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Navigating **Race** in the Market for Human Gametes

by HAWLEY FOGG-DAVIS

When people go shopping for gametes, their first and most important criterion is the donor's race. In so choosing, they are making wrong and invidious assumptions about what race is. They are also assuming that their child will develop her sense of self within those parameters. The effect is harmful both for children and for society at large. People should be able to recognize racial categories as they construct their own identities, but those categories should not limit their self-identification from the very outset.

Since the first successful birth resulting from in vitro fertilization in 1978, ethicists have debated a wide spectrum of moral questions raised by IVF, including concerns about economic exploitation, profiteering, health effects on women's bodies, interference with traditional family norms, and children's welfare.¹ Yet these discussions rarely, if ever, address the racially selective use of reproductive technologies. Legal scholar Dorothy Roberts has documented a racial disparity in access to and use of reproductive technologies, pointing out that even though black women experience infertility at higher rates than white women, white women are twice as likely as black women to use reproductive technologies.² But no one has yet explored the production and reproduction of racial meanings *within* this newfangled market.

How do descriptive and prescriptive notions of race affect the economic behavior of those who possess the financial means, time, and cultural capital to pursue assisted reproduction? Conversely, how do the racial choices of gamete consumers shape contempo-

rary notions of race?³ Are whites, who comprise the overwhelming majority of gamete consumers, morally justified in choosing the gametes of a white donor?⁴ Is same-race preference among black or other nonwhite gamete shoppers morally different from same-race preference among whites? Do cross-racial choices, such as a white couple's request for an Asian American egg donor, amount to benign or invidious racial discrimination? In sum, what role, if any, should race play in the selection and purchase of human reproductive tissue?

Race-based gamete selection raises two major, linked ethical issues. One is the harm that racial stereotyping causes to individuals, and the second is the public awareness that racial stereotyping is an accepted feature of this largely unregulated market.⁵ Choosing a donor according to racial classification is based on racial stereotypes of what that donor is like, and of what a child produced using that person's gametes will be like, as well as the gamete consumer's own racial self-concept and racial aspirations. Race-gamete selection is tied to race-based desires in family formation. The dangerous subtext, or subliminal message, conveyed by race-based gamete choice is that a child created using the gametes donated by a racially

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designated person ought to adopt a race-specific cultural disposition, and develop his or her self-concept within those parameters. The net result is the constriction of individual freedom in forging one's identity.

Negative social repercussions also flow from this process of racial sorting. Naomi Zack argues that the white American family has historically been and continues to be "a publicly sanctioned private institution for breeding white people."⁶ Race-specific gamete shopping underscores and extends Zack's point.

Assisted reproduction, as the name suggests, brings reproductive decisionmaking into public view. Racial choices made in this arena publicly reinforce and make explicit the routine use of racial discrimination in the choice of a partner for procreative sexual intercourse. It is not so much that the former is morally worse than the latter. Both operate on the level of racial stereotype, prejudging and weeding out certain individuals based at least partly on their ascribed race.

The unique problem of racial choice in the gamete market lies in *how* interpersonal racial choices are expressed. Noncoital reproduction requires people to articulate a race-based reproductive choice that usually remains unspoken in coital reproduction. The price tag attached to these racial reproductive choices enhances the publicity of the stereotyping.

Explicit racial selectivity in the gamete market has the potential to uncover submerged racial biases that permeate the U.S. social terrain. But if we unearth these racial desires only to ignore them, thereby affirming them by default, then we end up sanctioning stereotypes of race-based familial structure. The fact that racially coded donor profiles exist and can be viewed by the public makes this practice part of our public consciousness. Hence, race-based donor choices are inextricably tied to public notions of the normative role that race ought to play in family formation.

My argument against this mode of racial stereotyping is not based in

color blindness or a call for abolishing racial categories. Race can and should be a source of self-identification, and to some extent group identification, but it should never be overwhelming or fixed. What is needed, instead, is a way for individuals to mediate or navigate over the course of their lives between the racial categories ascribed to them and their own racial self-identification.

I call this theoretical concept "racial navigation." Racial navigation recognizes the practical need for individuals living in a race-conscious society to acknowledge the social and political weight of racial categories, while urging individuals to resist passively absorbing these expectations into their self-concepts. My objective is to maximize human freedom under the existential pressure of racial categories. While racial navigation begins

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at the personal level, I intend for it to guide interpersonal conduct in the market for human gametes and beyond.⁷ Before delving into the theoretical underpinnings of racial navigation, and demonstrating how it might mitigate the perpetuation of racial stereotypes in the gamete market, I want first to give a brief overview of how race is marketed in the business of paid gamete donation.

The Racial Marketing of Human Gametes

The U.S. fertility treatment business is a booming, multibillion-dollar industry. With infertility rates on the rise,⁸ the number of clinics offering IVF has risen sharply since the mid-1980s to approximately 330 nationwide.⁹ Largely unregulated, these clinics compete fiercely with each other for a market of approximately 2.1 million infertile married couples.¹⁰ Only a small percentage of these couples are likely to pursue IVF, donor insemination, or other assisted reproductive technologies.¹¹ And those who do pursue assisted reproduction have to be wealthy enough to afford fertility services such as IVF, which costs an average of \$7,800 per cycle.¹² In discussing her finding that white women are twice as likely as black women to use reproductive technologies,¹³ Roberts suggests that the disparity may "stem from a complex interplay of financial barriers, cultural preferences, and more deliberate professional manipulation" (p. 253).

Roberts argues that most blacks de-emphasize the role of genetics in both familial and community membership, as well as in the process of personal identity. Whereas many whites have historically gone to extraordinary and absurd lengths to guard against the "pollution" of a white "blood-line" by either avoiding interracial sexual relationships or evading the consequences of such relationships, Roberts notes a general attitude of acceptance of *mélange* within black families and extended kin networks:

The notion of racial purity is foreign to Black folks. Our communities, neighborhoods, and families are a rich mixture of languages, accents, and traditions, as well as features, colors, and textures. Black life has a personal and cultural hybrid character. There is often a melange of physical features—skin and eye color, hair texture, sizes,

and shapes—within a single family. We are used to “throwbacks”—a pale, blond child born into a dark-skinned family, who inherited stray genes from a distant white ancestor We cannot expect our children to look just like us (p. 263).

Even though prejudice against dark skin color and “African” physical features has existed within black communities since slavery, Roberts maintains, “sharing genetic traits seems less critical to Black identity than to white identity” (p. 263).

It is important to distinguish between *genetic traits* and *genetic ties*. Genetic traits refer, in the case of physical race, to the *physical expression* of genes inherited from biological parents. This genetic inheritance includes recessive genes—genes that are not physically expressed—and this (among other factors¹⁴) makes it possible for children to have physical characteristics that differ from those of their biological parents. A genetic tie, on the other hand, refers to the simple fact of sharing genes with another person, a biological relative. Although having a genetic tie to someone often means sharing genetic traits, the two are conceptually distinct. You and I may share the genetic trait of big ears and have no genetic tie. Likewise, genetically tethered sisters may share very few genetic traits. Roberts is right to point out that black Americans tend to de-emphasize genetic traits when it comes to determining who is black. Acceptance of *mélange* among African Americans is a practical response to the prior white American existential claim that any person with a black family member (a black genetic tie, not a black genetic trait) cannot be a white person.¹⁵

Genetic ties are another matter. While it is true that blacks have been more likely than whites to develop kin networks among nongenetically related individuals, it is not clear that contemporary black Americans de-emphasize the value of genetic ties to

the extent Roberts implies.¹⁶ Given the syncretic and hybrid nature of black cultural practices, which Roberts concedes, particularly the deceptively simple aspiration to be an American,¹⁷ it seems unlikely that we can exempt blacks entirely from the widespread, culturally based desire to have one’s “blood-line” perpetuated *vis á vis* genetically related children.

Racial disparity in the fertility services market more likely stems from economic disparities between blacks and whites, professional manipulation, and historically based fears of technological intervention with reproduction.¹⁸ Whatever the reasons for racial disparity among fertility consumers, the fact remains that most of them are white, middle and upper class, married couples. The expressed and anticipated demands of these individuals shape the contours of today’s gamete market.

Racial category is the primary criterion used by those interested in buying human eggs and sperm for the purposes of donor insemination and IVF. Race is also often prominent in private advertisements soliciting egg and sperm donors; it is the first category on the donor lists of most fertility clinics, many of which are publicly accessible via the Internet.¹⁹ Donor lists include various details about the people who have contracted with the clinic to sell their gametes. Objective facts such as blood type, height, weight, and eye color are listed alongside more subjective “facts” such as hair texture, ethnic origin, skin tone, and tanning ability. Self-reported skills, accomplishments, and boasts—like years of education and athletic and musical talent—find a place on the screen or page next to the donor’s favorite color, foods, and hobbies. At the California Cryobank in Beverly Hills, a gamete shopper can even judge donors’ responses to the quintessential question, “Where do you see yourself in five years?” Donor profiles increasingly bulge with information that ranges from vital health information to genetically irrelevant details such as a donor’s self-reported life

goals. And the “more is better” trend in donor profile information is likely to continue, in step with the elusive quest for a comprehensive picture of the genetic material with which the consumers of this human tissue will attempt to create a baby.

The California Cryobank offers an online donor catalog where the serious and curious alike can pore over an extensive grid of one hundred and seventy-two sperm donors.²⁰ Of these donors, 146 are listed as Caucasian, fifteen as Other, nine as Black/African American, and sixteen as Asian. In addition to “racial group,” each donor’s profile contains an abbreviated statement of “ethnic origin.” Most of the Caucasian donors list multiple ethnic origins; many claim three and four different ethnicities. For example, donor 993 describes himself as Caucasian and of Irish, Russian, English, and French descent. All but one of the Asian donors describe themselves as mono-ethnic—as, for example, Korean or Filipino. Almost every African American donor describes himself as ethnically African American. Two black donors describe themselves as Nigerian, and one self-identifies as African American and Ethiopian. The “racial group” of Other contains an eclectic array of ethnic “mixes”—German and Chinese, Pacific Islander, and African American—as well as the singular “ethnic origins” of Mexican and East Indian. Donors are further subdivided by their “skin tones,” which range from fair to medium to olive to dark.

The above donor catalog highlights the idiosyncratic and *ad hoc* use of racial classification in U.S. society. From the very moment we try to place individuals into racial boxes we discover that the center cannot hold and things very rapidly fall apart. Why do members of the Caucasian group typically have multiple ethnic origins while members of the African American/Black racial group almost universally have an ethnic origin equivalent to their racial group? How does one really distinguish between an olive complexioned Caucasian

man and an “Other” who describes himself as Italian and African American with fair skin? Should the staff of California Cryobank decide what racial box to check, or should each individual donor have the freedom to describe his racial identity using language that transcends the sperm bank’s racial boxes? And how are racial descriptions of sperm donors related to the consumer’s goal of creating a baby?

Race-Based Social Ontology

Answering this last question requires inquiry into the meaning of race in our current social ontology. Charles Mills defines social ontology as “the basic struts and girders of social reality,” “analogous to the way ‘metaphysics’ *simpliciter* refers to the deep structure of reality as a whole.”²¹ This deep structure is not, in Mills’s view, metaphysical. Instead, racial categories are devised, maintained, and revised through political decisions. Mills defines racial constructivism in the following way: “The intersubjectivist agreement in moral and scientific constructivism is a hypothetical agreement of all under *epistemically* idealized conditions. Racial constructivism, by contrast, involves actual agreement of some under conditions where the constraints are not epistemic (getting at the truth) but *political* (establishing and maintaining privilege)” (p. 48). In this sense, race is not metaphysical, but a “*contingently* deep reality that structures our particular social universe, having a social objectivity and causal significance that arise out of *our* particular history” (p. 48).

Such inquiry is not limited to individual acts of racism. Instead, Mills and others point to a more insidious kind of racial hierarchy that has been built over a series of political decisions. Structural racism refers to official and unofficial social policies that invidiously affect the lives of non-whites but cannot be traced to the actions of specific individuals.²² I do not

share Derrick Bell’s pessimism that structural racism is permanent.²³ Indeed, the contours of U.S. structural racism have changed over time from chattel slavery to *de jure* segregation to our present circumstance, and this last stop will not be our final destination. As Michael Banton reminds us, the meaning of race has shifted significantly over the last three centuries throughout the globe, and will continue to change in the future.²⁴

During the economic transaction, the donor’s first person sense of racial self recedes further and further into the background, as the idea of race becomes packaged as a genetic commodity

But change is slow. Racial classification continues to be a source of social hierarchy, a mark of civic standing, cultural development, beauty, intelligence, and subordination. All of us engage this drama. The weight of structural racism on individual lives is felt in the memoir of Toi Derricotte, a light skinned black woman who is often perceived as white. Derricotte explores her own racism against darker skinned blacks, and her action and inaction in the face of racist comments from white neighbors, colleagues, and cab drivers and others who believe her to be one of “them.”²⁵ Proof that white skin continues to expand one’s social and economic opportunities is brought into sharp focus by Derricotte’s experience of shopping for a house in a wealthy and predominately white suburb of New York City. “I had decided not to take my husband with me to the real estate

offices because when I had, since he is recognizably black, we had been shown houses in entirely different neighborhoods, mostly all-black . . . At night, under cover of darkness, I would take him back to circle the houses that I had seen and I would describe the insides” (p. 13).

As a form of structural racism, housing discrimination has been resistant to antidiscrimination policies and law, which the Supreme Court has interpreted to require evidence of discriminatory intent or purpose. Ultimately, housing discrimination supports a social value that many Americans subscribe to, but rarely express out loud: the right to live in a race-specific neighborhood, a preference that is often translated into the economic right to maintain one’s property value. Where one lives greatly affects one’s social status, as does the racial composition of one’s family portrait; the two are connected, as Derricotte’s decision not to introduce her husband to the real estate agent illustrates. Though racial discrimination in housing and gamete markets are different in many respects, both imply a greater degree of intimacy than public accommodations such as hotels, theatres, and restaurants. There is a strong presumption in favor of individual autonomy when it comes to decisions that affect who one must interact with on the home front.

John Robertson argues for an expansive notion of what he terms “procreative liberty” in the market for reproductive technologies. On Robertson’s view, “individuals should be free to use these techniques or not as they choose, without government restriction, unless strong justification for limiting them can be established” (p. 4). Such justification is “seldom present,” and is limited to preventing women from using their reproductive capacity for nonreproductive ends such as producing fetal tissue for research and transplant.²⁶ He discusses the ethical conflicts arising from “quality control measures” that use technologies to screen out and select

for genetic characteristics, but he avoids the subject of race completely. Ironically, the following statement could support my concern about racial stereotyping if Robertson considered race-based procreative choices a kind of “quality control”: “Quality control measures may in practice not be optional for many women, and may place unrealistic expectations on children who are born after prenatal screening” (p. 11).

I agree with Robertson that government should not restrict racial discrimination in the gamete market, but disagree with his decision to shield these choices from moral investigation. Concern for individual freedom should motivate inquiry into the ways that a race-driven market in human reproductive tissue is likely to constrain personal identity expression. Robertson fails to acknowledge this possibility because he restricts his notion of individual liberty to the freedom to make procreative choices in a free economic market. As with many libertarian arguments, the status quo becomes ground zero, and little or no attempt is made to dig below its surface.²⁷

Ground zero consists of a socially diffuse system of racial classification that threatens to trap individuals in racial stereotypes. Like gamete shoppers who create the demand for racially labeled donors, the suburban real estate agent automatically associated with Derricotte’s white phenotype with a certain set of cultural practices and behaviors that were then aligned with racially coded neighborhoods. Robin Kelley and others have criticized this tendency to treat “culture” and “behavior” as synonyms.²⁸ Culture describes a set of available practices and artifacts that have evolved over time and will continue to change. Individuals respond to cultural menus in different ways, and they should be encouraged in this personal expression.²⁹ Individual cultural choices and personal behavior among residents of predominately black urban neighborhoods, for example, are not monolithic. Kelley re-

minds us that “By conceiving black urban culture in the singular, interpreters unwittingly reduce their subjects to cardboard typologies who fit neatly into their own definition of the ‘underclass’ and render invisible a wide array of complex cultural forms.”³⁰

Navigating between Racial Imposition and Racial Self-Identification

It is this varied response to the imposition of racial classification that is missing from the racial menus of fertility clinics trading in gametes. If consumer demand is rooted solely in a visual, third person conception of race, then the California Cryobank and other fertility clinics will tailor their business strategies to satisfy that racial demand. But racial identification also involves a cognitive dimension, as Robert Gooding-Williams points out.³¹ This cognitive dimension creates psychological space for the ongoing process of racial navigation. Racial navigation describes the activity of fending off simplistic and rigid notions of racial identity both in one’s self-understanding and in the perception of others. It is a normative theoretical tool available to all living in a system of racial classification. Racial navigation recognizes the practical and strategic need to make sense of oneself within a social ontology of racial categories, to see oneself through the eyes of others in order to challenge that imposition and create new racial meanings for oneself.³² There is no endpoint for racial navigation. The goal is to create and sustain a fluid self-concept that recognizes the existential weight of racial categories but does not accept them as adequate descriptions of human beings.

Again, racial navigation is made possible by the cognitive dimension of racial meaning. A person may look white, but know herself to be black based on the social convention that any one with one black ancestor is

classified as black. The seeming paradox of being a “white black woman,” as law professor Judy Scales-Trent describes herself, is made possible by this rule of hypodescent.³³ Gooding-Williams illuminates this notion by distinguishing between *being black* and *being a black person*.³⁴ Being black is a third person identification that entails being classified by others as visually black or cognitively black—that is, black according to the social convention of hypodescent. Being a black person, on the other hand, is a first person identity that refers to a person’s decision to navigate between these two levels of personal and social meaning, to “make choices, to formulate plans, to express concerns, etc. in light of one’s identification of oneself as black” (p. 23). When a black person passes for white she understands herself to be engaged in an act of (willful or unintentional) deception, and everyone knows that such deception is possible.³⁵

So being seen or thought of as black, according to the social rule of hypodescent, is “a necessary but not sufficient condition of being a black person” (p. 58). To become a black person one must actively incorporate the fact that one has been designated as black into one’s self-concept. A person who is visibly and cognitively designated as white, but who decides to affect certain stereotypical black cultural practices, thus thinking of himself as a black person, can never become a black person since he has failed the first criterion of being socially “seen” as black. The derogatory term “whigger,” popular in the mid-1990s, conveys the artificiality, even offensiveness, of the white suburban youth who listens to rap music incessantly and mimics black urban slang.³⁶ “Whiggers” do not challenge racial stereotypes because their participation in black cultural forms is typically fleeting and no one believes them to be “really” black. Individuals who do satisfy the first criterion of being black can either absorb the racial expectations of others (stereotypes) or challenge the flatness of

racial imposition by personalizing their black identities. As Gooding-Williams notes, those identified by others as being black can and often do express their black personhood in an infinite number of ways.

Barriers to Racial Navigation in the Gamete Market

It is not impossible for racial navigation to begin after racially coded gametes have been bought. But the unexamined use of race to choose gamete donors makes it less likely that people will question third person racial meanings in their self-concepts, family interactions, and social behavior. And even if racial navigation is jump-started after the point of purchase, there is still the lingering damage of the initial racial restriction imposed on market actors, as well as the race-based expectations for children born using donated gametes. Racially organized gamete markets will have profound negative personal and social consequences even if the participants start to navigate racial meanings after they exit the market.

First person views of race fall out of the gamete market altogether. Sperm and egg donors are classified according to a third person view of race for the specific purpose of satisfying race-specific consumer demand. A fertility clinic's business success depends on its staff seeing a prospective donor's racial classification through the eyes of actual and potential customers. At the California Cryobank a client can pay an additional fee for the services of a matching counselor who tries to make an even more precise "match" between the genetic traits desired by the consumer and the genetic traits of particular donors. The PBS Frontline documentary, "Making Babies," showed a matching counselor scrutinizing a sperm donor's photograph while describing his physical features to a client over the telephone.

When counselors examine a donor's profile they find a third per-

son account of that donor's racial identification. They must then shift perspective and attempt to see the donor's racial identification and more pointedly his racial traits through the eyes of the shopper with his or her racial desires. The result is a kind of third person racial identification "once removed." During the economic transaction, the donor's first person sense of racial self recedes further and further into the background, as the idea of race becomes packaged as a genetic commodity that can be detached from particular persons for the purpose of economic trade. In turning race into a genetic commodity,

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these market forces obliterate, or at least seriously erode, the donor's first person sense of racial self. The absence of first person expression of racial identity is critical because first person views mitigate the binding effects of racial classification, and serve as a break on our will to confine people to racial boxes.

One might argue that first person accounts of racial identity are present in the gamete market in the form of the copious "personal" information contained in donor profiles. The demand for extensive donor profiles might signal that consumers want to know what *sort* of Korean-American a sperm donor is, that they are interested in looking beyond the first column

of donors' ascribed race. This is a step toward racial navigation, but the additional information in these donor files is too general to establish the robust sense of first person, raced identity that I have in mind. Donors respond to questions like whether they are athletic, what their career goals entail, their favorite color, and such. They are not asked to give an account of how they have responded to the imposition of race. I am not suggesting that this question should be added to donor questionnaires. The enormity of such an existential question, and the expectation that one's answer will change over time, makes it impossible to answer in a paragraph on a form. I am suggesting, however, that gamete shoppers consider the motivation behind their race-based choices for sperm and ova in the first place.

Motivations and Consequences

Whites overwhelmingly demand "white" gametes, as evidenced by the fact that 85 percent of the donors "hired" by California Cryobank are identified as "Caucasian." When people buy gametes according to the racial classification of the donor, they are saying that race is heritable and relevant to their vision of family structure. They are saying that a person's gametes are transmitters of racial meaning that can and should be selectively transmitted to "their" child, through the use of reproductive technologies.³⁷ The idea that race is a bundle of heritable characteristics such that "all members of these races share certain traits and tendencies with each other that they do not share with members of any other race" is what K. Anthony Appiah calls *racialism*.³⁸ The racial classification of gametes in the fertility market can be described as *genetic racialism*—the false belief that human genetic tissue transmits specific racial traits and tendencies to future human beings.

So far I haven't said much about the difference between racialism and

racism. I've discussed the infusion of our social ontology with a powerful system of racial classification, and I've ventured into the controversial territory of structural racism, suggesting that these two concepts frame the individual actions of gamete shoppers. But I need to address the question of individual racial motivation more directly. Are the consumer demands of gamete shoppers racist? Racism connotes intent to harm someone or some group of people based solely or primarily on racial classification. Do white gamete shoppers *intend* to inflict racially invidious harm when they satisfy their desire for a white family through the purchase of a white donor's gametes? Are non-white gamete shoppers racist when they choose gametes from donors who share their own racial classification? What of the person who picks a donor of a racial category different from his own?

Appiah draws a distinction between racialism and racism. For him, racialism is false but not necessarily racist. Racialism is "a cognitive rather than a moral problem" (p. 13). In order for racialism to be racist the racial classifier must attach some moral significance to racial demarcation. But Appiah's position errs in two respects. First, the distinction between racialism and racism is not very helpful in excavating the morality of racial choice in the gamete market because there is no reliable way of gauging whether or not a racial choice has become a "moral problem." The distinction relies on a bright line between motivation and consequence that does not make much of a moral difference. Racialism, no matter how well intentioned, is always poised to cause moral difficulty in the form of racial stereotyping. This constant threat is precisely why racial navigation calls for constant vigilance.

The second problem concerns Appiah's claim that racialism is false, and that racial categories should be abolished because of the restrictions they exert on personal lives: "it is not that

there is *one* way that blacks should behave, but that there are proper black modes of behavior. These notions provide loose norms or models, which play a role in shaping the life plans of those who make these collective identities central to their individual identities; of the identities of those who fly under these banners."³⁹ Though Appiah recognizes and appreciates the recuperative value that racial self-identification can have in the form of, for instance, black power counter-narratives, he urges us to move beyond racialism as a long-term goal (p. 614). Based on this reasoning, I suspect Appiah would advocate the removal of racial classification from gamete donor lists altogether.

I agree with Appiah that racialism places restrictions on the expression and life plans of individuals. Indeed, my notion of racial navigation is consistent with Appiah's plea for us to treat the personal dimensions of ourselves as "not too tightly scripted," "not too constrained by the demands and expectations of others" (p. 614). But I am more confident than Appiah that such personal life-scripts can and do thrive in the midst of racial expectations. I suppose my goals are more short term, and therefore geared more toward coping with the social reality of race. Racial categories will remain a prominent feature of our social world for the foreseeable future, and will carry expectations for those whom they describe. We can change the expectations, but we cannot jettison racial categories altogether. My hope in applying racial navigation to the gamete market is that the racial sorting of gamete donors might come to mean something different, something less determinate, than it does now. For the racial expectations that parents have for their children affect the identity developments of both children and parents, as well as the broader social norms regarding the role that race should play in family life. The motivations of individual gamete consumers, whatever their race, are morally interesting only in-

sofar as they reinforce a narrow set of racial expectations.

Naomi Zack shares my consequentialist position that no significant moral difference exists between racialism and racism in the construction of family life. There simply is no escaping the fact that human breeding is "a selective practice invented and reinforced within cultures."⁴⁰ A white identity is achieved by looking at one's genealogy and finding no black genetic ties. Here, again, the distinction between genetic ties and genetic traits is critical, since many white people exhibit "black" genetic traits. Thus a white person's preference for a white donor as a means to having a white child perpetuates the exclusionary proposition that white families are racially pure. The desire for a white family results in "tightly scripted" identity narratives that limit the life opportunities for everyone.

Coping with Racial Categories

Binding racial narratives are of course not unique to the practice of paid gamete donation. The mixture of science with the desire for a racially specific family does, however, exacerbate this general social problem. The new reproductive technologies expose familial racial expectations in a public and systematic way. As Stephen Gould observes, people often turn to science to confirm their racial prejudices, with the effect that these prejudices drive scientific research and the social use of new technologies.⁴¹ The negative consequence is that people will feel more justified in holding race-specific views about family formation.

Zack and Appiah's philosophical arguments against racialism are sound, but their rejection of racial categories is not practical, and therefore not helpful in making today's gamete market more racially just. Philosophers interested in bioethics need to offer some direction on how to cope with racial categories in the here and now instead of turning to

utopian visions of a world without race. The most we can do to alleviate the cruelty of racial categories today and in the future is to find ways to maximize human agency under racial constraint in the hopes of breaking the stereotypes that feed personal and social race-based harm. This flexibility in light of racial imposition is the purpose of racial navigation, which aims to mediate between the racial expectations of others and one's own path.

I am not proposing that breaking racial stereotypes through examples of varied racial response is all that is needed to fight the invidious effects of racialism in the gamete market and beyond. But racial navigation is a vital piece of the puzzle. Laws can and should set the parameters for our social conduct, but law cannot (nor should it try to) reach into the realm of human intimacy. That domain is for us to grapple with in our own hearts and minds. We have a moral responsibility to question the racial meanings swirling around in our social ontology because these racial meanings shape and constrict our self-understandings, and by extension, our family plans.

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References

1. J.A. Robertson, *Children of Choice: Freedom and the New Reproductive Technologies* (Princeton: Princeton University Press, 1994).

2. In 1995, the National Survey of Family Growth found that 10.5 percent of African American women were infertile, compared to 6.4 percent of white women. Seven percent of Hispanic women were infertile, and "other" women experienced infertility at a rate of 13.6 percent. "Fertility, Family Planning, and Women's Health: New Data From the 1995 National Survey of Family Growth," *U.S. Dept. of Health and Human Services*. High rates of infertility among black women may be linked to "untreated chlamydia and gonorrhea, STDs

that can lead to pelvic inflammatory disease; nutritional deficiencies; complications of childbirth and abortion; and environmental and workplace hazards"; D. Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Random House, 1977), pp. 251-52.

3. In this article I focus on economic transactions involving sperm and ova, but the race-based selection and "hiring" of surrogate and gestational mothers also raises ethical concerns. As with paid gamete "donation," the reinforcement of racial stereotype is of concern, but issues of economic exploitation that entangle race and class status present additional moral worries.

4. The term "donor" continues to be used to describe individuals who are in fact paid in exchange for their gametes. "Donor" attributes altruistic motives to the sellers of gametes even when financial gain is the only or overriding factor expressed. See R. Mead, "Eggs for Sale," *The New Yorker* (9 August 1999).

5. Doctors must be licensed to perform fertility therapies such as in vitro fertilization and gamete intrafallopian transfer, and clinics must report their success rates to the Centers for Disease Control. The American Society of Reproductive Medicine recommends guidelines and ethical standards, but physicians are not legally obligated to follow their recommendations.

6. N. Zack, *Race and Mixed Race* (Philadelphia: Temple University Press, 1993), p. 40.

7. I develop the concept of racial navigation in the context of the lingering public debate over transracial adoption in the book *The Ethics of Transracial Adoption* (Ithaca: Cornell University Press, forthcoming 2001).

8. In 1988, 12 percent of U.S. women of childbearing age sought professional advice regarding infertility (medical advice, tests, drugs, surgery, or assisted reproductive technologies). This number grew to 15 percent in 1995. See ref. 2, "Fertility, Family Planning, and Women's Health." Sperm counts in U.S. men have decreased annually from 1938 to 1996 at a rate of about 1.5 percent. *The National Institutes of Health*, "Environmental Health Perspectives," November 1997.

9. http://news.mpr.org/features/199711/20_smiths_fertility/part3/section1.shtml.

10. See ref 8, "Fertility, Family Planning, and Women's Health."

11. http://news.mpr.org/features/199711/20_smiths_fertility/part3/

12. This cost covers the entire process from the initial consultation to the actual transfer. "American Society for Reproductive Medicine," 1995; see website for the

American Society for Reproductive Medicine, Patient FAQ.

13. See ref. 2, Roberts, *Killing the Black Body*, p. 251.

14. These other factors include the intergenerational "grand shuffling of the genetic deck," which "gives each gene slightly different properties and is one reason children differ from their parents." N. Wade, "Earliest Divorce Case: X and Y Chromosomes," *New York Times* (29 October 1999).

15. For a historical overview of the "one drop rule" see J.F. Davis, *Who Is Black? One Nation's Definition* (University Park, Penn.: The Pennsylvania State University Press, 1991).

16. For a discussion of extended kin networks in black communities see C. Stack, *All Our Kin: Strategies for Survival In a Black Community* (New York: Harper and Row, 1974).

17. Orlando Patterson contends that African Americans are a diverse group and "very American." "They are a hard-working, disproportionately God-fearing, law-abiding group of people who share the same dreams as their fellow citizens, love and cherish the land of their birth with equal fervor, contribute to its cultural, military, and political glory and global triumph out of all proportion to their numbers, and, to every dispassionate observer, are, in their values, habits, ideals, and ways of living, among the most 'American' of Americans." *The Ordeal of Integration* (New York: Civitas, 1997), p. 171.

18. Dorothy Roberts documents the sterilization abuse of black women that ironically increased with the demise of Jim Crowism. Physicians at state institutions often performed hysterectomies on poor black women without their consent. Roberts also details the recent efforts to require the injection of Norplant and Depo-Provera as a condition to receiving welfare benefits. See ref. 2, Roberts, *Killing the Black Body*, p. 4.

19. Although my Internet search of fertility clinics offering sperm and egg donation was not exhaustive, every site I visited used race as the primary sorting category. Not all clinics make their donor lists available to the public, and some require registration with the clinic as a precondition to viewing donor lists.

20. Available at <http://db.otn.com/cryobank/cryo.fm>.

21. C. Mills, *Blackness Visible* (Ithaca: Cornell University Press, 1998), p. 44.

22. What I term "structural racism" is similar to what Kwame Ture and Charles Hamilton call "institutional racism." I prefer the former because it denotes a metaphysical as well as physical rendering of racial hierarchy. K. Ture and C. Hamilton,

Black Power: The Politics of Liberation (New York: Random House, 1992, 1967), p. 4.

23. D. Bell, *Faces at the Bottom of the Well: The Permanence of Racism* (New York: Basic Books, 1992).

24. M. Banton, "The Idiom of Race: A Critique of Presentism," in *Theories of Race and Racism*, ed. L. Black and J. Solomos (New York: Routledge, 2000).

25. T. Derricotte, *The Black Notebooks: An Interior Journey* (New York: W.W. Norton, 1997); see *Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.*, 429 U.S. 252 (1977).

26. See ref. 1, Robertson, *Children of Choice*, p. 20.

27. For example, R. Posner, *Sex and Reason* (Cambridge, Mass.: Harvard University Press, 1992).

28. R.D.G. Kelley, *Yo' Mama's DisFunktional! Fighting the Culture Wars in Urban America* (Boston: Beacon Press, 1997), p. 16.

29. For example, W. Kymlicka's argument in favor of "contexts of choice" in *Lib-*

eralism, Community, and Culture (New York: Oxford University Press, 1989).

30. See ref. 28, Kelley, *Yo' Mama's DisFunktional!* p. 17.

31. R. Gooding-Williams, "Race, Multiculturalism and Democracy," *Constellations* 5, no. 1 (1998): 23.

32. The strategic value of racial self-awareness is tangible in the domain of antidiscrimination laws and policies that attempt to correct for race-based disadvantage. This critique of colorblindness is found in the body of work that has been dubbed Critical Race Theory. For a thorough overview of the scholarly-activist movement see the introduction to K. Crenshaw et al., eds., *Critical Race Theory: The Key Writings That Made the Movement* (New York: New Press, 1996).

33. J. Scales-Trent, *Notes of a White Black Woman* (University Park, Penn.: Pennsylvania State University Press, 1995).

34. See ref. 31, Gooding-Williams, "Race, Multiculturalism and Democracy," p. 23.

35. For example, A. Piper, "Passing for White, Passing for Black," *Transition*, 58 (1992): 4-32.

36. For an excellent example of contemporary "whiggers" see the film, "Black and White."

37. The issue of parental rights and obligations of genetic and social parents is not a settled matter. Ethical and legal issues become especially controversial when the custody or ownership of embryos is at stake.

38. A. Appiah, *In My Father's House* (New York: Oxford, 1992), p. 13.

39. A. Appiah, "Racial Identity and Racial Identification," in *Theories of Race and Racism*, ed. L. Black and J. Solomos (New York: Routledge, 2000), p. 613.

40. See ref. 6, Zack, *Race and Mixed Race*, p. 40.

41. S.J. Gould, *The Mismeasure of Man* (New York: Norton, 1981).

42. See ref. 2, Roberts, *Killing the Black Body*, p. 291.