

Onus Anima (*Burden of the Soul*)

LEGAL RESEARCH NOTES

"Paternal emancipation" (as I call it), or male reproductive choice (as it is broadly referred to), is the theme of a short film in development, *Onus Anima*, which considers the established civil code and human rights regarding various issues contained within the heading of "male reproductive rights" and "paternal law" including paternal recognition, child support, custody, gender equality protection, and a court system which treats men and women not as equals, but as beings with inherently different sets of rights, when it comes to the birth and health of a child.

Male reproductive choice therefore declares that men should have the right to choose abortion, adoption, or parenthood, and that in the context of legally recognized equality, that in the *earliest stages of pregnancy*, the putative (alleged) father should have the right to relinquish all future parental rights and financial responsibility, leaving the informed mother with the same three options: abortion (terminate pregnancy), adoption (continue the pregnancy but give up the child), or parenthood (keep the child).

From a dramatic standpoint, the opportunity for story exists within the difficulty of legal, social and economic codes placed onto men who are fathers (or fathers to-be) -- which are as onerous as they have been litigious, not only in recent decades

but across many of the United Nations. Men bear the burden of a child's soul, whereas women bear the burden of a child's life. With these divergent tendencies of the law, there are myriad complications that have driven social pathologies including domestic violence, intimate violence, pregnancy coercion (both male and female initiated), reproductive health misandry and misogyny -- each which interferes with healthy attitudes and behavior toward human sexuality, social gender and child rearing.

A particular reference is *Dubay v. Wells* (*E. D. Mich.*, 2006) in which Matthew Dubay's attorneys cited the Fourteenth Amendment's Equal Protection clause. Dubay's was an accidental pregnancy in which his ex-girlfriend, Wells, communicated sterility and the lack of desire for having a child. This case is often considered the *Roe v. Wade* of men's rights, although with an inverted outcome, reinforcing that a man has no rights over determining the pregnancy of a woman, but that he has full financial responsibility for the child, even in the case of an unintended or unwanted pregnancy. (*Wells decided to keep the child.*)

Over the course of the history of the internet (from 1983 forward) and since the 1970's (the men's movement of the civil rights era), there are men's rights groups that have strengthened -- and compartmentalized -- due the social capacity of the web. Some groups are definitively circumscribed by anti-feminist rhetoric, claiming that male power is an illusion created by the feminists, and that most men do not possess this power or the entitlement it

would so ascribe to their identities. On the other side, there is a pro-feminist (and sometimes Christian) element that intends to support father's to do the best in the role as mandated by law, both God's and man's. Issues such as the criminalization of marital sex, lesser emphasis on men's health, institutionalized reverse sexism, a one year statute of limitation on paternity testing and legal presumption of paternity, and loss of opportunity for education due to financial responsibility per child support and alimony -- clearly form the basis of valid reasons for father's and men in general to want to organize and address the fairness of social morality and its codification into law. But despite real issues that decry that legal reform for men's rights should be a presidential ballot issue, there is a lot of organized hate speech about women's rights and woman in general, that gives the men's rights movement a stigma in broader human rights circles.

One particular academic, Jonathan A. Allen, a professor of masculinity studies, points out that the movement lacks a premise that is not reactive to feminism, and that there needs to be a theoretical framework outside of anti-feminism to represent the affirmative elements of a political agenda that supports an equality of gender that both sexes deserve, and that both have been fighting for, separately.

The premise or theme of "paternal emancipation" describes the positive language needed, within an otherwise biological and

social irony, which can serve as the hook of my narrative: that the male gene determines the sex of the child, yet the father has no say over the pregnancy, suffering instead, by default legal requirements of paternity, often to the point of homelessness (eighty-five percent are men), imprisonment and suicide.

In the appeal case, *Dubay v. Wells* (6th Cir., 2007), with reference to men's rights, the case verbiage actually speaks of the action to separate *child birth* from *paternal responsibility* as a "male abortion" or "paper abortion." In language alone there is a failure in this phrase which has a negative valence, inherently negating or inverting the rights of the female in order to convey an affirmative humanistic value for the male. *Where, within anti-rhetorical language, can the public and also the court imagine that a man, like a woman, should have legal rights not just responsibilities over the fate of his own DNA?* The true sentiment of the case here is lost without the biological perspective.

"Paternal emancipation," an affirmative phrase, can be a way to describe the rights men seek, which also can be positioned to define a set of rights that a man might share with a woman before a child is conceived, *i.e. voluntary separation from paternity or right to denial of paternity in the case of separate wills over the pregnancy*. New language, per se, can improve the understanding of male-female interrelations, using an interventionist strategy -- *like the "designated driver" social instrument intervenes in alcohol related deaths and the rate of DUI convictions*. As well,

an elucidated conversation regarding reproductive politics, which legally discriminate against men, is needed to define limits to "the burden of a soul," as an individual rather than government right, where the burden of an unborn soul does not arbitrarily truncate intended constitutional rights. "Paternal emancipation," therefore, is a broad moniker to invoke needed social discourse.

SHORT FILM NOTES

We can see how the title of the short film, *Onus Anima*, defines the spirit of the law as it is practiced -- but not as it is experienced by men: that the *burden of the soul* is not a protected choice for men. And this is what I believe would be important to say, while pointing out specific issues (TBD) with paternity fraud (anchor babies, "accidental" pregnancy), presumption of paternity (biological or social), systemic reproductive coercion (men who do not want the pregnancy) including enforced financial responsibility -- and of course maternal custody bias in the case of separation or divorce.

There is an egregious double standard regarding reproductive rights that alienates and penalizes men, which if rectified could augment the function of socially gendered roles and therefore sexual behavior -- and the onerous litigation men face lacking sufficient paternal rights. With a symmetry of reproductive rights foregrounded, both genders can make progress toward attaining the somatic sovereignty that is inferred by civil and human rights.