

Research Article

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Spectral Connections: Anthropological Engagements with Posthumous Reproduction

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Abstract

This paper examines the phenomenon of posthumous kinship. In 1951, E.E. Evans-Pritchard introduced us to the possibility that a ghost could be defined as the legal father or mother of a child. Since the time of his writing, this once seemingly ‘exotic’ cultural practice has been brought ‘home’ to Western audiences through the clinical practice of harvesting gametes of recently (or soon to be) deceased individuals for reproductive purposes. Through an examination of several cases in which the dead have been made to ‘father’ or ‘mother’ a child, this paper explores the social and political ramifications of posthumous kinship including what it reveals about shifting Euro-American understandings concerning biological properties (and property), subjectivity, embodiment and the contested boundary between life and death.

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It may be that [Deborah Ellen Hecht] will decide—as I hope she will—to have a child by me after my death. I have been assiduously generating frozen sperm samples for that eventuality. If she does, then this letter is for my posthumous offspring, as well, with the thought that I have loved you in my dreams, even though I never got to see you born.

William Everett Kane, quoted in Margolick (1994)

Introduction

What does it mean to ‘survive’ another individual? Is it possible to be a ‘survivor’ of someone who died prior to your own conception? The United States Supreme court entertained this question in March 2012 as it debated the status of Karen Capato’s posthumously conceived twins. In 1999, Karen and Robert Capato were married. Not long after their wedding, Robert was diagnosed with what would turn out to be terminal cancer of the oesophagus (Grossman 2011; 2012). Fearing that the recommended course of chemotherapy would leave him sterile, Robert deposited several samples of his sperm at a local fertility clinic. He rallied at one point

during the treatment, and Karen gave birth to a naturally conceived son in 2001 (Barnes 2012a,b). By 2002, however, Robert’s condition had taken a turn for the worse. Because the couple wanted siblings for their existing son, they made plans for Karen to use the frozen sperm to conceive a child after Robert’s death. Robert died in March 2002 at the age of 44. Nine months later, Karen used his frozen sperm and, after a successful round of *in vitro* fertilization, she gave birth to a healthy set of twins in 2003 (Totenberg 2012). She then applied for child-survivor benefits under the Social Security Act. The Capatos’ naturally conceived son received the benefits; the twins did not (Barnes 2012b). While a Federal Appeals court initially sided with Capato, the Supreme Court unanimously ruled against her, saying that the twins could not be considered Robert Capato’s legal issue (Totenberg 2012; see also Grossman 2012; Rochman 2012; Savage 2012).

The story of Karen Capato has many similarities in common with the small but growing number of cases involving posthumous conception. Her case was not the first to go before courts in the United States. Nor will it be the last. At the time of this writing, the Social Security Administration has received well over 100 applications for survivor benefits by posthumously conceived children and the volume of these requests has been steadily growing in recent years (Stohr 2011). Although in a few select cases benefits have been awarded, in the vast majority of cases claims have been denied. In this paper, I explore some of the reasons why and

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what this reveals about how kinship is normatively imagined in the West.

In their groundbreaking volume *Remaking Life and Death* (2003), Sarah Franklin and Margaret Lock draw our attention to how recent innovations in the biosciences are fundamentally altering our understandings of 'life itself'. The once hard-and-fast distinction between 'life' and 'death' has now been complicated by a host of recent innovations including organ donation, stem cell research and the creation of immortal cell lines, to name but a few. Post-mortem conception represents one further development in this direction (cf. Elliott 2004). Combining the techniques of cryopreservation with those of *in vitro* fertilization, it is now possible to conceive a child long after the death of one or both genetic parents. In the pages that follow, I examine some of the social and legal issues surrounding this development—particularly, what it means in terms of the legal status of the child so conceived. Through an examination of several cases, I argue that the gametes of the deceased are subject to a complex set of negotiations in which they are viewed first as a potential *object* of property, and second as a potential *subject* of real property relations. Should the resulting negotiations falter on either of these fronts, the resulting child will not be seen as the legitimate offspring of the decedent.

In terms of the overarching aims of the current collection, my paper makes the following interventions. First, I join other contributors to this issue in challenging the division between kinship as a biological and kinship as a symbolic construct. Second, I demonstrate that, even in those contexts where kin ties appear to be informed by a dominant orienting logic (in this case biology), a closer investigation often reveals that things are far more complicated than they first appeared.

Creating life beyond the grave

Posthumous conception by artificial using frozen sperm has been available since the 1950s. One of its first uses was to offer men in high-risk occupations (i.e. soldiers, astronauts, etc.) a chance to father children in the event of injury or death (Lipskind & Ginsburg 2012; Robey 2015). In more recent years, the practice has become democratized and is now common in Europe and North America.¹ A 1997 survey found that 14 clinics in the United States had honoured requests for sperm to be collected from the recently deceased (Andrews 1999, 226).² Cappy Rothman—a pioneer and leading advocate of this technology—defends posthumous conception on 'compassionate grounds', claiming that there is less grief for the spouse and surviving family members if a sample of the deceased's gametes is saved for the future.³ Speaking before the New York legislature, he stated:

In one case where a man died by gunshot and I collected his sperm, his family followed me back to the sperm bank and were consoled by seeing his motile sperm under the microscope. To console families in that way at a time of grief and tragedy is clearly part of my responsibility as a healer. (Quoted in Andrews 1999, 227)

If posthumous conception has been gaining a foothold as one of the boutique services now offered by many fertility clinics, the law has been slow to keep pace with these developments. Legislators have struggled to define what familial relationship (if any) exists between a deceased donor of gametes and the resulting child (cf. Dolgin 1997, 198). They have also wrestled with numerous ethical questions including: Who is entitled to make such requests? Romantic partners? Previous spouses? Parents? Others? Did the deceased show any interest in procreating while alive? Was there any kind of a directive left? Faced with these and other disputes, courts have generally seen the 'intent' of the deceased to be decisive (Blake & Kushnick 2013; Dolgin 1997, 198; Hashiloni-Dolev & Schicktan 2017; Simpson 2002; Smajdor 2015), although, as I shall argue below, other criteria also come into play. Indeed, as it often turns out, other criteria are determinative. I turn first to the case of *Hecht v. the Supreme Court* before examining similar disputes in the United Kingdom (the cases of 'L' and Diane Blood) and Russia (the case of Lamar Kelesheva).

The United States: the case of William Everett Kane

In 1991, 48-year-old William Kane—a prominent attorney—froze 15 vials of sperm at a California cryobank. Kane signed a statement at the time saying that if he died, the sperm was to be released to his girlfriend of five years, Deborah Hecht, and her physician. Shortly after making the deposit, Kane jumped to his death in October 1991 (Elliott 2004). In a letter to his two existing college-aged children from a previous marriage and to any posthumous children that might be produced, he wrote:

I address this letter to my children, although I have only two, it may be that Deborah will decide, as I hope she will, to have a child by me after my death . . . If she does, then this letter is also for my posthumous offspring as well, with the thought that I loved you in my dreams, even though I never got to see you born. (Quoted in Shuster 1999)

In his last will and testament, Kane explained that his decision to end his own life was the reason for storing his sperm. With respect to his impending suicide, he wrote:

I'd rather end [my life] like I lived it—on my time, when and where I will, and while my life is still an object of self-sculpture—a personal creation with which I am still proud. In truth, death for me is not the opposite of life; it is a form of life's punctuation. (Quoted in Andrews 1999, 224)

Arguing that the desire to father a child after death was 'selfish, egotistic, and irresponsible' (quoted in Andrews 1999), Kane's adult children requested that the sperm be destroyed, saying that it would 'prevent the disruption of existing families by after-born children' and ward off 'emotional, psychological and financial stress on family members already in existence' (quoted in Andrews 1999). The judge accepted the children's plea and ordered the sperm destroyed. Hecht appealed the decision and won. The appellate court characterized the sperm as 'reproductive material, a unique kind of property because of [its] potential for human life' (quoted in Shuster 1999). The court concluded

that Kane had an ownership interest in the sperm and that he had the power to decide if his sperm was to be used for reproductive purposes. In reversing the trial court's position, the appellate court ruled that sperm depositors may determine the disposition of their gametes after death (Shuster 1999). Deborah Hecht did, indeed, use the sperm of Kane in an effort to become pregnant, but to no avail (Andrews 1999). Her efforts to bear a child fathered by her deceased lover were ultimately unsuccessful.

The United Kingdom: the consequences of ambiguous consent

While the Kane suit was relatively easy to adjudicate given that he had left explicit instructions concerning what to do with his genetic material, other cases have been far more ambiguous. In 2008, a woman identified only as 'L' in the media made headline news throughout the United Kingdom because of her efforts to conceive a child using the sperm of her deceased husband. In a direct breach of UK law which requires *explicit* written consent for the storage and use of sperm, the 42-year-old widow was granted an emergency court order to have sperm retrieved from her 31-year-old husband who had died from complications while undergoing a routine appendectomy (Roberts 2008). Following the successful retrieval and preservation of his sperm, 'L' then sought authorization to travel abroad to seek fertility treatments using the frozen sperm. In making her case, 'L' claimed that the couple had wanted another child and had discussed their desire with family, friends and their fertility doctor (Knapton 2008; Schlesinger 2008). 'L' went on to explain to the presiding judge that it had been impossible to obtain written consent because the couple had no reason to fear that the routine operation would turn out to be fatal.

The case of 'L' is identical in virtually all respects to that of Diane Blood which unfolded in the same country roughly a decade before. In 1997, following a protracted legal battle, Ms Blood won the right to seek fertility treatment in Belgium using sperm that had been extracted from her husband Stephen while he lay in a coma. While the court had ruled that the extraction and storage of Stephen's sperm had been 'unlawful' since prior consent had not been obtained, Ms Blood was eventually allowed to pursue IVF treatment in Brussels on the grounds that as a citizen of the UK, she was free to seek medical treatment in another member state of the European Union (Simpson 2002). While the ruling in the Blood case (i.e. the declaration that the removal of Mr. Blood's gametes had been 'unlawful') was meant to preempt the possibility of further similar applications in the future (Carsten 2004, 2), 'L' was also eventually granted the right to pursue fertility treatment abroad. Significantly, the courts in both cases based their decision, in part, on the fact that the couples had previously consulted with a fertility expert, which was taken to indicate 'implied' consent, meaning that her now-deceased husband had an interest in 'fathering' a child. 'L' lawyer David Josiah-Lake said, 'Had (the husband) had the opportunity to give consent in writing, it is clear from the overwhelming evidence that he would have done so'

(quoted in Schlesinger 2008). In the wake of the 'L' case, an amendment was proposed to Britain's Human Fertilisation and Embryology Bill which would place an independent consultant's confirmation of a couple's intent to have children on par with written consent from the husband (Schlesinger 2008).

Russia: lack of consent and the issue of illegitimacy

In those cases where posthumous conception takes place, but without concrete evidence of the decedent's explicit prior consent, the status of the resulting offspring is called into question. In January 2011 in the city of Moscow, Lamar Kelesheva became the grandmother of four children who were posthumously conceived using the sperm of her deceased son and the services of a surrogate. Kelesheva's 23-year-old son Mikhail received a diagnosis of acute leukaemia in May 2005 while attending college in Greece (Sudakov 2011; Vorzimer 2011). On the advice of his doctors, Mikhail had stored some of his sperm in the hope that if he recovered after chemotherapy, he might still be able to have children in the future (Pulya 2011). Mikhail battled leukaemia for three years before eventually dying from the disease. After consulting with local church leaders, his mother—Lamara—decided to try for posthumous grandchildren. After several failed attempts at a fertility clinic in Georgia, Kelesheva hired two surrogates from the Ukrainian city of Donetsk. Both women became pregnant with twins who were delivered in January of 2011. Although it had been Lamara's hope to raise the children, she soon found herself embroiled in a host of legal difficulties. By the age of five months, neither set of twins had been issued birth certificates. From the perspective of the Russian state, the four children do not legally exist (Vorzimer 2011). Lamara's attempt to appeal the courts' decision and to have herself registered as the children's guardian and her son as their father ended in failure. The state challenged her right of parentage and placed the children in foster care.⁴

Is intent enough?

Although 'intent' appears to be a determinative factor in allowing posthumous conception to move forward (Dolgin 1997, 198), I shall argue below that the situation is more complicated than this. At least in terms of recognizing a legal, enduring and publicly recognized relationship with the ensuing child, more is needed than evidence of consent on the part of the decedent.⁵ I return briefly to the vignette with which I opened this paper. The fact that Robert Capato had deposited several vials of his semen at a sperm bank might be taken as implicit evidence that he intended to father a child. More than that, however, as his health deteriorated, he and his wife Karen signed a notarized statement, which indicated 'any children born to us who were conceived by the use of our embryos shall in all respects be our children and entitled to property' (Barnes 2012a). Consent was clearly given for the posthumous use of gametes, but the resulting children were not recognized by the courts as his legitimate offspring.⁶ What this case demonstrates is that 'intent' coupled with a

demonstrated genetic connection are not necessarily enough to determine paternity in a legal sense.

Defining kin

The legal decisions considered thus far raise several important implications. First and foremost, they demonstrate that ‘biology’ remains central with respect to how Euro-Americans imagine kin configurations. Deborah Hecht went to elaborate means, not to mention great financial expense, in her efforts to have a child with a specific individual—William Kane. She was motivated not simply the desire to become a ‘mother’. Were this the case, her aims could have been achieved far more simply by either adopting a child, or by undergoing artificial insemination by anonymous donor. Rather, her intent was to have a child sired by her deceased lover in the hopes that William Kane would achieve some kind of immortality and would live on through his children. In this way, Kane would also continue to be an ongoing presence in her life moving forward. Perhaps not surprisingly, there has recently been a flood of requests made by parents of soldiers serving on the frontlines in Ukraine and Israel. According to Goldberg (2024), since the start of the Israeli–Hamas war, there have been more than 200 cases of posthumous sperm retrieval in Israel. Most of these soldiers (81 per cent) have been young and unmarried, which indicates that the requests to retrieve gametes have been made by parents of the deceased (Amir & Ravitsky 2024; Goldberg 2024). Likewise, there has been a significant spike in fertility treatments in Ukraine. Soldiers are freezing their sperm before battle to take advantage of the recent change in law which allows partners to use sperm posthumously to create a child.⁷

Anthropologists and legal theorists have long noted that kinship in Europe and North America rarely rests on one criterion alone. While biology may play a substantial role in assigning the rights and responsibilities of parenthood, other factors are often relevant, if not determinative. The question of what else might be needed to define kin is taken up in the next few paragraphs.

Prior to the widespread use of Assisted Reproductive Technologies, the legal definition of parentage throughout much of the West was simple:

Children born to a married woman had a legal mother (the woman who gave birth to them) and a legal father (the man who was married to the woman at the time, regardless of whether he actually sired the child). Children adopted by the married couple also ended up with two legal parents via the legal creation of a parent/child tie. Under the traditional model, the children of unmarried parents had, at most, a legal mother. The unwed father was not recognized as a father at all. (Grossman 2011; cf. Dolgin 1997)

From a legal perspective, if a woman gives birth to a child, she is recognized as the legal mother of that child. Fatherhood is based on a different set of criteria. Here, biology is not enough. Indeed, it often happens that biology is completely irrelevant. If a man is married or in an ongoing civil partnership with the birth mother, he will be recognized as the legal father of any children she may bear, unless it can be shown that he did not consent to the

conception. According to Natalie Gamble Associates (2013a): ‘If you are separated and your spouse is conceding a child as a solo mother or with a new partner and you do not intend to be a legal parent, it may be necessary to collect evidence to “show” that you did not consent to the conception’. Hence, while paternity *may* entail a biological relationship to the child, genes alone are not enough. Some additional defining feature is required to for paternity to be legally recognized: marriage or a common law relationship to the mother, ongoing financial support, a formal acknowledgment of paternity, etc. (cf. Dalton 2000).

This brings us to the question: what is the ‘added-on’—the additional defining feature—in the case of posthumously conceived children? In the United States,⁸ at least, to be seen as legitimate, the child must be able to inherit not only the genes of the deceased parent (and with that person’s consent); one must also be eligible to inherit the real property of the deceased. Survivor benefits are a matter of Federal law. To be entitled to collect these benefits, an applicant must be a ‘child’ as this term is defined under the Social Security Act. According to this Act, one is a ‘child’ of the deceased if one meets at least one of the following conditions: (1) if the deceased acknowledged paternity in writing; (2) if the deceased was supporting the applicant at the time of death; (3) if the deceased had been ordered to pay child support; or (4) if a court had decreed the decedent to be a legal parent, as in cases of adoption (Zafran 2007).

As will be evident, most of the Act’s definitions of a ‘child’ are inappropriate when it comes to considering that status of a posthumously conceived individual. However, another option also exists under the Social Securities Act, which relies on the application of State rather than Federal law. This segment of the Act reads:

In determining whether an applicant is a child . . . the Commissioner . . . shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the state in which [the] insured . . . is domiciled at the time . . . [of death]. (Quoted in Zafran 2007)

Translated into simpler terms, the Social Security Act allows intestacy laws to serve as a ‘back door’ (Zafran 2007) basis for establishing a legally recognized parent–child relationship. What this means is that if the child lived in a state where he or she was entitled to inherit the deceased’s property in the absence of a will, that child will be recognized as the legal offspring of the decedent. A child qualifies as a ‘child’ for benefits purposes if state law treats her/him as an heir (Grossman 2011).⁹

While there have been a few notable cases in which posthumously conceived children have been granted the right to inherit from the deceased’s estate intestate,¹⁰ these cases have been very much the exception rather than the rule. For the most part, courts have been extremely reluctant to define posthumously conceived children as an heir of their deceased parent. This reluctance is not based on moral or ethical grounds *per se*, but rather on the fact that cryopreserved gametes have an incredibly long shelf-life. The legal system has an interest in closing the estate of a deceased as quickly as possible. However, given that medical intervention makes posthumous conception

available for many years after a parent has died, the question becomes: how long should an estate be left open so that posthumously conceived children can be legally protected? Grossman (2011) writes:

Would estates have to be held open in case children with inheritance rights were subsequently conceived? Would estate shares that had already been distributed be called back for reallocation if that, indeed, occurred? Would surviving spouses conceive more children simply to garner control over a greater share of the estate?

Zafran (2007, 98) echoes a similar set of concerns:

It is possible . . . that the potential child may remain unborn, mere frozen sperm for a prolonged or indefinite time because the mother has not yet proceeded with the conception and pregnancy. If that is the situation at the time the estate is distributed, be it by will or statute, will the frozen sperm be deemed legally capable of inheriting?

Concluding remarks

Once seen as an *object* of property that can be willed or gifted to others,¹¹ the gametes of the dead now come to be seen as a potential *subject* of real property relations—a would-be heir, lying in wait, possibly for years if not for decades.¹² While it is tempting to liken posthumous conception to organ donation in the sense that both are undertaken in the hope that a much-loved family member will continue to ‘live on’, in the body of a new individual, the situation is also strikingly different. Donated body parts, while providing another person with the ‘gift of life’, do not have continuing generative potential: they might *sustain* life, but they do not *engender* it (Sharp 1999; Shuster 1999, 417). This carries with it important implications. So long as the gametes of the deceased continue to exist in a cryopreserved form, they can exert ongoing agency in the lives of the living. In their state of suspended animation, frozen sperm, eggs (or embryos) are, at one and the same time, both alive and dead; a recognized subject in terms of future kinship narratives, and a task to be taken care of at the end of each month in terms of paying the requisite storage fee.

In what has become a classic in the literature, Evans-Pritchard (1951) captured anthropological audiences with his account of Nuer ghost marriage. According to the author, the Nuer of southern Sudan consider it particularly tragic for a man to die without having produced living heirs, particularly a son. Should this circumstance eventuate, it is considered entirely appropriate for a male kinsman to take a ‘wife’ in the dead man’s name who, as a consequence of the payment of bridewealth, bears children who count as the legitimate offspring of the decedent.¹³

Posthumous conception in the West is also centrally concerned with the production of heirs and it is also grounded in the transfer of real property. However, here the similarities end. For Euro-Americans, posthumous conception figures into a growing climate of genetic essentialism, which has little in common with Nuer constructions of legitimacy. Many Western legal commentators worry that posthumous conception is creating a class of individuals who are being discriminated against, based on how they were brought into the world. Laura Riley, a staff attorney at the Cancer Legal Resource Center (a program at the Disability Rights Center of Loyola Law School) writes: ‘Children who are

born after a parent passes away didn’t chose the way they were conceived. They have a right to be free of discrimination based on the circumstances of their conception’ (quoted in Rochman 2012). Ironically, it is not the fact that posthumously conceived children were conceived using the gametes of a deceased parent that is the issue—it is the fact that the parent in question cannot be laid permanently at rest. Through their frozen gametes and the potential of new kin connections in the future, the dead remain as active participants influencing the lives of the living.

Notes

1 The UK, US, Japan, Czech Republic, Australia, Canada, India and some other countries are fairly lenient with respect to posthumous reproduction—particularly if the practice is carried out with prior written consent. The procedure is prohibited in several other places, including France, Pakistan, Slovenia and Hungary. Much of South Asia currently lacks explicit guidelines. Over the past several years, and in the wake of catastrophic conflict, requests made by bereaved parents in Israel and Ukraine to harvest the sperm of their sons who have died in battle has grown exponentially (Goldberg 2024; Pandey 2024).

2 In 2011, Israeli newspapers reported the first case of ‘posthumous maternity’ in which a boy was born using the gametes of a woman who had died two years earlier as a result of a brain tumor (Vorzimmer 2011). While the press was quick to dub the now deceased woman a ‘mother’, technically this is not the case as the child was brought to fruition through the services of a surrogate.

3 I am grateful to an anonymous reviewer of this manuscript, who pointed out to me that there has been a growing awareness on the part of scholars in various fields (archaeology, psychology, religion and cultural studies) that it is perhaps ‘healthy’ and not pathological (as once surmised) for the living to strive to retain a continuing bond with the dead. If it was once assumed that a bereaved individual should put the past behind them, mourn their loss and then to ‘move on’ and make new connections in the present, it is now more common to recognize that the living often benefit by maintaining, rather than severing, a bond with the deceased (see Klass *et al.* 1996; Stroebe & Schut 1999; Vickio 1999). This can take many forms: in some instances, the living may have their skin tattooed with ink made from the ashes of the deceased, or perhaps they wear a form of bodily adornment, such as jewellery, which incorporates some of the material remains of a loved one who has recently passed away (not unlike ‘relics’ in religious circles) (Heessels *et al.* 2012). In keeping with the theme of this collection, this perspective is now influencing archaeological interpretations of the past—see, for example Croucher (2018) who argues that the plastering of skulls of the deceased in the Neolithic of Southwest Asia suggests a desire to keep the dead close to the living.

4 A review of recent case law in the United States yields similar conclusions. In virtually all cases where the consent of the deceased has not been adequately demonstrated, the status of the resulting child/children will be called into question.

5 Even in those cases where the courts grant permission for the deceased individual to be listed on the child’s birth certificate, this does not mean that the person so listed is the legal father for any purpose other than naming him on the certificate of birth (Natalie Gamble Associates 2013a,b).

6 The results of the Capato case were not new. Indeed, it followed in the wake of a string of similar verdicts in which the claims of posthumously conceived children were similarly denied. See, for example Grossman 2011; Suppon 2010; Zafran 2007).

7 This past year, the High Court of India also ruled that parents could use their child’s reproductive cells to ‘continue their legacy’ (Bhatheja 2024). The ruling was based on the finding that semen samples could be viewed as a form of heritable property and can be handed over to parents as part of their deceased son’s estate.

8 Space prohibits me from considering this question of legitimacy at a global level, where I imagine the criteria may be slightly different depending on context.

9 It was on these grounds that the Capato twins were denied survivor benefits. In Florida, where Karen and Robert lived, children conceived after the death of a parent are not entitled to inherit property intestate (Totenberg 2012).

10 See, for example *Woodward v. Commissioner* (Grossman 2011; Kirk 2002; Suppon 2010; Zafran 2007); *Matter of the Estate of William J. Kolacy* (Elliott 2004; Suppon 2010); *Netting v. Barnhardt* (Grossman 2011; Suppon 2010; Zafran 2007).

11 In 2024, the High Court of India ruled that genetic material can be seen as 'property' which becomes part of the 'estate' of the recently deceased. India has become one of the latest countries to allow parents to use the gametes of their children for reproductive purposes (Bhatheja 2024; Mishra 2024).

12 In one documented case, a child was successfully conceived using sperm that had been frozen 22 years earlier (CTV News 2008). As a rule of thumb, partners of the deceased are strongly encouraged to hold off in their procreative efforts for at least a year in order to move beyond a period of initial grief.

13 As I intend to pursue in a subsequent paper, there is an interesting corollary with respect to how posthumous reproduction reframes orthodox anthropological theories of descent. In the classical literature, it has long been argued that principles of descent and descent groups came into being as a means of ensuring that property could be passed down through time to a man's 'legitimate' heirs (Engels 1884; Fox 1984; Morgan 1871). Here, it is the ability to transmit property that plays a key role in the legal definition of 'descent'-based relations.

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