FOREWORD:
BLOOD TIES, BIOETHICS,
AND THE BRIGHT-LINE OF THE LAW

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In his now classic study of American kinship, anthropologist David Schneider puzzled half a century ago over the significance assigned to blood ties as a dominant principle that defined relatedness within U.S. contexts. According to Schneider, “blood” – as a shared substance that defined similarity and bound people together – figured prominently as a widely unquestioned social fact in American society. Whereas affiliation through marriage fell “under the order of law,” blood ties were “facts of life” falling within a “natural order.” This contrast between blood- and marriage-ties delineated differences between the terminable and interminable, or between fragile and unalterable forms of affiliation. Among Schneider’s most compelling observations was that “blood relationship is... a relationship of substance, of shared biogenetic material” [italics added], most evident in notions of parenthood. Schneider employed the term “biogenetic” to highlight a particularized understanding of kinship as shaped by contemporary, scientific logic. More specifically, father and mother, as “genitor” and “genitrix,” give equally of themselves biologically in the creation of a child (and this biomedicized logic was quite unlike those anthropologists encountered a host of societies cross-culturally). As Schneider mused, whereas within American kinship one might divorce a marriage partner or disinherit offspring, the parent-child relationship, rooted in the biogenetic principle of the blood tie, could never truly be dissolved, because biology and genetics are culturally regarded as irrefutable scientific “facts.” More importantly – and of special significance to this current volume of essays – Schneider observed, again within the American

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system, that “kinship is whatever the biogenetic relationship is. If science discovers new facts about biogenetic relationship, then that is what kinship is and was all along, although it may not have been known at the time”.

Schneider’s proclamation has proved prophetic especially in reference to once-emergent – and now increasingly routine – technologically-enhanced reproductive strategies of the late twentieth and early twenty-first centuries. It is worth noting that by the 1970s anthropological interest in kinship had languished, displaced by growing concerns for the alienating effects of modernity and globalization. Faced with new forms of assisted reproduction, however, the discipline soon witnessed a robust resurgence in kinship studies, most evident in the research activities of second- and third-wave feminist ethnographers who began to probe the social and ethical dilemmas and consequences associated most notably with ARTs (artificial reproductive technologies), gestational surrogacy, cloning, and the increased visibility of non-heteronormative families. Spearheaded in large part by the attentiveness of Marilyn Strathern, a British anthropologist largely responsible for reviving kinship studies within the context of assisted reproduction technologies, Schneider’s adage on biogenetics has come to define an invaluable framework within anthropology for analyzing the sociomoral consequences of newly “conceived” notions of personhood, fetal origins, and family structure. In still other quarters these issues have preoccupied as well bioethicists, health activists, and the press. They have also had a significant impact on jurisprudence.

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Clearly, Schneider’s musings have proved prophetic in domains that extend beyond anthropology’s boundaries. In turn, and as this collection of essays clearly demonstrates, biogenetics figures prominently not just in how Americans grapple with how reproductive technologies redefine the family, but they are now of consequence on an impressively international scale, too. According to the authors within this volume, it seems that wherever human reproduction is artificially or technocratically enabled, altered, enhanced, and permitted, the logic of biogenetics will surface as a means for sorting out how to (re)define parenthood and the broader legitimacy of familial ties. Biogenetics also serves to circumscribe who has rights to offspring, and who in turn is excluded. This does not mean, however, that the only logic is a biogenetic one. Indeed, in many (perhaps all) instances, other logics of relatedness operate simultaneously, albeit on other and, perhaps, even, hidden registers. As this collection discloses, in those contexts where assisted reproduction is allowed, associated difficulties are widespread and shared, and experts across a wide swath of countries must now grapple with how to redefine parenthood beyond the biological logic of genitor/genitrix, and, in turn, how society – and the law – more broadly understand (to use the French term) parenté or “relatedness.”

Much is at stake here, because legal definitions of parenthood, the family, and relatedness do two kinds of work at once: they delineate who has rights to offspring, and who does not. Phrased another way, one might go so far as to ask who “owns” the child when conflicts arise? And, in turn, an especially thorny issue is what we might call “sentimentality”: that is, how do technocratic, legalistic, and biomedical logics incorporate, or clash, with affective understandings of attachment, relatedness, and, even, love? The understanding of genitor/genitrix is muddled by the presence of egg and sperm donors and surrogates. A common problem foregrounded by many – although certainly not all – of the papers in this collection is that, legally at the very least, a child might be said to have only one mother and one father. Such determinations may intend to bring conflicts among interested parties to an end; they nevertheless expose widespread anxieties over the sociomoral consequences of reproductive technologies, and they may fly in the face of important affective principles of affiliation, caring, nurturance, and kinship. Most notably, they all too often deny the
power of affective or sentimental ties, evident for instance, in the strong emotions engendered by a fetus gestated in one’s womb; the double mothering or fathering of children in same-sex relationships; or the sense that a child is one’s own because of shared biogenetic substance (through donated egg or sperm), regardless of what legal contracts might state.

If, then, bioethics (and, for that matter, anthropology, the law, or the press) is to make vital contributions to these debates, bioethicists must remain alert to domains where concerns, disagreements, and anxieties surface. How do involved parties assert their rights to, or contest legal understandings of, kinship? Why do they do so? And what is at stake if we impose, or bend, or ignore, or alter the rules? A bioethics that foregrounds anxieties bears the greatest promise of social transformation, pushing the boundaries of standard, codified, and static definitions that are widely understood in legal circles, at the very least, as defining dependable “bright-line” rules. Whereas the “bright-line” is of extraordinary value within jurisprudence, alternative gray zones offer bioethicists (like anthropologists) wonderfully rich terrains for exposing how reproductive technologies challenge presumed sentimental structures of affiliation and bear promises of transforming the logics of familiarity and kindredness.