Gay Men and Surrogacy

5

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The visibility of gay fathers is on the rise, with growing numbers adopting children, sharing parenting with lesbian women, and having children through surrogacy arrangements (Gates, 2007; Goldberg, 2010a). The increase in the number of gay fathers who choose to construct their families outside of heterosexual unions is a result of a combination of factors that include but are not necessarily limited to: recent developments in reproductive technology, changing legalities in the adoption system, greater acceptance of lesbians and gay men, and broader changes in the diversity of American families (Goldberg, 2010a; Stacey, 1996). Changes in the sociohistorical context for gay men have increased the visibility of gay fathering, and gay fathers are much less likely to be viewed as the anomaly they once were (Berkowitz, 2007).

Despite their increasing visibility, there are a dearth of studies on gay fathers, particularly on the cohort of gay men who became parents after coming out rather than in the context of a previous heterosexual relationship (for exceptions see Berkowitz, 2007; Berkowitz & Marsiglio, 2007; Greenfeld & Seli, 2011; Lewin, 2009; Mallon, 2004; Stacey, 2006). Moreover, scholars understand very little about the diversity among gay fathers. Developing a more nuanced understanding of gay fathers requires scholars to explore the diversity of structures, arrangements, and practices within these family constellations. For example, since there are several paths to parenthood for this emerging cohort of gay fathers—including domestic and international adoption, fostering, surrogacy arrangements, and creative kinship ties that often entail sharing parenting with a lesbian woman or women—studies of gay fathers need to better understand the unique family experiences embedded within each of these family forms.

This chapter provides an overview of the scholarship on one particularly understudied group of this new cohort of gay fathers—gay men who have become parents through the assistance of a surrogate mother (Bergman, Rubio, Green, & Padron, 2010; Goldberg, 2010a). Some of the questions that I address in this chapter are: For those gay men using surrogacy, how is the transition to parenthood unique when compared with adoption, fostering, and shared parenting with lesbian women? To what extent do gender, sexuality, social class, race, and ethnicity intersect in surrogacy arrangements? How does the importance of biological relatedness to the child shape the decision-making processes of those gay men pursuing surrogacy? How are the identities of the egg donor and/or surrogate mother implicated in the process of building a family and later, for doing family? Answering these fundamental questions about gay fathers and surrogacy provides a starting point for understanding the diversity in routes to gay parenthood and the variety of family structures formed. I expect that this chapter will

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be of value to researchers and students interested in the intersections of sexuality, gender, and reproduction. Lawyers, policy makers, educators, clinicians, and practitioners who work with sexual minority parents and assisted reproductive technologies may also see this chapter as a valuable source of information. Finally, this chapter should be of interest to current gay fathers who have used surrogacy and gay prospective fathers who are interested in pursuing surrogacy arrangements.

I begin by outlining some of the guiding theoretical perspectives that have been used to frame the scholarship on sexual minority parenting and assisted reproductive technologies. Next, I detail the different types of surrogacy arrangements and the demographic profiles of those gay men who use surrogacy. I review the few yet promising studies on gay fathers and surrogacy, exploring the rationales behind the men's choice to construct their family using this pathway; the relationships that develop between expectant fathers, surrogate mothers, and their children; and finally, the consequences for family formation. Then, I briefly discuss the emerging trend of reproductive outsourcing, detailing how gay men now have the option to travel abroad to less developed nations and purchase the services of a surrogate mother at a relatively low price. I consider the current legal issues facing gay fathers who use surrogacy and conclude by offering suggestions for research, theory, policy makers, and practitioners.

Theoretical Frameworks

Several intersecting and complementary theoretical perspectives have guided the scholarship on sexual minority parenting and surrogacy. Oftentimes these perspectives integrate one or more of the following: symbolic interactionism (Berkowitz, 2007; Berkowitz & Marsiglio, 2007), social constructionism (Stacey, 2006), feminism (Ehrensaft, 2005; Ryan & Berkowitz, 2009; Stacey, 2006) and intersectionality (Stacey, 2006). Symbolic interactionism assumes that human beings possess the ability to think and imbue their world with meaning. Such a perspective has been used to emphasize how gay men develop their self-as-father identities and how meanings of self, parent, child, and family emerge from gay men's interactions with surrogates, egg donors, agencies, extended families, and interlopers (Blumer, 1969; Mead, 1934). Similarly, a social constructionist perspective turns the spotlight on the extent to which families, gender, and sexualities are socially and materially constructed (Oswald, Blume, & Marks, 2005). When gay fathers conceive children with egg donors and surrogates, they expose the socially constructed reality behind taken for granted assumptions about parenting, fathering, and family. Moreover, gay fathers actively disentangle heterosexuality from parenthood and in doing so disrupt fundamental notions about family. Gay men who choose to parent can challenge normative definitions of family, fatherhood, and even established gender and sexual norms of the mainstream gay subculture. Thus, viewing gay fathers' involvement with their children through these lenses illuminates the fluidity of family, gender, and sexuality.

Much of the work on sexual minority parenting has been spearheaded by feminist scholars who have long challenged "the ideology of the monolithic family and the notion that any one family arrangement is natural, biological, or functional in a timeless way" (Goldberg & Allen, 2007, p. 354). Feminist scholarship has been instrumental in highlighting how gay fathers who become parents through surrogacy do not represent the disintegration of family, but rather constitute new, creative, and valid family constellations. Nevertheless, I argue that further intersectional feminist analysis (Collins, 1990) is needed to better unpack how gay fathers who are able to use surrogacy are embedded within wider systems of economic, historical, and political structures. Throughout this chapter I will demonstrate how privilege and subordination intersect in gay families constructed through surrogacy in complex ways (Baca-Zinn, 1994). Taking seriously the interlocking systems of privilege and oppression in the lived experiences of gay fathers who use surrogacy illuminates how these men's class privilege and often White privilege, allows them

to buy their way out of discriminatory adoptive policies and stake out a 9-month lease on a surrogate mother's womb to construct a genetically related, and sometimes a genetically engineered, child (Dillaway, 2008).

Gay Fathers Using Surrogacy

Surrogacy is an assisted reproductive technology (ART) in which the prospective parent(s) forge a contract with a woman to carry their child (Bergman et al., 2010). There are two different types of surrogacy arrangements: traditional genetic surrogacy and gestational surrogacy. Traditional genetic surrogacy is when the surrogate mother is implanted with the sperm of a man, carries the fetus to term, and births a child, of whom she is genetically related (Bergman et al., 2010). Gestational surrogacy, which is also called in vitro fertilization (IVF) surrogacy, occurs when another woman's ovum is fertilized by one of the man's sperm using IVF and the resulting embryo is transplanted into another woman's womb (Bergman et al., 2010). In the latter case, the surrogate who carries the fetus to term and births the child is not genetically related to the child. Gestational surrogacy has become increasingly more common and accounts for approximately 95% of all surrogate pregnancies in the USA (Smerdon, 2008).

In 2006, the Ethics Committee of the American Society for Reproductive Medicine concluded that requests for assisted reproduction should be treated without regard for sexual orientation. Some argue that this will prompt a rise in the number of gay men who become fathers through surrogacy arrangements (Golombok & Tasker, 2010). However, simply because the Ethics Committee issued a statement of sexual inclusivity does not necessarily require individual surrogacy agencies to comply with such an endorsement. For example, despite the fact that multiple organizational bodies have endorsed adoption by gays and lesbians *and* advocate for second parent adoption (e.g., the American Psychological Association and the American Academy of Pediatrics), the legal and interpersonal barriers that gay men and lesbians face in adopting have been well documented by scholars (Brodzinsky, Patterson, & Vaziri, 2002). Thus, the extent to which the committee's statement is effective in pressuring surrogacy agencies to work with gay men is unknown. Future research is needed that explores the practices and policies of individual surrogacy agencies and personnel.

Although it is impossible to provide a definitive number of gay men who have become fathers through surrogacy, *Growing Generations*, the oldest and largest agency specializing in surrogacy arrangements for gay men reports on its Web site that since its inception in 1996, it has since worked with approximately 1,000 clients (http://www.growinggenerations.com/). At the time of writing there have been only two empirical studies to date on gay men and surrogacy (Bergman et al., 2010; Greenfeld & Seli, 2011). In the first study, the authors recruited 40 different couples who became parents using gestational surrogacy through *Growing Generations* and explored how these men experienced the transition to parenthood (Bergman et al., 2010).[1] In the second study, the researchers recruited 15 gay men from *The Yale Fertility Center* who were in the process of using their sperm to facilitate gestational surrogacy. The program's mental health counselor interviewed each of these men and their partners ($N=30$ men) to assess the psychosocial impacts of their experience.

Aside from these two very recent studies, there is a noteworthy absence of empirical literature on gay men's use of surrogacy. Diane Ehrensaft (2000, 2005), a clinical and developmental psychologist who specializes in psychotherapy and consultation with families formed through assisted reproductive technologies, has written extensively about surrogacy in the context of both heterosexual and gay- and lesbian-parent families. There have also been a handful of empirical qualitative studies on gay fathers that have included men who became fathers through surrogacy in their samples (Berkowitz, 2007; Berkowitz & Marsiglio, 2007; Mitchell & Green, 2007;

[1] Bergman et al. (2010) never divulge how many of these 40 men were biological fathers.

Ryan & Berkowitz, 2009; Stacey, 2006). For example, Berkowitz (2007) and Berkowitz and Marsiglio (2007) conducted interviews with gay prospective parents and with gay men who became parents through multiple pathways, including adoption, fostering, kinship ties, and surrogacy. Ryan and Berkowitz (2009) used in-depth interviews with gay fathers and lesbian mothers to document the heteronormative dynamics that govern adoption, donor insemination, and surrogacy. In a paper drawing primarily on clinical case material, Mitchell and Green (2007) detailed the various decisions that lesbians and gay men make when using donor insemination (DI) and surrogacy to conceive children. In one of the few ethnographic studies of gay men's kinship practices, Stacey (2006) described a diverse sample of gay parents, many of whom became fathers through surrogacy. Finally, although not an empirical study per se, Arlene Istar Lev (2006), a social worker, chronicled her experiences meeting and interacting with gay fathers who have used surrogacy. The findings from these limited studies and clinical and experiential reports form the foundation of much of this chapter.

The High Cost of Surrogacy

Surrogacy arrangements can be made independently between a gay male couple (or individual) and a female surrogate without the assistance of an agency. Legally, however, this is quite risky and can create a host of potential legal problems regarding custody of the child (Lev, 2006). Prior to the recent rise of agencies like *Growing Generations*, which are willing to work with single gay men and gay couples, gay men were forced to find surrogate mothers through placing ads in newspapers or through other informal channels like inviting friends or family members to serve as surrogates (Lev, 2006). However, now, to minimize a host of possible legal complications, many gay men choose to work through an agency, despite the fact that this increases the cost of surrogacy exponentially (Lev, 2006). Working with an agency is beneficial in that agency personnel assist fathers with introductions to possible surrogate mothers, screen the surrogate mother medically and psychologically, provide counseling for all involved parties, and help to navigate convoluted bureaucratic red tape (Lev, 2006). As stated above, commercial surrogacy, as mediated through an agency, is typically the most expensive route to parenthood for gay men and can range anywhere from $115,000 to $150,000 (http://www.growinggenerations.com). Commercial traditional surrogacy involves financing the participation of the surrogate, the services of an agency, physician services, legal fees, and health insurance to cover all procedures. In addition to the above expenses, commercial gestational surrogacy requires financing the participation of the egg donor, the services of both an egg donor agency and a surrogate agency, IVF physician services, and health insurance to cover all procedures. For gay men using this route there is an added layer of complexity in that they must also finance the necessary legal costs to ensure assignment of custody following the birth of their child (Golombok & Tasker, 2010).

The high costs of surrogacy mean that it is only an option for a small number of relatively affluent gay men—a fact that is illustrated by the demographic composition of the participants in the Bergman et al. (2010) study on gay men and surrogacy in which the authors interviewed one of the partners in 40 couples who had conceived children through surrogacy.[2] The mean household income out of the 40 men in their sample was $270,000, a number vastly above the national average[3] and far above the mean household income of gay men adopting children—$102,331, according to the 2000 U.S. Census (Gates, Badgett, Macomber, & Chambers, 2007). Moreover, 14 out of these 40 fathers already had children currently enrolled in a private preschool at an average cost of $8,764 annually, and 67% planned on sending their children to private schools in the near future. Furthermore, 68% of the men in the sample reported using some type of child-care assistance, ranging from au pairs, to nannies, to housekeepers.

[2] The Greenfeld and Seli (2011) study did not include any information about household income.

[3] This number in only reflective of the 37 out of 40 men who answered the question on income.

With regards to the racial and ethnic composition of the Bergman et al. (2010) sample, 80% were White, 7.5% were Asian, 7.5% were Latino, and 5% Middle-Eastern. In the Greenfeld and Seli (2011) sample, 90% (or 27 of the men) identified as White; only 10%, or three men, identified as Latino. Notably, there were no African-American men in either sample. The gay fathers in these samples are also different from gay men who become parents through adoption in terms of their racial and ethnic diversity. Using U.S. Census data, Gates et al. (2007) estimated that among gay male adoptive parents, 61% were White, 15% were African-American, 15% were Latino, 4% were Asian/Pacific Islander, 1% American Indian, and 4% reported some other race/ethnicity. Thus, although both studies are limited by a small sample and by the fact that recruitment occurred through *Growing Generations* (Bergman et al., 2010) and *The Yale Fertility Center* (Greenfeld & Seli, 2011), the demographic characteristics of these men highlight the extent to which surrogacy is a procreative pathway only available to a racially and economically privileged minority.

Thinking About Parenting: Surrogacy as an Option

Research has documented that gay men become parents for many of the same reasons as heterosexual men: Both cite the desire for nurturing children, the constancy of children in their lives, the achievement of some sense of immortality through children, and the sense of family that children help to provide (Bigner & Jacobsen, 1989; Mallon, 2004). However, the social and psychological dimensions of gay men's reproductive decision making are additionally complicated by internalized homophobia, anxieties about raising properly gendered (and heterosexual) children, and structural obstacles such as lack of information and navigating legal barriers (Berkowitz & Marsiglio, 2007; Brinamen & Mitchell, 2008; Goldberg, 2010a). Moreover, unlike the majority of their heterosexual counterparts who couple, become pregnant, and give birth, gay men who wish to parent must carefully consider a variety of other variables when contemplating parenthood. Such considerations include deciding on how they should go about creating a family, i.e., whether it should be through adoption, foster parenting, kinship ties, or through surrogacy arrangements. Embedded in these decisions are issues of cost, access, and the extent to which a genetic relationship is perceived as important by men in their conceptualizations of family.

Oftentimes, those gay men who choose surrogacy are motivated by the higher degree of control they have in the process when compared with adoption, feel that the presence of a genetic link to their child is an important factor for the creation of family ties, and worry about the psychological stress a child may experience as a result of being adopted (Goldberg, 2010a; Lev, 2006). For example, one man told Lev (2006) that he chose surrogacy because "it was the only way our child would be born without sadness as a part of his life story, i.e., there was someone who had to give you up, didn't want you, couldn't care for you" (p. 76). In viewing an adopted child as always already wounded, or psychologically damaged, this man sets up a hierarchical pattern of families wherein those not formed through such privileged means like surrogacy are deemed less valuable. Scholars studying sexual minority parenting should be careful not to reproduce existing hierarchies in how they interpret research findings. Gay men's families constructed through surrogacy can be respected without treating them as any more privileged than families constructed through adoption, fostering, or kinship ties.

Even for those gay men who are open to adopting a child, depending on the laws of the state where they reside, adoption may either be prohibitive or laws governing adoption might be vague and unclear (Lev, 2006). For example, one gay father who lived in Florida reported that surrogacy was his best possible option for creating a family, given that Florida explicitly barred nonheterosexual adoption (Ryan & Berkowitz, 2009). Although most states do not have explicit statutes barring adoption by gay men (and at the time of writing the legalities in Florida are currently under appeal), the legal and interpersonal barriers that gay men and lesbians face in adopting have been well documented (Brodzinsky et al., 2002). One gay

man in Lev's (2006) report explained that he and his partner "decided on surrogacy versus adoption because the laws are so vague that they could deny us a child strictly based on our orientation" (p. 76). Similarly, consider the following quote from another gay father who chose to use surrogacy:

> The thing about adoption is…that even though that child or those children are legally yours, they are never your children. And that is very frightening to me. That [we] would have this wonderful child or children through adoption and then at some point, something could happen, either through the courts or a change of the birth mother's mind…it is very unsettling to me and scared me. It scared me that the family we would create would be shaken by the birth mother or the genetic father coming back into our lives or the baby's life (Drew, gay father through surrogacy, as cited in Ryan & Berkowitz, 2009).

Reigning social norms establish biological relatedness as critical for defining family. Moreover, because gay men are often denied ceremonial and legal recognition of their families, the presence of a genetic link can be a meaningful symbol that validates their relationship to their child. Given these considerations, it should not be surprising that the presence of a genetic relationship is the most oft cited reason that gay men choose surrogacy (Lev, 2006).

The Family Tree: Gay Fathers, Surrogate Mothers, Egg Donors, and Their Children

Surrogacy is similar to DI in that it allows for one parent to be genetically related to the child and it involves a biological "other" to provide the other half of the genetic material. However, in the case of surrogacy, there is an added dimension not present in DI wherein another person—a female body—also carries the fetus to term and births the child. Thus, a critical difference between DI and surrogacy is that surrogacy always includes a physically present (female) body. However, despite this crucial departure, many of the complexities that accompany DI are also relevant in the context of surrogacy. For example, while surrogacy provides one parent a genetic link it also introduces a genetic asymmetry such that only one partner has a biological bond to the child (Goldberg, 2010a). This of course may prompt couples to wonder how this biological connection will shape parent–child bonding and can even provoke jealous feelings in the partner who is not genetically related to the child (Ehrensaft, 2005). Moreover, questions about the source of the sperm can privilege one partner in a gay male couple. Although many gay fathers choose to find out whose sperm actually impregnated the surrogate (or, in many cases, the egg donor), some gay fathers report creatively bypassing this issue by mixing their sperm before insemination and choose not to find out whose sperm was ultimately responsible for conception following the birth of their child (Ryan & Berkowitz, 2009).

Given these complex negotiations, the decision of whose sperm should be used to impregnate the egg donor or surrogate is a significant one. Scholars know very little about gay couples' decision-making processes regarding whom of the two men should supply the sperm. Findings from studies with lesbian couples who use DI reveal that oftentimes this decision is predicated upon who has a greater desire to experience pregnancy and childbirth (Chabot & Ames, 2004; Goldberg, 2006)—a moot point of contention for gay couples. However, other issues surfaced with lesbian couples that may be similar for gay couples, such as fertility, health, and age considerations (Chabot & Ames, 2004; Goldberg, 2006). The Greenfeld and Seli (2011) study provides some initial evidence for how gay men using surrogacy make decisions about which partner should supply the sperm. In this sample, 12 couples, or 80%, deliberately chose who would inseminate the egg donor. Decisions were made with the following considerations in mind: six couples agreed that the older partner should provide the sperm, two couples had a partner who had already fathered children in a previous heterosexual relationship and thus thought that the other partner should have this opportunity as well, two couples chose the partner who had a stronger desire to be a biological parent, and two couples reported that they decided to go with the partner who had "better genes" (p. 227). In the remaining three couples, both partners had equivalent desires for biological parenthood and thus inseminated equal numbers of eggs. Two of these three couples produced twins who were

half-siblings. With regards to the one couple who had a single child, the authors did not report whether the couple ultimately discovered who was the genetic parent.

Some research has suggested that choices about who should supply the sperm and have a genetic relationship to the child might be contingent upon one partner's belief that their family of origin is more likely to accept a child who is genetically related to them. In fact, there is some evidence that when only one parent has a genetic link to the child, some families of origin may be slow to accord full parental status to the other partner (Mitchell & Green, 2007). Sometimes families of the biological parent might see the child as belonging only to their own family, and families of the nongenetically related parent may neglect to see the child as a part of their family. Indeed, studies on lesbian women who became mothers through DI reveal that genetics matter for how families of origin relate to their grandchildren. For example, Gartrell et al. (2000) interviewed 84 lesbian parent-headed families and found that women reported a greater perceived investment from the families of origin of the mothers who had a biological tie to the child as compared to the families of origin of the mothers who were not biologically related to the child. Similarly, the nonbiological mothers in Hequembourg and Farrell's (1999) qualitative study on lesbian women who became parents though DI reported that their extended families were resistant to viewing them as legitimate mothers because they lacked both a biological and legal tie to their children. Future research is needed to see how gay men's families of origin relate to and bond with children conceived and birthed through surrogacy, particularly in those cases where a father is unable to secure a biological or legal relationship to the child.

Who Is the Surrogate Mother and/or Egg Donor?

Research with heterosexual and gay and lesbian couples has documented that parents who use assisted reproductive technologies like surrogacy are often motivated by the high level of control they have in choosing what their child will look like through carefully evaluating the characteristics of the surrogate mother and/or egg donor (Ehrensaft, 2005; Ryan & Berkowitz, 2009). For example, prospective parents often look for surrogates who resemble themselves or their partners in terms of race, ethnicity, religious affiliation, vocational interests, personal characteristics, and appearance (Mitchell & Green, 2007; Ryan & Berkowitz, 2009). The most common request from the men in Greenfeld and Seli's sample (2011) was for an egg donor who was tall, attractive, educated, and closely resembled the non-inseminating partner. Some gay prospective fathers have reported that as they evaluate their surrogates-to-be, they carefully cogitate on the importance of racial and ethnic matching, speculating how adding another dimension like racial differences to their already publicly perplexing family might confuse their child or encumber interactions with curious interlopers (deBoer, 2009; Ryan & Berkowitz, 2009). Prospective fathers often consider the extent to which they are willing to make what is already a conspicuous gay family even more conspicuous by becoming an interracial family (deBoer, 2009). Consider the following quote from a father in Ryan and Berkowitz's (2009) study:

> Well, on the website a lot of the women were 4 foot 2, Guatemalan women; it just wasn't going to work for us….We wanted to find a surrogate who was White and get rid of one other problem that these children, or child would have to deal with, you know, to be mixed race.

Making separate choices about an egg donor and a gestational surrogate allows intended parents to choose among a wider pool of egg donors, and the ability to select a donor whose physical, cultural, and biographical characteristics are more similar to themselves or their partners. Since there is a significantly smaller pool of gestational surrogates than egg donors, once the genetic concerns associated with the selection of the egg donor have been addressed, the choice of the surrogate is less constrained (Mitchell & Green, 2007). Thus, commercial surrogacy and egg donation makes it such that those men who can afford to do so "can literally purchase the means to eugenically reproduce White infants in their own idealized image, selecting desired traits in egg donors…with whom to mate their own DNA"

(Stacey, 2006, p. 39). In fact, in her advice to parents seeking assisted reproductive technologies, Ehrensaft (2005) writes that "you can feel that you have the whole world in your hands" as you "discover the power to craft the child that will be yours" (p. 42). This gives affluent gay men, who wish to become parents, the ability to regain control of their reproductive options. Those with the financial wherewithal literally have the purchasing power to procure a womb *and* produce a genetically engineered child (Dillaway, 2008).

Before actually meeting face-to-face, gay prospective parents thoughtfully peruse pamphlets and Web sites with pictures and descriptions of potential surrogates and/or egg donors (Ryan & Berkowitz, 2009). This initial screening of what Hertz (2002) has termed the "paper parent" happens within a context in which babies are increasingly viewed as precious commodities. Ehrensaft (2005) argues that this commodification is further magnified for those using assisted reproductive technologies since these intended parents have spent months, even years, searching for a donor or surrogate and draining financial resources paying for expensive procedures. For gay men, this process is further intensified since they are not only limited by the reproductive limits of their bodies, but have been told by religious, political, and cultural institutions that fatherhood was never an option for them. When viewed through a heteronormative lens, the idea of shopping for a child's features among potential egg donors or searching for a surrogate with the healthiest possible womb may be viewed as an unnecessary luxury akin to crafting a perfect child. However, for gay men using surrogacy, this process takes on a whole new meaning, as it is one of the few ways that they are able to manage the discord between dominant heterosexual reproductive scripts and their own reproductive experiences.

How Can We Trust Her? What Are Her Motives?

Surrogacy makes it such that the gay male couple, or the gay man, wait for a child to be birthed by a woman they may barely know. Moreover, because a surrogate mother cannot maintain the same anonymity that a sperm donor can, surrogacy involves an enormous amount of trust, even with accompanying legal protections. Some gay fathers may express anxiety about the child potentially developing a bond to the surrogate, while others may wonder about the woman's attachment to the child she is carrying (Ehrensaft, 2000; Lev, 2006). Some gay fathers have reported that an important criterion for a desirable surrogate was her ability to not bond with the child she is carrying (Lev, 2006).

Alongside an evaluation of the surrogate mother's biographical characteristics of age, race, physical attractiveness, medical history, intelligence, athleticism, and artistic ability, gay men also inquire about her motives. Although surrogates are reimbursed approximately $20,000, the majority report that they are not motivated solely by money, but rather by altruism, selflessness, and a desire to help a family have a child (Lev, 2006). Nonetheless, in a two-decade-old study done at the Infertility Center of New York, 89% of surrogate mothers admitted that they would not agree to serve as a surrogate mother unless they were paid a substantial fee (Dillaway, 2008). Thus, some researchers and social commentators assert that money is a substantial factor in motivating surrogate mothers, even if an altruistic motive is also present (Dillaway, 2008). People desiring children through surrogacy often grapple with whether the birth mother is motivated purely by financial means or by an inclination to help people in need of children (Ehrensaft, 2005). Gay men, having few other options for birthing children, may be especially worried about this motivation. However, in Stacey's (2006) ethnographic research on gay men and kinship, she found that some surrogates actually preferred to work with gay men because there was no mother in the picture who might potentially be dealing with feelings of jealousy, infertility, and exclusion. Moreover, unlike heterosexual couples, for which assisted reproductive technologies are usually a last resort, gay fathers turn to surrogacy joyfully as a pathway to parenthood. Because such assisted technologies are universally necessary for gay men who wish to create their own biological

offspring, they carry none of the stigma or sense of failure of many infertile heterosexual couples (Mitchell & Green, 2007). Thus, theoretically it is possible that gay men might very well enjoy more harmonious relationships with surrogates, in the sense that "they did not arrive at surrogacy because of infertility and there is no symbolic or actual female for the surrogate to compete with or feel challenged by" (Goldberg, 2010a, p. 72).

The Surrogate Mother: A Present and Absent Figure

While the basis of commercial surrogacy is a financial arrangement, the realities are such that this is often a relationship pervaded by appreciation, mutual respect, and gratitude, with many gay fathers often forging deep bonds with their surrogates (Mitchell & Green, 2007). The notion of the birth mother who helps make the possibility of a baby come true weaves in and out of the entire life span of any family using surrogacy (Berkowitz, 2006; Mitchell & Green, 2007). The uniqueness of gay family formations can be seen at the time of pregnancy through the ways in which they attempt to manage the schism between dominant understandings of pregnancy and their experiences of it. Gay men have to place themselves in an experience that would not traditionally include either partner, particularly the nonbiologically related father. The limited empirical research on gay fathers who have used surrogacy suggests that they cultivate ways to share in the pregnancy experience of their surrogate. Some document their experience with scrapbooks or by giving their surrogate mother a video camera, while others use e-mail, skype, and webcams to keep up-to-date with belly growth, fetal development, ultrasound pictures, and doctors appointments (Berkowitz & Marsiglio, 2007). Even well after the pregnancy and birth, many gay fathers choose to have ongoing relationships with their surrogates, and in some cases, with their egg donors (Mitchell & Green, 2007). These relationships are sometimes maintained through letters, pictures, or in some cases the families stay distant friends. A few of the fathers that Lev (2006) interviewed were so close with their surrogate that they named her godmother to their child. Although this pattern of designating the surrogate as a godmother was rather rare, the majority of gay fathers told Lev (2006) that they shared a distant, albeit caring relationship with their surrogates. Future research is needed to address how gay fathers and their surrogate mothers negotiate the child-drearing boundaries that may result from this complex kinship arrangement.

The experiences of gay fathers show the contradictory status of the surrogate mother's (and egg donor's) relationship to the family as a simultaneously present and absent figure (Ehrensaft, 2005; Hertz, 2002). For some families, she is *present* through the recognition of the important contribution of her genetic material, her physical body, and her contribution to their family. But she can be *absent* in terms of a conventional social relationship to their kin (Ehrensaft, 2005). Although the paradoxical notion of presence and absence can be expected in any family arrangement that relies on assisted reproduction or adoption, it is especially evident in gay father-headed families because of the constant societal reminder that this third party was a necessity in creating their families.

Constructing Family Stories with and for Children

Like those families constructed through DI, surrogacy raises questions about a "symbolic other" necessary for the creation of a family that parents, children, extended family members, and other social actors must constantly negotiate. One commonality shared by families constructed through surrogacy and DI is that parents may struggle with how to tell their children the story of their inception. One way to do this is to celebrate a child's conception day, in addition to the child's actual birthday, as this becomes an important date that gay fathers who created their families though surrogacy are unique in knowing (Mitchell & Green, 2007). How gay fathers answer personal queries about their child's

conception ultimately serves as a model for how their children will deal with similar situations and construct their own family stories. As these children grow older they cannot rely on a legacy of cultural givens, but rather must establish on their own the meanings and significance of their extended family (Mitchell & Green, 2007). Like their parents, children raised with an understanding of assisted reproductive technologies like that of surrogacy may be less inclined to conflate sex and reproduction, and thus may have a unique ability to challenge these taken for granted connections among their peers. Future research is needed on how children born to gay fathers and surrogate mothers negotiate dominant family ideology as they understand their family stories and communicate these stories to others.

How Does Life Change with the Transition to Parenthood?

Like all sexual minority parents, gay men who have become fathers through surrogacy face an adjustment to parenting "under the hegemonic shadow of the heterosexual paradigm" (deBoer, 2009, p. 333). Data from Bergman et al.'s study (2010) reveal that gay men who become parents using surrogacy experience similar life changes as heterosexual fathers. Many fathers in their study described shifting their schedules and their priorities to accommodate their child care responsibilities and their new role as parents. Fathers reported lessening work hours, switching jobs, and some even became stay-at-home dads. Sometimes these changes resulted in a decrease in household income. By decreasing their ties to paid labor and increasing their presence in the home, these men challenge socially constructed cultural narratives that assume men are incompetent nurturers and that gay men are antifamily and irresponsible.

Such findings are not unique to those gay men who become fathers through surrogacy. Studies conducted with gay fathers who became parents through adoption and fostering have documented similar findings (Lassiter et al. 2006; Mallon, 2004; Schacher, Auerbach, & Silverstein, 2005). However, other scholars have argued that the assumption that gay men's marginalized location from traditional family life means that gay fathers always resist and transform traditional notions of gayness, fathering, and family is overly reductionistic (Goldberg, 2010b). Such reasoning fails to account for the diversity within these families and the role of contextual variables like institutional support and the broader sociopolitical and legal milieu (Goldberg, 2010b). Take for example the fact that 68% of the men in Bergman et al.'s (2010) sample relied on hired help to assist with child care and domestic duties. Clearly, although many gay fathers challenge stereotypes of men as primary caregivers, many are also able to buy their way out of domesticity, a finding intimately tied to both their class position in society and their ability as male bodied parents to continue to rely on the privilege granted to the traditional father-as-breadwinner status. Moreover, because surrogacy is only available to an economically privileged minority of gay men, it seems reasonable to believe that a larger proportion of gay men who have become fathers through surrogacy are more likely to outsource domestic help than those who became fathers through adoption, fostering, or through kinship ties. Future research is needed to see if this is indeed the case.

Bergman et al. (2010) reported that one of the most striking findings from their study on gay men who became fathers through surrogacy was men's descriptions of heightened self-esteem from having and raising children. In addition, these men reported an increase in support and acceptance from both their families of origin and their partners' families of origin since they had become parents, even in cases where families of origin were not biologically related to new children—a finding similarly documented among new lesbian mothers (Goldberg, 2006). With the initiation of the parenting role comes a shift in adult gay children's relationships with their aging parents who often take pride in their new identities as grandparents (deBoer, 2009). Where this is certainly an experience shared by most parents, there is an added dimension for gay fathers since there is a lack of ceremonial and legal validation

of their relationships. However, these findings contradict earlier work by Oswald (2002) who found that LGB parents perceived lesser support from their families of origin than heterosexual parents. That Oswald's study was conducted with nonmetropolitan parents of more marginalized social class backgrounds underscores the importance of untangling the class and regional dynamics that surface within different sexual minority headed households. Further research is needed to examine how interlocking systems of oppression and privilege differentially shape the transition to parenthood and the parenting experiences of gay fathers who use surrogacy.

Gay Fathers, Surrogacy, and Reproductive Outsourcing

Reproductive outsourcing is a relatively new but rapidly expanding enterprise. Couples and singles from the West can now travel to countries like India, Ukraine, Russia, and Guatemala and employ a foreign surrogate mother to gestate their baby. Where surrogacy has always been a practice marred with class distinctions, the emerging phenomenon of what some are calling fertility tourism (Smerdon, 2008) magnifies the inequality between commissioning parent and surrogate (and/or egg donor). It is not surprising then that many are skeptical of fertility tourism and see it as a system that allows "wealthy infertile couples to treat third parties from disenfranchised groups as 'passports' to reproduction' (Smerdon, 2008, p. 24).

India is quickly becoming the top destination spot for fertility tourists due to a number of interrelated factors like skilled medical professionals, liberal laws and regulations, and most importantly, low prices (Gentleman, 2008). Although there are no firm statistics on how many arrangements between Western commissioners and Indian surrogates exist, anecdotal evidence indicates a sharp increase in recent years. There are no federal or state regulations on which clients clinics can treat, and even though some clinics refuse to accept gay men and lesbians, others declare themselves to be LGBT friendly (Smerdon, 2008). Thus, gay men seeking surrogacy in India are at the mercy of individual clinicians and may even face the possibility of temporarily being pushed back into the closet. Those seeking such an arrangement may have to carefully decide if the low cost of a foreign womb is worth the high price of closeting themselves.

The emerging trend of reproductive outsourcing and fertility tourism poses many research questions for family scholars. For example, future research on gay fathers should explore how these men navigate the global bureaucracy of reproductive outsourcing. Furthermore, since the primary seduction of fertility tourism is its significantly lower cost, it is reasonable to presume that more and more gay men who value the presence of a genetic link to their children will consider this a viable procreative pathway. As the possibility of a biological child becomes more widely available to a new cohort of gay fathers, one cannot help but wonder what the consequences will be for local adoptable children, particularly those who are already deemed undesirable because of their race, ethnicity, age, or disability. Moreover, future research should ask how our shifting global reproductive economy will affect how less economically privileged gay men view the importance of a biological relationship for constructing family ties. Finally, as detailed below, this emerging global reproductive economy poses a host of legal issues that are yet to be resolved.

Legal Issues Facing Gay Surrogate Families

The legal context in the USA has changed dramatically in the past decade with regard to gay and lesbian couples and parents. Despite a number of advances, the legal landscape is still challenging terrain for many gay and lesbian parents. Although commercial surrogacy is highly regulated in the USA by private industry with "rigorous procedures such as psychological testing and interviews, genetic histories, and careful matching of donors and surrogates" (Bergman et al., 2010, p. 117), the federal government does not

regulate surrogacy at all, and control and oversight of surrogacy arrangements is relinquished to individual state jurisdiction. Thus, those pursuing this procreative pathway are often left to navigate inconsistencies among states laws, legislative action, and court decisions (Smerdon, 2008). According to the Human Rights Campaign (2010a), six states currently allow individuals and couples to enter into surrogacy contracts: Arkansas, California, Illinois (gestational surrogacy only), Massachusetts, New Jersey (uncompensated surrogacy agreements only), and Washington (uncompensated surrogacy agreements only). The District of Columbia and 11 states prohibit surrogacy agreements in all or some instances. The District of Columbia, Nevada, New York, North Dakota, Texas, Utah, Virginia, and Florida prohibit surrogacy for all unmarried couples—thus prohibiting it for gay men; Indiana and Louisiana prohibit traditional surrogacy; and Michigan and Nebraska prohibit compensated surrogacy agreements. The remaining 34 states have vague or unclear laws and/or court case rulings on whether surrogacy agreements are allowed (Human Rights Campaign, 2010a).

Gay men who are considering surrogacy should be aware of these state-by-state regulations. Moreover, they should find an agency that is not only open to working with sexual minorities but also understands how to traverse the state-by-state surrogacy and Defense of Marriage Act (DOMA) laws. For example, the way that legal parentage under surrogacy works is such that the initial determination of parentage for a baby occurs within the state that a baby is born. So, if a heterosexual couple from New York, a state where surrogacy is illegal contracts with a surrogacy in California, that matches them with a surrogate in Louisiana, the initial determination of parentage would occur in Louisiana. However, the stakes would play out very differently for a gay couple in this scenario. Because Louisiana is referred to as a "super-DOMA" state (this means Louisiana does not allow same-sex couples those privileges granted to married couples), a same-sex couple would not be able to establish parentage in this state and would instead need to establish parentage for at least one of the partners in a different state (Goldberg, 2010a).

Adoption laws also vary by state and jurisdiction and very few states guarantee same-sex couples access to joint or *second-parent adoptions*. Second-parent adoptions allow the partner of a legal/biological parent to also adopt the child—thus becoming the second legally recognized parent (Pawelski et al., 2006). Second-parent adoptions are important for the safety and welfare of families in that they ensure that both parents have the ability to make emergency medical decisions for their children and are responsible for the financial support of their children even if the parents should separate (Pawelski et al., 2006). Currently, nine states (and DC) have statutes or appellate court rulings that guarantee gay and lesbian couples access to second-parent adoptions statewide, while perhaps as many as 18 other states have allowed second-parent adoptions by gay or lesbian parents in some jurisdictions (Human Rights Campaign, 2010b). In some cases second-parent adoption is not required, as two men can both be listed on the original birth certificate of a child born to a surrogate if a pre-birth paternity judgment is obtained declaring both of them to be the sole parents (Pinkerton, 1998). This legal precedent was established when in 1998, Will Halm, a family law attorney specializing in surrogacy and egg donations, and the chair of *Growing Generations*, challenged the law in California. The California Supreme Court granted him and his partner the first ever pre-birth paternity judgment, naming the gay couple the legal parents of their son prior to his birth, thus eliminating the need for a second-parent adoption (Lev, 2006). Overall, the legal aspects surrounding surrogacy and sexual minority parents are for the most part rather unsettled. The courts fall terribly behind the realities of these families, regularly failing to protect them.

Suggestions for Research, Policy, and Practice

Commercial surrogacy is certainly one of the most high-tech and expensive paths to gay parenthood. The relatively high cost of surrogacy means that those men who create their families through this route typically have significantly

higher incomes than men who may opt to become parents through adoption, fostering, or kinship ties. Gay men who become fathers using surrogacy are unique in that they are primarily White affluent men who have a biological tie to their child. These interlocking privileged positions can shield them from some of the vulnerabilities that gay men of Color, gay men with lesser incomes, and gay men who adopt all too often encounter. Nonetheless these men are similar to gay fathers in other contexts like adoption or fostering in that their path to parenting entails a great deal of thought, planning, and decision making.

Despite the growing body of scholarly work on gay fathers, we still know very little about the transition to parenthood and the parenting experiences of gay men who choose surrogacy. Future research should be conducted using comparative studies with samples of gay fathers in other contexts and with heterosexual fathers and mothers who became parents through surrogacy. Moreover, further research on gay families constructed through surrogacy is needed to better understand the extent to which the genetic connection between one of the fathers and the child affects the family dynamics, the division of domestic and paid labor, and relationships with family of origin. Scholars should also examine the degree and types of contact that exist between the surrogate and/or egg donor and the gay parents and their children after the birth of the child. Finally, additional work is needed to explore how gay fathers using surrogacy deal with their growing visibility in their diverse communities.

Further theorizing is required to better understand how constructions of race, family, and sociopolitical power are embedded in the relationships among gay fathers, surrogates, egg donors, and their children. As Rothman (1989) observed over two decades ago, surrogate motherhood was not brought to us by scientific progress; rather it was brought to us by brokers who saw the potential of a new market. Moreover, insomuch as our reproductive economy is becoming increasingly globalized, I urge scholars to better develop theories that situate sexual minority parenting within a feminist transnational framework that highlights the role of social structures and the state and can better account for the asymmetries and inequalities that are produced and sustained by flows of global capital (Kim, Puri, & Kim-Puri, 2005).

Policy makers need to be aware that gay men are having children through assisted reproductive technologies like that of surrogacy. As such, the rights afforded to heterosexual parents using surrogacy need to be extended to gay men, their partners, and their children. At a basic level, surrogacy agencies, lawyers, fertility specialists, and other health care professionals must work to communicate a philosophy of inclusion and acceptance for gay prospective fathers. Also, clinicians need to acknowledge that surrogate parenthood is increasingly common for gay men, both in the USA and abroad. Clinicians should assist gay men using surrogacy in their family planning, with special attention to the areas that uniquely define their transition to parenthood, like negotiating asymmetrical biological relatedness, obtaining co-parent or second parent adoptions, and exposure to heterosexist institutions and practices. Furthermore, for those couples who choose to have half of the eggs fertilized by one partner and half by the other, counseling should include considerations about the possible consequences that might result from this option. For example, the couple should be made aware of the genetic asymmetry that will result if they birth a single child, and of the possibility of having twins who share the same maternal genetics but different paternal genetics.

The parenting and family landscape is changing rapidly before our eyes and we now have extraordinary technological advances that combine eggs and sperm in what were until very recently unimaginable ways. Gay fathers choosing surrogacy are at the cutting edge of pushing society to reassess its assumptions and constructions about sex, reproduction, and parenthood. We can be certain that as more and more people are thinking about creative ways to have babies, the lessons learned from this emerging cohort of gay men who have become fathers through surrogacy will impact how we engage the new family forms of the twenty-first century.

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