

Assisted Reproductive Technologies and Family Law's Enduring Foundations

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ABSTRACT

The rise of assisted reproductive technologies (ARTs) provides an amazing gift for family law scholars, teachers, and students—whatever our differing positions on the merits. Even as science and medicine develop new reproductive interventions and permutations, the exhilarating change that marks this area offers valuable opportunities to recognize, explore, and challenge family law's enduring foundations, especially those elementary matters too often taken for granted because we see them as “natural.”

ARTs expose how family law does not just regulate family life but also constructs its basic underpinnings. As ARTs illustrate, family law defines fundamental relationships and personal identity; shapes sex, sexualities, and gender as well as race and class; determines the significance of various connections (from genetics and biology to formalities, conduct, and affective ties); disassociates intimacy from economic exchange; conceptualizes dependency as private; and controls the very meaning of family autonomy and privacy.

ARTs thus offer a lens for examining family law's functions, goals, and underlying assumptions. As we look ahead to “family law of the future,” ARTs can ensure that we grapple with both continuity and change.

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