

MARY ANN MASON AND TOM EKMAN, *BABIES OF TECHNOLOGY: ASSISTED REPRODUCTION AND THE RIGHTS OF THE CHILD* (2017).

Yale University Press, 2017

ISBN: 978-0-300-21587-8

Price: \$17.49, pp. 202

Keywords: Assisted Reproduction, IVF, Children Rights

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Journal of High Technology Law

Suffolk University Law School

Babies of Technology: Assisted Reproduction and the Rights of the Child

“Children had few rights in the past. Today, they are certainly better protected and have gained a few participatory rights. Yet there is still no comprehensive legal and legislative scheme in the United States to protect their interests.”

Babies of Technology: Assisted Reproduction and the Rights of the Child by Mary Ann Mason and Tom Ekman discusses assistive reproductive technology and the impact that the technology has on children. The book analyzes various types of assistive reproductive techniques including artificial insemination, surrogacy, egg and sperm freezing and donation, genetic engineering, and in vitro fertilization. As new technologies are developed, opinions are beginning to evolve regarding family production. The United States does little to give children conceived through technology a voice and fails to consider the implications that the technology has on each child. In addition to introducing the wide variety of issues presented by the new technology, the authors also propose that the United State must adopt an international code of rights for children of assisted reproductive technology.

Mary Ann Mason is a professor at the Graduate School at UC Berkley and a Faculty Affiliate of the Berkley Center for Law and Technology.¹ She received a B.A. from Vassar College, a Ph.D in American History from the University of Rochester, and a J.D. from the University of San Francisco.² Mason was previously a Dean of the Graduate Division at U.C. Berkley.³ Her other major works include, *The Equality Trap* (Simon and Schuster 1988), *From Father's Property to Children's Rights: Why Children are Losing the Legal Battles and What we can do About it* (Basic, 1999), co-edited *All Our Families: New Policies for a New Century* (Oxford, 2000, 2003) and co-edited *An American Childhood* (NYU, 2000).⁴ Tom Eckman received his J.D. and M.Ed. He is a science teacher and a writer.⁵ He was the former Director of Content Development at National Geographic Maps.

The book is broken into 7 chapters, each of which is designed to address a specific topic: (1) "Children of the Future" introduces the overall concept of the book and discusses the new technologies associated with assisted reproduction; (2) "Sperm" analyzes artificial insemination and the laws surrounding the topic; (3) "Eggs" discusses the legal and ethical complications associated with egg freezing; (4) "Embryos" considers in vitro fertilization and where it fits within the notion of conception and abortion laws; (5) "Wombs" examines problems associated with surrogacy including citizenship, surrogacy contracts, and children being treated as property; (6) "Families" evaluates a child's right to know their family and the deprivation of this right due to the new ways of creating families; and (7) "The Rights of the Child" summarizes the rights that need to be considered when conceiving or creating a child.

¹ See *Faculty Sites, Mary Ann Mason*, UC REGENTS UC BERKLEY SCHOOL OF LAW (2017), <https://www.law.berkeley.edu/our-faculty/faculty-sites/mary-ann-mason/> (providing a brief biography of Mary Ann Mason).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ See Tom Ekman, Amazon (2017), <https://www.amazon.com/Tom-Ekman/e/B004MPD0NI> (describing Tom Ekman's background and his publications).

The main point of the book is that in United States, the child's voice needs to be considered when regulating the fertility industry.⁶ In Chapter 1, the authors essentially outline the entire book and propose that in the new world of genetic engineering, there needs to be a reanalysis of the laws.⁷ The authors begin Chapter 2 by defining artificial insemination as, "injecting sperm into a female's uterus," and recognizing that it is the oldest form of assisted reproductive technology.⁸ They go on to note that artificial insemination often deprives a child of his or her right to know his or her parents, and of the right to know relevant elements of their identity.⁹ Although the U.N. Convention on the Rights of the Child addressed these rights, the United States did not put any plan into place to ensure children are not deprived of these rights.¹⁰ Moreover, while Austria, Finland, Germany, The Netherlands, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom have banned anonymous sperm donation, the United States continues to allow anonymous donation.¹¹ The authors advocate that a child's right to know their medical and genetic history provides more than enough reason to pass new legislation addressing artificial insemination.¹²

Chapter 3 introduces the concept of "social egg freezing" for women who want to pursue a career during their younger years, and freeze their eggs in hopes to have children later in life.¹³ Although this trend has gained popularity throughout the years, few recognize that children born

⁶ Mary Ann Mason & Tom Ekman, *Babies of Technology: Assisted Reproduction and the Rights of the Child* 15 (Yale University Press, 2017).

⁷ *Id.* at 25.

⁸ *Id.* at 59.

⁹ *Id.* at 60.

¹⁰ *Id.*

¹¹ *Id.* at 65.

¹² Mary Ann Mason & Tom Ekman, *Babies of Technology: Assisted Reproduction and the Rights of the Child* 75 (Yale University Press, 2017).

¹³ *Id.* at 91.

from frozen eggs face more health complications than other children.¹⁴ Drugs used to increase egg production and the insertion of multiple embryos creates complications including cerebral palsy, learning disabilities, blindness, and developmental delays.¹⁵ Chapter 4 presents the debate about whether embryos are considered children.¹⁶ For those who do believe embryos are children, it is concerning that thousands of embryos are sitting frozen in clinics.¹⁷ While other countries have created laws to destroy the embryos after a certain time period, the United States does not have any policies about frozen embryos.¹⁸

In Chapter 5, the authors discuss “Baby M,” a case from 1986 in which a surrogacy contract went wrong.¹⁹ The woman carrying Baby M as a surrogate mother refused to give the baby to the intended parents.²⁰ The chapter also discusses the *Calvert v. Johnson* holding, in which the court established the doctrine of intentional motherhood where the woman who intended to bring about the birth of the child was the natural mother under California law.²¹ However, the authors question if this process treats children too much like property.²² Other issues include the child’s right to be carried by a healthy surrogate, the right to know the identity of their biological parent, and the right to citizenship in the country where one is born.²³

Chapter 6 looks at the expansion of same-sex parents, single parents by choice, and co-parents.²⁴ Similar issues arise as stated in previous chapters, such as a child’s right to know his

¹⁴ *Id.* at 94.

¹⁵ *Id.*

¹⁶ *Id.* at 116.

¹⁷ *Id.* at 117.

¹⁸ Mary Ann Mason & Tom Ekman, *Babies of Technology: Assisted Reproduction and the Rights of the Child* 117 (Yale University Press, 2017).

¹⁹ *Id.* at 134.

²⁰ *Id.* at 135.

²¹ *Id.* at 138.

²² *Id.* at 146.

²³ *Id.* at 159.

²⁴ Mary Ann Mason & Tom Ekman, *Babies of Technology: Assisted Reproduction and the Rights of the Child* 161 (Yale University Press, 2017).

or her biological parents.²⁵ To conclude the book, in Chapter 7, the authors summarize the rights of the children presented in the previous chapters.²⁶ The authors propose the following rights that the United States needs to address: (1) the right to know one's family origin; (2) protection from genetic discrimination; (3) an international standard limiting the number of embryos implanted into a uterus; (4) prohibition on using genetic interventions that have not been approved; (5) the right to citizenship of their intentional parents; and (6) international regulations to protect surrogates and children.²⁷

Based upon the breakdown of each chapter, it is obvious that the authors tackled multiple, complicated issues in their book. While well intentioned, I found the analysis of information difficult to follow because there was so much content to cover. Instead of going into a detailed explanation of each issue and potential resolutions, the authors briefly mention the legal implications of the various technology. I also found that the authors' organization worked well in theory, but did not separate the issues as well as they could have been. Although each chapter was dedicated to one topic, the authors tended to go back and forth between multiple concepts and technologies, causing some confusion about what point the authors were trying to make.

In the same sense, the book is valuable because of the many interesting questions that it proposes. The authors' use of comparisons between the United States and other countries is effective because it portrays how behind the United States is in terms of regulating assistive reproduction technologies. The book presents a thorough outline of the flaws within the U.S. legal system and the overall lack of voice for children conceived through assisted reproduction.

The ideal audience for this book is anyone who is curious about the legal implications surrounding assisted reproduction. However, if someone has a substantial amount of knowledge

²⁵ *Id.* at 167.

²⁶ *Id.* at 181.

²⁷ *Id.* at 202.

about this topic, the book may not be useful, because it does not seem to present any definite answers to the questions proposed. For anyone who is not aware of the current issues and unanswered questions surrounding assisted reproduction, this book would provide a thorough introduction.