



The more, the merrier?

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It is quite possible that the five-year-old boy who now has three legal parents will grow up to be a happy, well-adjusted member of society.

On the other hand, in 10 or 15 years, the Ontario boy being raised by a lesbian couple with help from his biological dad, who lives in the neighbourhood, could be a mess.

He didn't ask to be a poster boy for the redefined family but Canada is rushing headlong into uncharted waters and this anonymous child is one of the star attractions in this surging culture war.

Several years ago, a lower-court judge rejected the request of the female partner of the boy's biological mother for legal recognition as a parent. In denying her application, the judge noted that the law only allows a child to have two parents.

He also expressed concerns about future complications if the concept of parenthood was broadened. "If a child can have three parents, why not four or six or a dozen?" he wondered.

It's a logical question. Nevertheless, we've merrily embarked on an explosive social experiment with Tuesday's decision by the Ontario Court of Appeal.

The boy's mother and her lesbian partner can't apply to adopt him because the biological father would lose his parental rights, the appeal court said.

So it decided to ignore the law, which stipulates two parents, and fill the "gap" in the Ontario legislation.

"It is contrary to (the boy's) best interests that he is deprived of the legal recognition of the parentage of one of his mothers," the court explained.

So the child now has three parents: His biological mother, her female partner and his sperm-donor dad, who plays an active part in his life.

Although the ruling is not binding in other provinces, it can be used to buttress similar test cases elsewhere. So don't be surprised if this sets off a cavalcade of unusual parental applications across the country.

"This is revolutionary," says lawyer Bradley Berg, who acted for the Family Service Association of Toronto, which welcomes the three-parent ruling.

"The sky's not falling. In fact, the sun has come out for a whole bunch of families," he says.

"You can rest assured that where it's not in the best interests of the child, family law judges will not permit (more than two parents)."

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TROUBLING ASPECTS

But there are two troubling aspects to this ruling. First, the court of appeal wielded the inherent common-law power of judges to re-interpret the law.

This may be necessary in exceptional circumstances but, in this case, surely our lawmakers are best suited to rewriting the law.

Secondly, the future consequences of such a profound redefinition of parenthood are unknown.

The Institute of Marriage and Family Canada has called for a Royal commission on the future of the family.

Considering the furious pace of social and reproductive change in recent years, it's a wise idea.

"It's time to hit the pause button -- especially as courts redefine basic terms like parenting -- to analyze what the long-term outcomes of family-related policies are," says Dave Quist, executive director of the institute.

"Any gap in existing legislation should not be filled solely by one court. Rather, it needs to be debated in the appropriate public forum -- our legislatures and Parliament," he adds.

On a whole host of social issues with potentially far-reaching implications, however, our courts have been stepping in where our legislators fear to tread.

This may be to the tactical advantage of politicians -- who can then blame the judiciary for uprooting traditional norms -- but it's a terrible way to set social policy.

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