responsibility for the resulting child, even though he is not genetically related.

## Conclusion – taking the empirical bioethics approach

The purpose of this research, as we have already stated, was to gather empirical data on men's perspectives on how paternal responsibilities and rights are generated, so that (1) our philosophical theorizing on the subject could be better contextualized and (2) when philosophers use intuitions as premises in an argument they can provide some empirical evidence. The approach we took both to data

gathering and analysis was driven by this primary aim, and our aim in presenting the data was to do so in such a way as to be accessible to philosophers and ethical theorists – so that they can use the data as they see fit. It is fitting, therefore, that by way of a conclusion we should attempt to distil those points that we think can, and perhaps should, be taken on board by philosophers working in this area.

As far as these findings show, **men from a variety of different fathering backgrounds share a set of common moral intuitions about fatherhood – and if intuitions are going to be used as premises in arguments, then the intuitions presented here have a greater claim for taking that role than others which are not empirically grounded.**

The distinction between the two different kinds of fatherhood, the two different kinds of responsibilities and the conceptual separation of morally meaningful fatherhood from the fact of genetic connectedness implies that many current theories that try ground paternal responsibilities and rights (e.g. as genetic, intentional, causal, welfare based) are inadequate and are guilty of trying to force fatherhood into an overly simplistic conceptual framework. **It is not the case that fatherhood is an either/or status of that the rights that we associate with fatherhood come in an all or nothing package once status as a 'father' has been attained – and any philosophical theory that does not recognize this is, arguably, missing the point and is out of touch with the realities of the ways in which fatherhood is constructed and conducted.** While philosophers arguably should not refrain from suggesting how they think fatherhood *ought* to be constructed and defined (as that is the nature of their discipline), they must make room for the fact that the concepts they work with must be realistic – as oversimplification will lead to their theorizing being purely 'academic'.

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