



UNIVERSITÀ
DI TRENTO

Atti del convegno nazionale 25-26 novembre 2022
Dipartimento di Sociologia e Ricerca Sociale

Gender R-Evolutions:

immaginare l'inevitabile,
sovvertire l'impossibile

a cura di

Maria Micaela Coppola, Alessia Donà,
Carla Maria Reale e Alessia Tuselli



DIPARTIMENTO DI SOCIOLOGIA E RICERCA SOCIALE

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NICOZ BALBOA



CENTRO STUDI
INTERDISCIPLINARI DI GENERE



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14. Trans Men's Pregnancy: New Philosophical and Juridical Issues

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Abstract

This paper deals with trans men's pregnancy considered as a gender revolution requiring feminisms and gender studies to display new imaginative abilities. Indeed, these people's experience challenges the assumption that only cis women can give birth. This work explores the philosophical and juridical issue of how the trans men who give birth should be registered in their children's birth certificate. Until now, there have been three possibilities: as fathers in the name of their gender identity, as mothers given the peculiar relationship characterising pregnancy, or as parents in a gender-neutral way. After having compared various feminist positions on whether pregnancy should be associated (only) to womanhood, some lawsuits promoted by trans men in order to be legally recognised according to their felt parental status are analysed, focusing in particular on OH and McConnell's ones. Then, some reflections on the use of the term "parent" and on caring masculinities are provided.

Il presente lavoro indaga la possibilità degli uomini trans di restare incinti, capace di mettere in discussione il postulato che solo le donne cis possono gestare. In particolare modo, il paper analizza la questione filosofico-giuridica di come si debbano registrare gli uomini trans nel certificato di nascita della loro prole: se come padri in virtù della loro identità di genere, madri data la peculiare relazione della gestazione o genitori in modo neutrale dal punto di vista del genere.

Keywords: trans men, pregnancy, parental status, feminisms, care; uomini trans, gravidanza, genitorialità, femminismi, cura.

14.1. Introduction

The possibility for trans men to get pregnant is relatively new and constitutes an extremely complex gender revolution requiring feminisms and gender studies to display new imaginative abilities. Indeed, these people's experience challenges the assumption that every human being is "of woman born" (Rich 1977). This work explores the philosophical and juridical issue arising from trans men's pregnancy, namely how these people should be registered in their children's birth certificate. The options, until now, have been three: as fathers in the name of their gender identity, as mothers given the peculiar relationship characterising pregnancy, or as parents in a gender-neutral way. The aim of this contribution is not upholding a particular solution, but introducing the multifaceted complexity of the issue. After having compared various feminist positions on whether pregnancy and childbirth should be associated to motherhood and womanhood, some lawsuits promoted by trans men to be legally recognised according to their felt parental status are analysed, mainly focusing on OH and McConnell's cases. In the end, some reflections on the use of the term "parent" and on caring masculinities are provided.

14.2. *Who Gives Birth? Different Feminist Perspectives*

Getting pregnant and giving birth have always been associated-to-women¹ “activities”. This bond is central to many feminisms², at the same time being jeopardised by others. In order to better understand the issue, the most relevant feminist positions on pregnancy and motherhood must be studied.

The French feminism and the Italian difference thought particularly stress on pregnancy and motherhood as being the primary site of difference among the sexes. In particular, in the French feminist Luce Irigaray’s reflections it is evident that pregnancy is considered a female experience, since “no world is produced or reproduced without sexual difference. Plants, animals, gods, the elements of the universe, everything is sexuate” (Irigaray 1989: 200, author’s translation). The philosopher criticises the Western psychoanalytical knowledge for having studied children’s growth without giving due attention to the “body to body with the mother”: the fusion between the mother and the newborn during pregnancy and the first stages of life. This relationship is interrupted by the forced introduction of the considered-propedeutic-to-growth patriarchal law and language, that downsize the female power to give birth (23-28). In this way, women are considered inferior beings that reassure men of their prominence (Irigaray 1977). The Italian feminist Luisa Muraro also deals with the peculiar relationship between the mother and her child (especially her daughter), defined as the “relationship of the being with the being” (Muraro 1991: 41, author’s translation). Muraro disputes the Western conviction that the child has to separate from the world of nature, epitomised by the mother, to enter the symbolic and social world of the father; for the philosopher, indeed, the symbolic independence is not acquired detaching from the origin of life, but in relation with her, since the mother gives not only life, but also the language³ (100).

Moreover, both Irigaray and Muraro strongly criticise the patriarchal devaluation of pregnancy as the reproduction of male genealogies functional to pass down men’s surnames and legacies. Irigaray calls for the valorisation of the mother-child peculiar relationship, focusing in particular on that with the daughter, always been neglected by patriarchy due to its force to create female genealogies⁴ (Irigaray 1989). The need of these genealogies is central also to Muraro’s thought. The philosopher, indeed, argues that the daughter has to learn to love her mother, so that the symbolic order of the Mother can replace that of the Father, identified with the patriarchal fallologocentrism. To make this possible, the female dyad mother-daughter must be publicly told and represented (Muraro 1991).

Moreover, according to those who identify motherhood with womanhood, reproduction implies a biological asymmetry between the sexes, in which the mediation of the female body

1 In this paragraph, womanhood is mainly associated to pregnancy, so the term “women” most times refers to cis women. The choice to report the term “women” instead of “cis women” is driven by the use of the former in the mentioned-in-this-section texts.

2 Feminist strands have heterogeneous positions on various issues; in the light of this, it has become impossible to talk about feminism at the singular since 1980s, being necessary to refer to feminisms at the plural, (cfr. Cavarero, Restaino 1998).

3 According to Muraro, children learn the correspondence between an object and its meaning from their mother: the horizon of meanings is negotiated with her (Muraro 1991: 100). In the first stages of life, the mother and the child speak a language that is not understandable by other people.

4 A female genealogy consists in women’s possibility to reproduce their own parentage. To explain it better, given that, according to Irigaray and Muraro, only women can give birth to other human beings, if a daughter wants, she will be able to generate another child, continuing the genealogy of her mother, who prosecuted the one of her own mother, and so on.

is essential and generates the *maternal continuum*; differently, men contribute only genetically (Muraro 2016; Boccia, Zuffa 1998). In the light of this, many Italian jurists loyal to the feminist difference thought argue that the woman who gives birth should be registered as the newborn's mother even if she is a surrogate and an intentional parent is willing to substitute her in the birth certificate (cfr. Niccolai, Olivito 2017).

Differently, other strands of feminism ask for the degenderisation of the experience of pregnancy. Some of them think this should be done to destroy the biological differences among the sexes that disadvantage women in the achievement of equality. Among these, the socialist feminist Shulamith Firestone calls for the possibility for all people, independently on their sex, to give birth to children through reproductive technologies and take care of them (Firestone 1971: 212, 213). On the other hand, other feminisms that support reproductive technologies in order to queer reproduction, as the cyberfeminism and the post-human feminism, are attentive to the category of difference. The founder of the former is Donna Haraway, who argues that "the body is not a biological fact, but a field of socio-cultural codes inscription" (Braidotti 1995: 17, author's translation) and theorises the cyborg as the feminist subject of post-gender and post-modern times. This figure epitomises a new conception of sexual identities, overcoming the dualism "male-female" and undoing the supposed unity of the female subject (17-30). Indeed, the existence in the Western tradition of dualisms such as "male-female", "culture-nature" and "reason-feeling" is functional to the dominion of the male, white, middle-class and able-bodied subject over the others. Cyborgs do not originate these dualisms, since they do not look for a unitary identity (Haraway 1995: 77-82). In fact, the knowledge they produce is an experience of the margins, since they do not want to foster a totalising epistemology explaining everything (also the presumed complementary experiences of men and women). The only possible objectivity, consequently, is not the homologating universal one, but that of the partiality of the various embodied subjectivities' experiences (83, 111-122). All people, for Haraway, need a regeneration, possible through the utopy of a "monstrous world without gender" (84, author's translation). In the light of this, it is evident that Haraway does not associate the experiences of pregnancy and childbirth only to women, opening them to the new subjectivities of the cyborgs.

Another relevant scholar degendering motherhood is the post-human feminist Rosi Braidotti, who points out that mothers are "monsters" or "freaks", since their bodies change shape during pregnancy. Given this, mothers are "abnormal and deviant-from-the-norm corporeal entities" (Braidotti 1996: 26, author's translation). This is even truer after the advent of reproductive technologies. Braidotti calls for the abandonment of monsters' medicalisation practices, in order to rescue the consideration of these creatures as marvelous, as it was in the Western tradition until the XVIII century (55-86). Despite associating monstrous bodies to women's ones, Braidotti degenders parenthood insofar as she focuses on the possibility to abandon essentialist definitions of motherhood and femininity through the interconnection between mothers, monsters and machines, thus theorising nomadic subjectivities (49, 50).

14.3. *Judicial Case-Law on the Parental Status of the Trans Men who Give Birth*

The first cases of trans men's pregnancy are recent: in 2008 Thomas Beatie was said to be the first legally-male trans man to give birth to a child, even if 8 years before the activist Patrick Califia declared that his boyfriend, the trans man Matt Rice, had given birth to their son. The issue is relatively new because until recently the majority of the States required trans people to undergo

a gender reassignment or sterilisation operation; the main reason behind it was forbidding them to reproduce. Although the European Court of Human Rights in the 2017 *Garçon and Nicot v. France* case established that the mentioned requirements violate article 8 of the Convention, 16 EU States (and many others around the world) still consider these interventions compulsory for legal transition purposes (Love 2022: 38, 39).

Evidently, the law cannot anymore escape the issue of how to register the trans men who give birth to their offspring⁵. There are two main types of lawsuits: the former when a trans man asks to be recognised as the parent of the children (to whom he has no genetic connection) born by his female partner, the latter when a trans man requests to be recognised as the father or the parent of the child he has gestated. Among the first group, a relevant case decided by the European Court of Human Rights is *X, Y and Z v. United Kingdom*, in which the Strasbourg Court established that the State had not violated the appellants' Convention rights in denying a legally-female trans man to be acknowledged as the parent of the child conceived by his female partner with a donor's semen (ECtHR 1997).

The second type of case, which is at the heart of this paper, is related to the frequent (but not always happening⁶) registration of the trans men who give birth as their children's mothers, even if some of them identify as fathers, others as mothers⁷. The reason behind it is that trans men experience the peculiar relationship characterising pregnancy, that shapes what is conventionally called motherhood; differently, fatherhood is characterised by a genetic contribution and an after-birth relationship with the child. In the light of this, many trans men start judicial proceedings to be acknowledged according to their felt parental identity. This case-law is an example of what Grietje Baars calls "queer cases": legal proceedings that queer the law, at the same time showing that the law is a gendered device (Baar 2019). Indeed, the law often does not manage to treat trans men as "real men" if they embark on considered-female practices (44, 45). Despite this, some of the trans applicants won their lawsuits, such as Warren Kunce, who could be registered as his child's father, as established by the Stockholm Administrative Court in 2015. In the opinion of the Court, doing otherwise would have amounted to a violation of Kunce's right to privacy, protected by article 8 of the European Convention of Human Rights (ECHR) (46). Some others achieved peculiar bureaucratic solutions, as in the Israeli Yuval Topper Erez's case: the applicant was registered as his child's mother only for one day, in order to legally make it possible to recognise his partner as their son's father. The day after, Topper Erez's parental status was changed in that of father. Finally, in 2021 the Israeli High Court of Justice ruled, in another case, that trans people can be registered as their offspring's parents (45; Love 2022: 40, 41). However, many judgments rejected trans men's requests to be registered as fathers. Two exemplificative lawsuits that are worth being analysed in details are OH and McConnell's ones.

The former is a German trans man who was legally male when giving birth in 2013 to his son GH, conceived through home-insemination with donor sperm. After GH's birth, OH was registered as his mother under his female deadname. Both the district court and the Berlin appeal court established that the Register of births and deaths had correctly applied the law. In fact,

5 The complementary issue is how to register the trans women who use their sperm to have children. Usually, they ask to be recognised as mothers but tribunals confirm they have to be registered as fathers.

6 For instance, Thomas Beatie was registered as his son's father in the United States (Baars 2019: 40) and the same happened to Jay Wallace in the province of Ontario (Karaian 2013: 224).

7 For example, the mentioned Califia's boyfriend identifies as the his child's mother (Karaian 2013: 217).

section 1591 of the German Civil Code establishes that the mother is the *woman* who gives birth⁸ and article 11 of the *Transsexuellengesetz* or TSG (the German law on transsexuality) states that trans people's legal sex change does affect every domain of their life except for their parental status⁹. The Federal High Court confirmed the decision of the lower courts (BHG 2017). More in details, this last Court, after having explained that the intention of the Legislator when writing the TSG was considering trans people's parental status independent on the moment of their biologically-conceived children's birth (whether before or after their legal transition)¹⁰ (4, 7), asserted that the relevant sections of TSG protect the best interest of child, identified with the right to personality development. This last one consists in knowing the birth truth and having a mother and a father, consequently refusing the possibility to assign a child two mothers or two fathers, or only one parent. The child, according to the Court, must also be protected from the speculations on OH's trans identity that could be raised if the figure of the mother was associated to a male name on GH's birth certificate (10).

The Court underlined that OH's registration as GH's mother did not violate the German Fundamental Law, that does not regulate filiation in a gender-neutral way. Indeed, the right to equality and non-discrimination enshrined in article 3 was not infringed because trans men experience parenthood differently from cis men, namely through the gestational relationship (15). Also, the right to organise one's familiar life was not in danger here, since the State intervened only on official documents without interfering with OH and GH's private life (16).

The Court acknowledged the necessity to protect trans people from unwanted disclosures of their transgender identity; however, in OH's case this protection had to be limited due to relevant collective interests: the aforementioned best interest of the child and the necessity to keep a coherent system of birth registration. Moreover, according to the Court, registering OH as GH's mother was a reasonable and proportional limitation to the mentioned protection, since the birth certificate long-version (the only one reporting parental relations) can be accessed only by some people emotionally linked to GH¹¹ (who are presumed to know OH's transgender identity), whereas other people have to demonstrate a legitimate interest to gain access to that document (17-19). Moreover, the Court clarified that registering OH as GH's father or parent would have not protected the trans man from speculations on his transsexuality, since the absence of a mother in GH's birth certificate would have been suspicious (19, 20).

The Court also asserted not to have violated the ECHR, since a wide margin of appreciation is left to complex issues on which a uniform consensus among the State Parties lacks. OH appealed to the European Court of Human Rights, that delivered its judgment in April 2023, concluding

8 According to this definition, even if the trans man had given birth to a child conceived through the implantation of another person's fertilised egg (in violation of the German law), the trans man would have been registered as the baby's mother (BHG 2017: 5).

9 The situation would have been different in case of an after-legal-sex-change child adoption. In this case, given that the trans man would have not given birth to the child, he would have been registered as his/her father.

10 The Court referred to the original draft of section 11 TSG, according to which trans men had to be registered as the mothers of the children they biologically conceived or adopted before their legal transition. This part was amended before entering into force to include also the biological children born after trans men's legal sex change, since the medical knowledge of the time could not exclude that a trans man could get pregnant (7, 8).

11 Apart from GH, his spouse, his cohabitant, his ancestors and his descendants.

that Germany had not infringed article 8 ECHR, given the few occasions when showing the birth certificate is necessary, the wide State discretion on the issue and the fact that the existence of a parental relationship between OH and GH had not been jeopardised (ECtHR 2023).

Shifting to the second proposed lawsuit, Alfred McConnell is an English legally-male trans man who underwent a clinical intra-uterine insemination with donor sperm and gave birth to his son YY in 2019. After having been registered as his son's mother, McConnell started a judicial proceeding to ask to be acknowledged as YY's father, parent or gestational parent. The Family Division of the High Court of Justice refused to judicially review the case twice: the first time the applicant was McConnell, the second his son. The High Court of Appeal for England and Wales, recognising McConnell and YY as appellants, confirmed the holding of the lower court in the name of the best interest of the child, namely knowing who gave birth to him, and the public interest in keeping a coherent registration system (EWCA 2020). Indeed, being the mother the only figure having parental responsibilities from the moment of birth (even before the issuance of the birth certificate), the Court concluded that it was necessary to register the person who gave birth as the child's mother (64). Moreover, the Court underlined that recognising McConnell as YY's parent and not mother would have been an act of "judicial legislation" (35) out of its competences, given the different meaning assigned to these terms by Parliament (65).

The Court made references to the figure of the mother in the English law, giving a gender-neutral definition of it, since not all mothers are cis women in the light of the existence of trans people: at common law the mother is the "*person* whose egg is inseminated in their womb and who then becomes pregnant and gives birth to a child" (14.i). Then, the Court pointed out that the mother is always the birth one, even if she/he is not genetically linked to the infant because a donated egg has been used in case of surrogacy or in vitro fertilisation (66-71). The Court argued that the lower court had rightly applied section 12 of the Gender Recognition Act (GRA), according to which one's legal sex change does not influence one's parental status, pointing out that Parliament wanted section 12 to have both retrospective and prospective effects: the child's moment of birth (before or after the legal sex change) is irrelevant for filiation purposes¹² (28-29).

The Court addressed the issue of whether a different interpretation of article 12 GRA was to be given not to violate article 8 ECHR. Indeed, the Court recognised that registering McConnell as YY's mother amounted to a State interference with both applicants' right to respect for family life, since it depicted a real life father-child relationship as a formal mother-child one. However, this interference was justified since it was "in accordance with the law" and pursued in a proportional way the legitimate aim "to protect the rights of others", namely of the newborn, and the public interest in having a coherent system of registration (55-58). Moreover, the Court explained that McConnell could be asked to show the long-form birth certificate (the only one where his registration as YY's mother appears) on few occasions, given that most times the short-form one suffices (55).

In the light of this and of the wide margin of appreciation accorded to the State Parties to the ECHR for such controversial issues, the Court concluded not to have violated the Convention.

OH and McConnell's cases have many features in common. Apart from the final decision, the reasons behind it, and the similar mentioned legislation, both courts argued that registering OH and McConnell as mothers was a proportional and legitimate measure because few people could

12 The Court desumed it by the ordinary meaning of the Act, by the fact that other sections of this piece of legislation are valid independently on the time of the legal sex change occurring (such as section 16, regulating peerages and titles), and that a differentiation is explicitly made in other parts of this law, as in section 15, regulating successions (EWCA 2020: 30-34).

access their sons' birth certificates, without taking into account the symbolic importance for trans men to be socially and legally recognised according to their felt parental status. In the light of this, these courts proved inadequate to regulate trans men's lived experiences, which have not acquired legal citizenship.

On the other hand, a good point both judgments share is the acknowledgement of pregnancy as a peculiar relationship with the future-born (as theorized by the French and the Italian feminisms) resulting in a different-from-cis-men way of becoming parents. However, the judgments should have explained that the difficulty in defining OH and McConnell as fathers is that this parental status homologates trans men to cis men, without valorising the different way in which the former become biologically parents.

In conclusion, a relevant difference between the German and the English judgments is that the former associated pregnancy to cis women, the latter to people in general, degendering motherhood in a similar way to cyberfeminism and post-human feminism.

14.4. Reshaping Fatherhood: Reflections on the Term "Parent" and on Care

Trans men's possibility to get pregnant and give birth surely reshapes fatherhood. Given that many times trans men are not recognised as fathers, one could speculate if the gender-neutral term "parent" may help in assigning them a more in-line-with-their-gender parental status and if this may help to overcome the difficulty in associating pregnancy to men. This possibility has both advantages and drawbacks that is worth analysing.

On the one hand, among the former ones, the use of the term "parent" jeopardises what Martha Fineman defines the "sexual family" (Fineman 1995) model, epitomised by the married heterosexual couple having biologically-related sons and daughters. The *other* families tend to be domesticated: those which are *similar* to the sexual family (and considered its imitations) are accepted, those which cannot be reconducted to it are rejected. Indeed, the sexual family originates the so called "parental dismorphism": the thought that the family must be composed by two parents, specifically one mother (the birth one) and a father or a female partner, possibly in a sexual relationship (McCandless, Shaldon 2010: 187-189). This, of course, connects non-heteronormative couples to father and mother's identities and limits trans men's possibility to be registered as fathers. However, by using the term "parent" the sexual family model weakens.

The use of the mentioned term, moreover, avoids questioning whether being mother or father only implies being female and male or also playing different roles. Interestingly, another relevant issue overcome by the use of the term "parent" is whether mothering and fathering are associated to particular tasks and attitudes: the former with the exercise of authority and the latter with care. In case of an affirmative answer, it should also be discussed whether these roles can be performed by any parental figure interchangeably (201, 202).

On the other hand, the change of family law leading to the substitution of the terms "mother" and "father" with "parent" risks hiding the social inequalities among the sexes under a formal egalitarian logic. These gender inequalities arise from the female traditional role in the private sphere and the gendered roots of reproduction (Fineman 1992; 2001). More in details, Martha Fineman denounces that formal equality measures foster real inequalities targeting women¹³

13 In this case the term "women" refers, in the interpretation of the author, to both cis and trans women, who tend to be disadvantaged in both the private and public spheres due to their expected gender roles.

in the private sphere¹⁴. Indeed, the use of the term “parent” makes the figure of the mother disappear from the law, whereas the injustices women experience in their private life, such as being overburdened by care tasks, persist. The use of the term “parent” invisibilise this issue without neither prioritising it on the political agenda nor actually redistributing the domestic work between the two parents¹⁵ (Fineman 1992). In Fineman’s words: “In social and extra-legal institutions that embody cultural expectations -idealized and practical-Mother continues to exist and to function. It is the legal discourse, not society, that is now formally Mother purged” (660). Furthermore, the use of the term “parents” make tribunals equate both parental figures in children’s custody cases, without considering that women usually spend more time with children. This results in opening the way to change the child-custody paradigm in a more-favourable-to-men way¹⁶ (Fineman 2001: 1036-1049). It also neutralises the experience of giving birth as needing a special treatment: insofar as pregnancy, childbirth and breastfeeding/chestfeeding are activities that only cis women and trans men’s bodies can perform, these subjects cannot temporarily work (1042). The use of the term “parent” instead of “mother” may be propedeutic to the removal of the work-family balance protective measures addressed to the peoples who are pregnant. Last but not least, the term “parent” in place of “mother” neutralises the peculiar relationship characterising pregnancy (Fineman 1992: 660), that cis fathers cannot experience.

However, a reshape of fatherhood leading to an effective redistribution of care tasks seems to originate from trans men’s pregnancy. Interestingly, the possibility for trans men to get pregnant introduces care in fatherhood, which is a parental role conventionally considered more detached than motherhood. In fact, “in giving birth to their children and seeking to be recognised as their fathers, trans men are active agents in challenging a conventional understanding of fatherhood and, more importantly, in making care a relevant characteristic of legal fatherhood” (Margalia 2020: 227). Indeed, care is central to the trans men who give birth’s experiences: pregnancy consists in a peculiar relationship with the future child that may be followed by breastfeed/chestfeed. These biological bond is socially translated into the assignment of a mother to every child, so that the newborn has at least one caring person in his/her life (234, 235). By asking to be recognised as fathers, trans men ask to degender the activity of taking care.

Moreover, the trans men who define themselves fathers live their parental role in a different way from the traditional meaning of fatherhood. Indeed, they jeopardise both repronormativity¹⁷ (Love 2022) and the biological assumption that motherhood is associated to pregnancy (and cis

14 The use of the term “parent”, indeed, conveys the message that women and men are equal in the domestic sphere, so they should be equally responsible of the care of their offspring and of the house. Consequently, they should also be equally able of accessing the public sphere and the work domain. However, promoting this aim without effective structural interventions contrasting gender bias does not change women’s traditional role in the family (Fineman 2001: 1034, 1035).

15 Similarly, the terms “husband” and “wife” tend to be substituted by the gender-neutral “spouse” (Fineman 2001: 1031). This may hide that wives are often the targets of gender-based violence against women, without prioritising the contrast of this crime on the political agenda.

16 Men are said to be disadvantaged in the assignment of children custody; however, it is a matter of fact that women do the majority of care tasks, often at the expenses of their job opportunities: many women do not work, work part-time or abandon their job after the birth of their baby. Moreover, given the peculiar relationship of pregnancy, the child is particularly bonded to the person who gave birth to him/her. Fineman denounces that a family law gender-neutral reform would underevaluate women’s role as children’s primary caregivers in custody lawsuits. Moreover, the women without a partner tend to be considered less adequate to obtain child custody (Fineman 1991; 2001).

17 Repro-normativity implies that the only legitimate way of reproducing is through a sexual intercourse between a cis man and a cis woman.

women) and fatherhood to sperm contribution (and cis men), thus challenging the necessity of heteronormativity (Margalia 2020: 236, 245). Plus, the conventional social expectations about parenting according to which motherhood implies care and fatherhood consists in financial support are destroyed. Trans men parenthood is an involved type of relationship questioning that the primary caregivers of children are (female) mothers (Bower-Brown 2022: 229). In other words, trans parents question not only the conviction that mothers are female and fathers male, but also the consideration of mothers as more important than fathers in children's growth, as well as the possibility of the existence of different-from-the-conventional parental identities (234).

In addition and as a proof of the mentioned arguments, the families with one trans parent or two, as well as the ones with non-binary parents, tend to organise household and childcare in more egalitarian ways (225). Few studies exist on these families, among which Susan Bower-Brown's one. The researcher interviewed 13 trans and non-binary parents in the United Kingdom on their parental lived experiences in the light of the topics of the figure of the mother as both fundamental to children's growth and exclusionary, the figure of the father as uninvolved and the possibility to shape non-binary parental identities. The study shows that the trans women who identify as mothers reject the traditional meaning of mothering; similarly, the non-binary participants feel to be closer to fatherhood than motherhood because of the social expectations about mothering. The only trans man participating in the interviews identifies as his child's father, but in a caring way (236). So, many times the interviewed's identity is that of mothers, fathers or parents, at the same time rejecting the social functions of mothering, fathering and parenting, thus deconstructing the gendered roles associated to the parental figures and going beyond them.

14.5. Conclusion

Invisibilised by society and forced for much time to be sterilised to be legally recognised as men or women, trans subjectivities are now free, in some States, to exist and reproduce. Trans men's possibility to get pregnant and give birth introduces care in fatherhood and is revolutionary to feminist philosophies, as well as to family law. Indeed, as showed in this paper, feminisms do not agree on whether pregnancy and giving birth should be associated (only) to motherhood and womanhood. Plus, when trans men legally ask to be recognised according to their felt parental status, many times their registration as their children's mothers is confirmed, as seen in OH and McConnell's cases. On the other hand, the gender-neutral solution of adopting the term "parent" has both advantages and disadvantages.

In conclusion, this work does not aim at upholding a particular solution, but at proposing a starting point that may stimulate feminisms and gender studies: taking into consideration Fineman's call to reframe family law starting from people's concrete lived experiences. As a matter of fact, trans men experience fatherhood differently from cis men; as argued, this contributes to degender patriarchal roles. This difference, in the opinion of the author, should be valorised without denying the father-child relationship that trans men experience. Complex issues require new imaginative abilities leading to complex solutions that neither neglect people's gender identity nor the special corporeal relationship characterising pregnancy.

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