

“Knowledge is bliss”

Towards a society without paternity surprises

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Summary

In the UK, across the Western world, and elsewhere too, a proportion of children born have a paternity that would be a surprise to the husband or male partner of the mother. This fact has shown up many times: in paternity tests for child support and other purposes, during diagnosis for genetic disorders, unexpected pregnancies during fertility treatment, research that involves sampling blood groups, unexpected results during tissue-typing, etc. A minority of women and men “play away”, and sometimes the result is a child.

Paternity surprises break up families, they hurt men who thought they were fathers, and they confuse and hurt children who thought they knew who their fathers were. But there is no consensus about how to eliminate the surprise. Some people seek to do so by censoring the truth. Paternity tests are often viewed with disquiet, even alarm. Many people have the view that such tests must be restricted to avoid these adverse effects. This view amounts to “*knowledge can be trauma*”, with the assumption therefore that “*ignorance is bliss*”.

But paternity tests themselves are simply the messenger. Preventing tests won’t eliminate any doubts and suspicions that can also damage relationships. Sometimes, of course, these tests cannot be avoided. Identifying biological relationships increasingly satisfies the interests of children themselves. Instead of trying to censor certain truths about relationships, it would be better to have a society where the truth rarely hurts. In other words, the vision should be:

“Knowledge is bliss”.

The proposition here is that *this current generation should be the last generation in which a significant number of children are born that have a paternity that would be surprising to the husband or male partner*. There is surely no doubt that this is a desirable objective. The claim here is that the means to achieve this now exist, and that what is now needed is to focus on achieving this objective, rather than allowing current problems of surprising paternity to continue into the next generation and so continue to hurt both children and their parents.

This is not a moral argument about adultery; it is a practical argument about the harm caused by paternity surprises. This is not an argument for state-compelled elimination of the problem; it is an argument for the freedom of men and children to learn more about themselves without hindrance, and the freedom to make informed decisions as a result.

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About the author

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He became interested in the reform of the UK’s child support system, after an earlier special interest in social security and welfare reform. Barry contributed at the Green Paper stage of the CSA reform process. He gave evidence to the Social Security Select Committee after the CSA White Paper was published. He is consulted by, and provides information to, academics, the media, politicians and lobby groups on child support matters.

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2020 Vision

The objective

The scale of surprising paternity in the general population is not known for certain. Some material later suggests that perhaps about 1 in 10 children have surprising paternity.

The proposed objective is that, within a generation, *there will be few children born into a marriage or stable relationship whose paternity would be a surprise to the husband or male partner*. Perhaps a useful target for the year 2020 would be to have no more than about 1 in 100 children born with surprising paternity.

This would be a good condition for nearly everyone. Even those who currently oppose unrestricted access to personal knowledge paternity tests are typically doing so in order to avoid the consequences of surprises, and so they should be in favour. In future, men, women and children will all benefit from such a change to society.

The only likely dissent would come from anyone who believes that women have an inherent right to give birth to children other than those of the husband or male partner and then hide the truth from the men and the children. That position cannot be sustained in a world that is increasingly concerned about genetic linkages. It is increasingly recognised that it is in the interests of children to be able to know of their biological parents, and the international trend is towards laws and court verdicts that enable them to do so.

Why 2020? Because that is the date when the UK government aims to have eliminated child poverty. Eliminating paternity surprises will help (a little) to eliminate child poverty. It will slightly reduce the incidence of broken families, and if they do break, it will increase the likelihood that the adults concerned will prove liable to pay child support.

What this objective is not

This is not a proposal to eliminate adultery!

The 6th Commandment failed to do this. Even the death penalty in some countries, including England at the time of the Adultery Act of 1650, failed to do this. Human nature appears to rule here. This paper is about having or not having children; it isn't about having or not having sex.

This is not a proposal for state compulsion.

The state could go a long way towards meeting the proposed objective within a couple of years, using mandatory paternity testing at birth. But wherever possible, adults should be treated as such, and left to make their own choices as long as innocent people are not harmed. Intrusion of that degree into how families manage their confidence and trust is not a responsibility of government.

This paper is about *rights* and *freedoms*: for men and children to learn more about themselves without hindrance, and to make informed decisions as a result. The responsibility of the state is for support and education, and to police general laws, and otherwise to stay out of the way.

This is not discrimination against women.

In fact, it proposes a new facet of equality between men and women. It proposes that paternity surprises should become as rare as maternity surprises. The maternity of children is rarely in doubt. The evidence is pretty obvious at birth! But paternity is rarely known for sure. This paper proposes that men and children should be free to find out for sure, without hindrance, what women typically already know.

This is not about punishing people for past actions.

Unfortunately, “punishment”, (or rather, suffering the consequences of being “found out”), will happen in many cases anyway, simply because the “gene genie” is already out of the bottle. This paper is concerned with ensuring that this is the last generation that suffers these consequences to this degree, for the sake of future men, women, and children.

What are the alternatives to this vision?

Here are 4 possible futures for consideration. They are itemised here in order to make a case for trying to achieve the last one.

People may stop worrying about biological relationships

The indications are that this will not happen, so no further time is spent discussing it in this paper. Some children want to know who their biological parents are. Some men want to know the truth about paternity. It should be assumed that this would almost certainly continue.

We react to current problems without an eye on the future

This appears likely to result in the worst possible history of the 21st Century! We would repeat this debate every decade or two for the rest of the Century.

At least we need to identify the sort of societies that would be preferable in future. Even if we don't currently know how to get there, others might work it out in future.

We try to eliminate surprising paternity by active and intrusive methods

This approach is tempting. It would achieve the key objective of this paper faster than would be achieved by the method below.

It is rejected here because the damage done is likely to out-weigh the advantages of a more careful approach. But it is also rejected because it treats citizens badly, without giving them time to adapt their views and circumstances.

We adopt a supportive approach with our eye on the future

That is the proposal of this paper. *No roadmap is presented here, just the vision.*

Evidence for the scale of surprising paternity

What is the evidence that it exists, and what does the evidence say about its scale?

A good indication that it exists is the disquiet about paternity tests! Those who criticise the availability of these tests do so because they have no doubt that a proportion of tests will bear bad tidings. Here are items from various sources, in various years, and in various countries. This material suggests that about 1 in 10 children have surprising paternity.

From Sussman L N and Schatkin S B (1957) "Blood-grouping Tests in Undisputed Paternity Proceedings", Journal of the American Medical Association: "Blood-grouping tests ... in 67 cases of uncontested paternity indicate that in 6 cases, or 9%, the men admitting paternity were not the fathers of the children they accepted. Since only 50% of wrongfully accused men can be excluded by present methods of blood testing, it follows that not 6 but actually 12 men in this small series who admitted paternity were probably not the fathers of the children in question".

From Barbara Katz Rothman (1989) Recreating Motherhood: Ideology and Technology in a Patriarchal Society: "A fair percentage of us, it turns out, are not genetically related to the men we grew up with as fathers anyway. Some physicians doing tissue typing for organ donations estimate that maybe 20 percent of people are not genetically related to the men who claim fatherhood; others say it is less, perhaps as low as 5 percent".

From Child Support Agency Annual Report & Accounts 1997-98: "Discounted DNA Paternity Testing was introduced during 1995/96, giving alleged non-resident parents the opportunity to resolve a paternity dispute without the need to go to court. There has been a steep increase in the use of this method and, in 1996/97, nearly 90 per cent of tests proved positive".

From Hansard: letter from Mrs. Faith Boardman to Mr. Archy Kirkwood 1998-02-18: "In 1996/97, paternity was established in 89% of cases referred for DNA testing. In the current year, to the end of January, the figure is 87%".

From the Guardian, 1998-07-14: "More than 25 years ago the consultant obstetrician E E Phillipp reported to a symposium on embryo transfer that blood tests on between 200 and 300 women in a town in the south-east of England revealed that 30 per cent of their children could not have been fathered by the men whose blood groups had also been sampled".

From the Durban Sunday Times 1998-10-11: "The Sunday Telegraph recently reported that Professor John Burns, a geneticist at Newcastle University, argued that the figure was closer to 10 percent".

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From the Dallas Morning News 1999-10-31: “DNA Diagnostics Center ... an industry leader, says 30 percent of the men it tests prove to be misidentified. Similar numbers come from the Texas attorney general's office, which enforces child support: About a quarter of the men who disputed paternity in the last year turned out to be right. In Florida, the proportion was one-third”.

From the Sunday Times 2000-01-23: “David Hartshorne, spokesman for Cellmark, said that in about one case in seven, the presumed father turns out to be the wrong man”.

From the Santa Barbara News-Press 2000-02-27: “For the population as a whole, “The generic number used by us is 10 percent,” said Dr. Bradley Popovich, vice president of the American College of Medical Genetics. [15 to 25 % has been determined from blood tests of parents and offspring in Canada and the US.]”

From The Age 2000-03-26: “About 3000 paternity tests are carried out a year in Australia. In about 20 per cent of cases the purported father is found to be unrelated to the child. This figure is estimated to be 10 per cent in the general community”.

From The REPORT Newsmagazine 2000-04-24: “The rate of wrongful paternity in “stable monogamous marriages,” according to the Max Planck Institute in Munich, Germany, ranges from one in 10 with the first child to one in four with the fourth”.

From the Independent 2000-05-12: “... biologists Robin Baker and Mark Bellis ... review of paternity studies also suggested frequent infidelity, with extra-pair paternity running between 1.4 per cent and 30 per cent in different communities”.

From The Globe and Mail 2000-05-20: “Anecdotal evidence suggests these numbers bear out in Canada as well.... Maxxam Analytics in Guelph, Ont., performs approximately two paternity tests a day. And according to Dr. Wayne Murray, head of the human DNA department, one out of four men who come in pointing a finger at their spouse is not the biological father of the child in question”.

From the Sunday Times 2000-06-11: “More than 250,000 tests a year are now conducted in America, and about 15,000 in Britain.... roughly 30% of men taking the tests discover that they are not the fathers of the children they regarded as their own. In the wider community, social scientists say up to 1 in 20 children are not the offspring of the man who believes himself to be their father”.

From the Observer 2000-09-03: “One study followed couples waiting for NHS fertility treatment, where the men were ‘azoospermic’, meaning they produced no sperm and were totally infertile. The researchers found that 25 per cent of the women became pregnant before fertility treatment started”.

From the American Association of Blood Banks - 2001-02-26: “The overall exclusion rate for 1999 was 28.2% for accredited labs. Exclusion rates for non-accredited US and foreign labs were slightly less at 22.7% and 20.6% respectively”.

Several of the above sources show not just the scale of the problem, but also the degree to which many men are concerned to discover the truth.

The nature of paternity surprises

It is worth clarifying the problem being addressed by this paper, because this identifies options for solutions. The problem arises from a sequence of three issues:

1. The “*existence*” issue: some children born into relationships have unexpected paternity because the mother “played away” without sufficient precautions. (This paper does not treat adultery as a separate issue; this paper is not about “morals”).
2. The “*delay*” issue: there is often a significant delay before this becomes known (if it ever does), during which time various relationships become harder to reverse.
3. The “*knowledge*” issue: the unexpected paternity is then revealed. Men, women and children may then have their lives irreversibly disrupted.

It is tempting to see “3” as the problem, and to try to avoid the damage by preventing the truth being revealed. Obviously this simply amounts to papering over the cracks. Year by year it has less chance of success, largely as a result of the science and technology of genetics. For example, paternity testing services are increasingly available worldwide on the Internet; and diagnosis and therapy for genetic disorders will increasingly involve tracing relationships to identify others at risk, or potential carriers.

But it is also ethically wrong to hide such knowledge. *The truth about biological relationships increasingly matters to many people.* (See Appendix D for a discussion of the ethics concerned with knowledge of personal biological relationships).

People who were adopted have opportunities to find out about their biological parents if they choose. People born as a result of gamete donation are nowadays sometimes going to court to establish their rights to find out about their biological parents; it appears likely that laws and rules will make this easier in future. Men sometimes want to know about their possible future child support liabilities, so that they can plan their lives without the risk of gaining a new financial liability after they have committed to a different life. In some cases children can apply for child support from their parents, and they should be able to identify to whom they can apply. Many people simply want to *know*.

So it is ethically wrong *and* practically futile to plan to resolve this problem by constraints and censorship. It must be tackled more openly and honestly. What does the urge to cover up the truth say about a society? Typically, it says that the society has a serious problem.

One way, therefore, would be to reduce or avoid the delay in “2”. This would reduce the bonding between man and child that may cause complications and heartache later. It would make it more likely that the biological father could become responsible. It would enable all people involved to make informed decisions instead of default decisions.

But, while this would be better than trying to achieve censorship, it is still not as good as preventing “1”. If such children are not born, the whole problem goes away. “*Prevention is better than cure*”. It should not be necessary to itemise the many ways of avoiding such children being born. And if such a child is born, a further option is to be honest about it from the start!

Strategy for the 21st Century

This paper doesn't define a roadmap for achieving this objective. Instead it assumes that the details will emerge within many laws and rules over a decade or two.

Guiding principles

All people have rights to personal knowledge about their biological relationships

People do not need to justify this; they should have the knowledge just because they want it. They should also have privacy in their quest for this knowledge.

The state should provide support but not compulsion

Society should acknowledge the problems caused by surprising paternity, should adopt the above objective, and then support the process of achieving it.

The only laws needed are general laws, not special ones

There should simply be freedoms to act according to the general laws of the land such as the standard laws of assault, theft, privacy, harassment, data protection, and similar.

Critical success factors

1. *The problem must be acknowledged and understood.*

This should involve research into the scale and nature of the problem.

How big is the problem? What are the predictors? How much is accidental and how deliberate? How can the people concerned be persuaded? What are societal views?

2. *There must be a sustained commitment to solve the problem.*

There must be adequate awareness among all parties of the nature of the problem and the intention to solve it. Ideally, this should include a new recognition that continuing with the problem is socially unacceptable and ethically wrong.

It will be necessary to identify relationships with other policy areas, such as social security, child support, and the elimination of child poverty. Support services may be needed to cater for paternity surprises that arise on the way.

People must have the courage to stay focused on the objective. The temptation to prolong the problem by attempting to take the easy way out needs to be resisted. Surprising paternity cannot reliably be covered up by any known means.

3. *The methods used must be practical measures that don't challenge human nature.*

This lies behind the assumption that this problem cannot be solved simply by avoiding adultery! In fact, it will probably need a multi-pronged approach, based on the results of the above research.

4. *Incentives and disincentives must match the objectives.*

There must be no incentives for behaviour contrary to the objectives. Ideally there should be disincentives for such behaviour. For example, child support liability must continue to be based on biological relationships (see Appendix B). This will encourage men and women considering adultery or equivalent behaviour to act appropriately.

There must be no disincentives for behaviour in support of the objectives. Ideally there should be incentives for such behaviour. Perhaps this will include advantages (such as parental responsibility) deriving from voluntary acknowledgement of paternity, based on option use of paternity tests.

Rights and responsibilities in various arenas should be based on biological parentage (except for other formal situations such as gamete donation and adoption).

5. *Progress towards the objectives must be monitored.*

This includes monitoring both the degree of social acceptability (or otherwise) of the behaviours concerned, and the degree to which the problem continues to exist. This will have to be a continuing endeavour.

Conclusion

Readers are invited to compare the above critical success factors with the UK's “don't drink and drive” campaign over the last decades. While success there isn't complete (and probably never will be), the latest generation, on the whole, considers driving after drinking to be socially unacceptable.

Society is known to have a problem with paternity surprises, but for the first time in history, largely because of new technologies, there is a practical need to solve the problem and there is the means to do so. Such technologies include:

1. The human genome project emphasises the importance of biological relationships.
2. Paternity tests provide essential monitoring, plus incentives and disincentives.
3. Existing and future male and female contraceptives provide the means to succeed.

The people who will be having children in 2020 are not yet set in their ways. Now is the time to show them the value of this vision.

“Enough is enough”. Let's solve the problem, and not just try to hide it.

Appendix A: “A right to parentage knowledge”

Why a right?

The claim of this paper isn't just that paternity surprises can't be hidden in practice. That message might lead to confusion and resentment that not enough were being done to keep them hidden.

The main assertion here is that people have, or should have, the right to know about their biological relationships. For once, the new technologies happen to support the right. (Appendix D discusses the ethics of such personal knowledge).

A right for adults

If we were writing a treaty or convention on this topic, what would we say? Let's examine other conventions, and build on those.

The European “***Convention on Human Rights and Biomedicine***” (not ratified by the UK) reads:

Chapter III – Private life and right to information

Article 10 – Private life and right to information

- 1. Everyone has the right to respect for private life in relation to information about his or her health.*
- 2. Everyone is entitled to know any information collected about his or her health. However, the wishes of individuals not to be so informed shall be observed.*
- 3. In exceptional cases, restrictions may be placed by law on the exercise of the rights contained in paragraph 2 in the interests of the patient.*

A suggestion for a “***right to parentage knowledge***” is based on the above convention:

Article X – Private life and right to information

- 1. Everyone has the right to respect for private life in relation to information about his or her biological relationships.*
- 2. Everyone is entitled to know any information possible about his or her biological relationships. However, the wishes of individuals not to be so informed shall be observed.*
- 3. In exceptional cases, restrictions may be placed by law on the exercise of the rights contained in paragraph 2 in the interests of the person concerned.*

A right for children

It is possible that additional rights for the child are unnecessary. Here are extracts from the United Nations “**Convention on the Rights of the Child**” (my emphasis):

Article 7

*1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, **the right to know and be cared for by his or her parents.***

Article 8

*1. States Parties undertake to respect **the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.***

Article 9

*3. States Parties shall respect **the right of the child** who is separated from one or both parents **to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.***

Article 18

*1. States Parties shall use their best efforts to ensure recognition of the principle that **both parents have common responsibilities for the upbringing and development of the child.** Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.*

In the UK, “parent” increasingly means the biological parent, and the above convention should be read in this way except for obvious exceptions. The UK has ratified this convention. Nearly all nations (although not the USA) have ratified it.

Human Rights Act 1998

The necessary rights may already be covered by interpretation by the European Court of Human Rights of Article 8 of European Convention on Human Rights and Fundamental Freedoms, hence Article 8 of the Human Rights Act 1998.

For example, the judgement in *Mikulic v. Croatia*, 17th January 2002, stated: “*Private life, in the Court’s view, includes a person’s physical and psychological integrity and can sometimes embrace aspects of an individual’s physical and social identity. Respect for “private life” must also comprise to a certain degree the right to establish relationships with other human beings ... In the Court’s opinion, persons in the applicant’s situation have a vital interest, protected by the Convention, in receiving the information necessary to uncover the truth about an important aspect of their personal identity*”. (The applicant was born in 1996).

Appendix B: The relationship to Child Support

A key principle behind typical child support systems is: *“if people have insufficiently protected sex, and a child results, they have responsibilities towards the child”*. This has a merit in “justice”: the people concerned, knowing the risks, could have behaved differently and avoided the child, hence avoiding responsibility. It also has a merit in “practicality”: a paternity test can typically resolve who is responsible, or at least who is *not* responsible.

This isn't a perfect argument. Some people believe that one or other party carries too much of the risk and responsibility. The price for “insufficient protection” can appear unduly high. Some child support systems (outside the UK) don't stick to this “strict liability” rule. Even when they do, child support systems often have serious flaws in them. But these are matters to be corrected; they do not undermine the basic merits of the principle.

A counter argument to the basic “strict liability” principle is that a “social father”, a man who has been helping to raise a child who is not biologically his, perhaps as the husband or male partner of the mother, has somehow set a precedent and accepted responsibility. Sometimes the argument is that there is a bond between the social father and the child, and the child needs continuing support. Sometimes the argument is cruder, and amounts to identifying the nearest man with a wallet. Neither argument has any intellectual merit; and neither argument is just. These approaches historically arose because doubts could not be resolved. They didn't arise in free competition to “strict liability” approaches.

The bond between a social father and a child is based on “hands-on care” while they are together. If it is a precedent for anything, it a precedent for being able to continue hands-on care. *Bonding* is totally different in nature from *paying for someone else to care*. Few people would relieve a biological father of child support responsibility just because there *wasn't* such a bond, so “the bond” is a spurious argument. It is also a counter-productive argument; it is a disincentive for men to help raise children who are not their own. Hands-on care should be treated as a bonus to the child beyond a man's other responsibilities. Men who are willing to accept full responsibility can adopt; lack of adoption should be interpreted as lack of willingness to accept permanent financial responsibility.

The cruder argument in favour of identifying the nearest man with a wallet surely doesn't need lengthy criticism here. Apart from lack of principle, there is the simple fact that somewhere there is the *real* biological father, and he too has a wallet! Perhaps he simply doesn't know that he has a child, but would want to know, and perhaps he would prefer to have had an earlier chance to be a parent to the child, and vice versa.

Some people have expressed a view that men may use paternity tests to evade their child support responsibilities. In fact, it is **impossible**, where the “strict biological parentage liability” principle operates (such as the UK), to evade child support responsibilities via a paternity test. If a man is not the biological father, he *never had* such responsibilities (except in the special case of adoption), so there is nothing to evade! Good quality evidence assists the operation of law, and cannot help evade it. And the corollary of a negative test is that somewhere there is a biological father who legally *does have* those responsibilities.

Appendix C: The next generation of male contraceptives

Obviously, unless people actually stop committing adultery, birth control will be important in achieving the objective!

Options for women are well known – sterilisation, the pill, periodic injections, implants, IUDs, female condoms, the cap, sponges, films, gels, the morning-after pill, abortion, etc. But at the moment, options for men are more limited – vasectomies and male condoms. (“Rhythm method” and “withdrawal” are not ideal for this purpose).

In several years time, perhaps by 2010, there will be a new generation of high quality male contraceptives. Some of these will be chemical or hormonal methods, similar in principle to injections available to women at the moment. In 2000, researchers in the UK and elsewhere were talking about these methods possibly being available within about 5 years from then. This is almost certainly too optimistic, so it is safer to add 5 years to that date.

Other methods will control the sperm in the vasa deferentia. One such method recently passed its clinical trials in India, and has started to be deployed in hospitals there. The method is called RISUG: “Reversible Inhibition of Sperm Under Guidance”. It appears to be an ideal contraceptive: unobtrusive, long lasting, reversible, safe, and reliable. The doctor responsible for the use of no-scalpel vasectomies in Canada intends to introduce this method there. It may take 5 years or so to pass its Canadian clinical trials. Other methods involving the vasa deferentia are under trial in China. One of these methods, for example, involves “shugs”. Over half a million men in China have been involved in trials of new contraceptives so far.

This identifies a 3-part approach to paternity, in order to achieve the best balance of rights and responsibilities among men, women, and children. *This is similar to the current UK position*; it does not require a significant change in law in the UK. But it needs changes in other nations.

1. Male contraceptives will enable men to veto conception if they want to avoid the risk (emotional or financial) of becoming fathers. They *will* need to use these methods. (It would be useful to speed up the introduction of these new male contraceptives).
2. Child support should be based on biological relationships. This is already the case in the UK, with fairly obvious exceptions. It should become the case elsewhere in the world. There needs to be a high compliance rate for child support payments.
3. Paternity tests should be used to determine the biological relationships that identify child support liabilities. Personal knowledge paternity tests should be available to enable men to predict whether they may have child support liabilities in future, so that they can plan their lives knowing the children they may eventually need to pay for.

The target is that all children born were wanted, or at least accepted, by both man and woman at time of sex. Men will be able to say “I really wanted to be the father of that child – let me be a real caring father”. Men will *not* credibly be able to say “I didn’t want that child – let me avoid paying child support”. The *massive benefit to children* of all of the above should be obvious!

Appendix D: Ethics of biological relationships knowledge

This is clearly an ethical minefield. There are up to 4 individual stakeholders: mother, presumed father, biological father, and child. These are potentially in conflict.

Although I propose in this paper that we should move *“towards a society without paternity surprises”*, something doesn't become ethical simply because it is a step on the way towards a better society. Questions must still be answered on their own merits. I have attempted to avoid being influenced by the proposals in this paper.

This topic is about rights of personal knowledge, and limits of personal knowledge, irrespective of how this is gained. The objective here is to step away from issues about whether it is OK to collect a few hairs from a hairbrush as DNA samples, and instead to ask fundamental questions such as:

“Has this person the right in principle to know X?”

and

“Has that person the right in principle to prevent this person from knowing X?”

People will have different views about this. But the trend in civilised nations is that *“knowledge of oneself”* takes precedence over *“censorship of knowledge of oneself”*.

Has a person the right in principle to know if he or she is the biological parent of a particular child?

Yes. There are at least 3 reasons for this:

1. This has been a fundamental desire of people for millennia. It is presumably a result of the evolution of Homo sapiens via natural selection. It has driven many facets of societies and sexual practices over that time. It is an aspect of human nature itself.
2. In an era of knowledge of inheritance of evolved characteristics and of genetic disorders, knowledge of biological relationships provides a key to important linkages between oneself and others.
3. In the UK, biological relationships define child support responsibilities. A child support responsibility for a child may involve (say) £50,000 over the years. A person must be able to find out whether he or she potentially has such a liability in future.

Has a person the right in principle to know if he or she is the biological child of a particular adult?

Yes. There are at least 3 reasons for this:

1. This has been a fundamental desire of people for millennia. It is presumably a result of the evolution of Homo sapiens via natural selection. It has driven many facets of societies and sexual practices over that time. It is an aspect of human nature itself.

2. In an era of knowledge of inheritance of evolved characteristics and of genetic disorders, knowledge of biological relationships provides a key to important linkages between oneself and others.
3. In the UK, biological relationships define child support responsibilities. In some circumstances a child can make a claim for child support from the biological parents. A child must be able to find out whether he or she potentially has this option in future.

Has a person the right in principle to know who his or her biological parents are?

A qualified **yes**. The qualification is that it would be legally and ethically dangerous to make a retrospective change to laws, such as those for adoption and gamete donation, which identified someone who was entitled to assume because of the law at the time that this would not happen. This principle of law should probably override the interests of the child.

There has been news of *“...a recent high court case in which a judge overrode a mother’s objections and ordered DNA tests on a seven-year-old boy who wrongly thought his mother’s infertile husband was his father. The most important right, said the judge, was the boy’s right to know his “true roots and identity””*.

So in principle a child should be able to find out from his or her mother whether or not the apparent father is the biological father. Furthermore, if he isn’t, the child should be able to discover the identity of the biological father. He is in the position of a sperm donor who has not been guaranteed anonymity in law! *When will a child take his or her mother to court to make her divulge with whom she committed adultery?* (Is “Mikulic v. Croatia”, European Court of Human Rights, 17th January 2002, a precedent for using Article 8 of HRA 1998?)

(Inside Information, 10.35: *“... The child is denied any access to knowledge of the identity of their genetic parents. However, it is expected that this situation may be challenged under the Human Rights Act 1998, given the growing trend in international law to recognise the right of the child to knowledge of their biological origins.”*)

(Inside Information, 10.36: *“It is also possible that not telling the child at an early age will mean that they may obtain this information from other people or following genetic testing. It has been suggested that if a child discovers information about their origin in later years they may be resentful and less trusting of their (social) parents.”*)

If a person knows about his or her biological relationship to a particular child or a particular adult, has any other person the right in principle to know that person has that knowledge?

No. There are few cases indeed where one person has a right to know that another person knows something. There are few cases where this can even satisfactorily be determined. This is not one of them.

(A related question, for which I have no confident answer, is: *“does a child have the right to know whether the mother knows who the child’s biological father is?”*)

Has the person the right to seek to gain the knowledge identified above, without informing the other parties of the search?

A qualified **yes**. The qualification is that general laws on assault, theft, privacy, harassment, data protection, or similar laws must be adhered to.

But, other than that qualification, a person has a right (for example) to seek the information of who the mother was with at a particular date in history. For example, he or she could validly ask others who may know the answer, or make deductions from car mileage or receipts available in the house, etc.

A man has a right to take a fertility test that might confirm that he cannot possibly be the father of the child, for example that he is azoospermic. In future, when there is a new generation of high quality male contraceptives, some of which will be completely unobtrusive, there will be further valid ways of making the deduction. There are many valid ways of clarifying paternity, of which paternity tests are just one example. Use of DNA for the purpose is simply one “tactical mechanism”.

In fact, the above reveals an interesting danger. While it may well be the case that about 9 in 10 children have the expected paternity, only paternity tests are likely to confirm these cases. Other methods tend to be focused on revealing the 1 in 10 cases of surprising paternity!

Has a person the right to prevent someone gaining the knowledge identified above?

A qualified **no**. It should only be possible in narrowly defined cases where this is in the interests of the person seeking to gain the knowledge. This would need some sort of pre-assigned authority, such as an ethics committee or a court. It is very unlikely that they apply in the case of competent adults seeking knowledge of their genetic relationships.

Has a person the responsibility in principle to know if he or she is the biological parent of a particular child?

No. There is no responsibility to know something. But it may happen as a by-product of another person’s rights.

Has a person the responsibility in principle to know if he or she is the biological child of a particular adult?

No. There is no responsibility to know something. But it may happen as a by-product of another person’s rights.