



Who are the parents?

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There are 37 official family constellations with children in Denmark

1. Par med børn
2. Enlig mor med børn
3. Par med fars særbørn samt fars samværsbørn
4. Par med børn og mors og fars særbørn
5. Enlig far med børn og samværsbørn
6. Enlig far med børn
7. Par med mors og fars samværsbørn
8. Par med børn, fars særbørn samt fars samværsbørn
9. Par med fars særbørn samt mors samværsbørn
10. Par med børn, mors og fars særbørn samt mors og fars samværsbørn
11. Par med børn og mors særbørn
12. Par med mors særbørn samt fars samværsbørn
13. Enlig mor med samværsbørn
14. Par med mors og fars særbørn samt mors og fars samværsbørn
15. Par med mors særbørn samt mors samværsbørn
16. Enlig far med samværsbørn
17. Par med børn, mors og fars særbørn samt mors samværsbørn
18. Par med børn, mors særbørn samt mors samværsbørn
19. Par med børn, fars særbørn samt mors samværsbørn
20. Par med fars særbørn samt mors og fars samværsbørn
21. Par med børn, fars særbørn samt mors og fars samværsbørn
22. Par med børn, mors særbørn samt fars samværsbørn
23. Par med børn samt fars samværsbørn
24. Par med mors og fars særbørn samt fars samværsbørn
25. Par med børn, mors og fars særbørn samt fars samværsbørn
26. Par med børn, mors særbørn samt mors og fars samværsbørn
27. Enlig mor med børn og samværsbørn
28. Par med fars samværsbørn
29. Par med børn samt mors samværsbørn
30. Par med børn samt mors og fars samværsbørn
31. Par med mors og fars særbørn samt mors samværsbørn
32. Par med mors særbørn samt mors og fars samværsbørn
33. Par med mors samværsbørn
34. Par med mors særbørn
35. Par med fars særbørn
36. Par med børn og fars særbørn
37. Par med mor og fars særbørn

Source: Danmark Statistik



There are many different types of parents and children

Genetic Parent Our Child

Legal Parent My Child Illegitimate Child

Reserve Parent Step Child Special Child

Social Parent Non-common Child Adoptive Parent

Foster Parent Adopted Child Donor Child

Biological Child Surrogate Parent

Your Child



Who are the legal parents?

There are many different types of modern family structures. With fertility treatment and in particular 3rd party donation programs it has become increasingly important for all children (as well as parents) to know *who the LEGAL parents are.*

It is a human right!



Pater est

Pater est quem nuptiae demonstrant (c. 449 BC)
Latin: The father is he who is married to the mother.



The Geneva Declaration

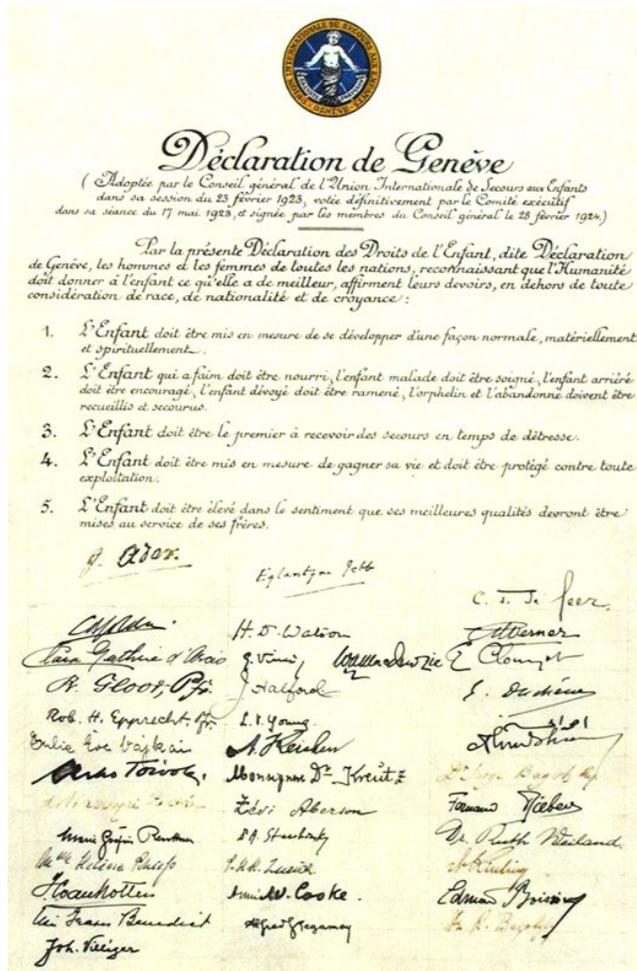
On the 26th of September 1924, the League of Nations (later to become the UN), adopted the Geneva Declaration.

<http://www.un-documents.net/gdrc1924.htm>

This was the first time that specific rights for children was recognized!

Article 25. (2) ... All children, whether born in or out of wedlock, shall enjoy the same social protection.

... nothing about who the legal parents are ...



Declaration of the Right of the Child



On the 20th of November 1959, the Declaration of the Rights of the Child was adopted unanimously by all 78 Member States of the United Nations General Assembly in Resolution 1386 (XIV) over 10 basic principles:
<https://www.refworld.org/docid/3ae6b38e3.html>

152. Principle 4 of the draft of the Social Commission was as follows:
“The child shall be given opportunity to grow up in economic security, in the care of **his own parents** whenever possible, and in a family atmosphere of affection and understanding favorable to the full and harmonious development of his personality.”

<http://www.cirp.org/library/ethics/UN-declaration/>

... nothing about who are the legal parents ...



The UN's Convention of the Right of the Child

Resolution 44/25 was adopted on 20th November 1989.

Article 7

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.

The word “parents” are mentioned 36 times in the Convention, but not defined. Is it the biologic, the social, the foster, the legal, the guardian, the adoptive, the 3rd party donor, the surrogate or somebody else?



Biological parents

Countries who have interpreted UN's Children Convention Art. 7
“... right to know ... his or her parents” = **biologic parents**:

Sweden, New Zealand, Australia, The Netherlands, Austria,
Switzerland, Germany, Norway, United Kingdom, Finland and Portugal

**However, only for 3rd party donor children,
not for children in general?
and
... nothing about who are the legal parents ...**



The Dictionary

verb

3rd person present: **parents**

1.1.

be or act as a parent to (a child).

"all children are special to those who parent them"

Origin: late Middle English: from Old French, from Latin *parent-* 'bringing forth', from the verb *parere* . The verb dates from the mid 17th century.



synonym:

bring up, be the parent of, look after, take care of, rear, raise, nurture "all children are special to those who parent them"



Children belong to his parents

93. On behalf of Algeria, Egypt, Iraq, Jordan, Kuwait, Libyan Arab Jamahiriya, Morocco, Oman, Pakistan and Tunisia, the delegation of Egypt proposed the following amendments contained in E/CN.4/1989/WG.1/ WP.4: 378

1. Paragraph 1 should be amended to read as follows:

*“The child shall have the right from his birth to know and **belong to his parents**, as well as the right to a name and to acquire a nationality.”*

<https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en>



In the best interest of the child

108. The observer for New Zealand proposed that the words “as far as possible” should be replaced by “subject to the provisions of this Convention”. Another alternative formulation was put forward by the representative of the United States of America who suggested the wording “**in the best interests of the child**”.

115. The representative of Sweden stated that his delegation was able to join in the consensus on article 2 on the understanding that the provisions of this article should be interpreted **in the best interests of the child**.

<https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en.pdf>



Lack of definition

242. In connection with internal consistency, some speakers wished to have a list of definitions of terms used in the convention, which would be of great help for a good understanding of the legal and practical effects of its provisions. **For example, there was no definition of the concept of “parents” or “legal guardians”.** Was it only biological parents that were concerned, or were other persons also entitled to be considered parents for some purposes, with equal responsibilities in relation to the child or children concerned? There was an analysis of definitions prepared by a non-governmental organizations, which could be of some help when preparing such a list for the convention. This should be considered during the quality control exercise so that the issue could be resolved at [the] second reading.

<https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en.pdf>



De facto parents

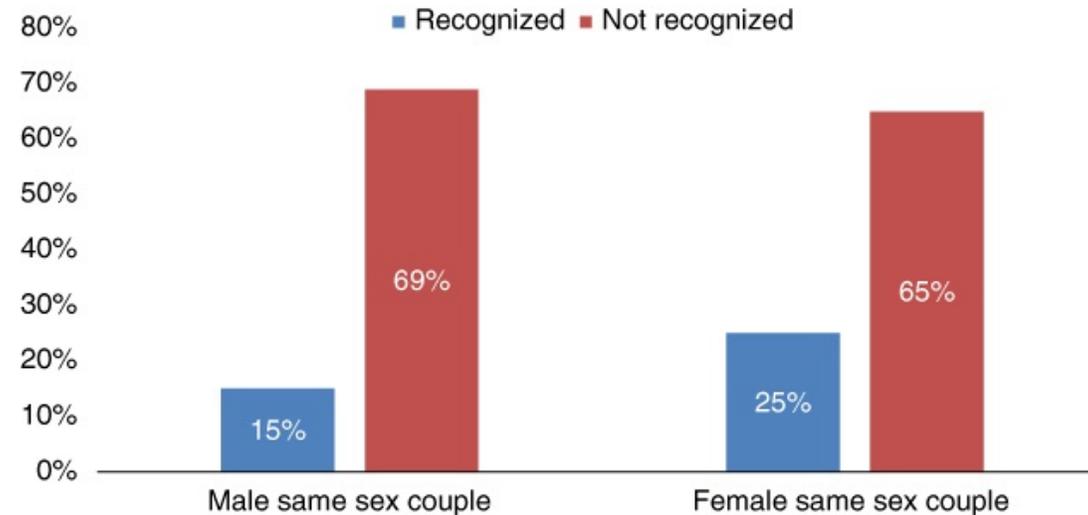
(c) NGO Ad Hoc Group (see annex III (B) for participating organizations)
The following is taken from document E/CN.4/1988/WG.1/WP.2, page 13.

In this Convention, the term “parents” shall be interpreted to include, where appropriate, **other family members or guardians who have de facto responsibility for the care and upbringing of the child.**

<https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en.pdf>



IFFS Surveillance 2019



The legal parenting status of the partner of a same-sex couple was also surveyed. [More than two-thirds of respondents did not recognize a same-sex partner as a legal parent.](#) This was the case both in female same-sex couples, according to 57 of 85 respondents (65%) and in male same-sex couples, according to 58 of 84 respondents (69%). Twenty-one of 85 (25%) recognize the partner as a legal parent in female same-sex couples, but only 13 of 84 (15%) did so in male same-sex couples.



Regulation in Denmark

1987-2002: The Children Act

Ensuring legal parental issues for donors, (heterosexual) parents and children ✓

2007: Amendment of Assisted Reproduction Act ✓

Ensuring treatment for lesbians and singles

2013: Amendment of Children Act ✓

Single woman can be legal mothers and lesbian couples can be registered as legal parents from the birth of the child

2019:

Surrogacy, gay couples and other types of parental issues are being discussed ... ?



Regulation in the USA

1973: All states adopted the Uniform Parentage Act (UPA).

2002: Uniform Parenting Act 14-20-60. (702) A donor is not a parent of a child conceived by means of assisted reproduction.

14-20-02. (102) Definitions. "Parent-child relationship" means the legal relationship. Surrogacy accepted for intended parents.

14-20-07. (201) Establishment of parent-child relationship.

2015: UPA: Same-sex marriage included.

2017: UPA: De facto parents defined and equal recognition of intended parents regardless of sex, sexual orientation, or marital status included.

7 states have adopted the 2002 version: DE, ND, OK, TX, WA, WY, UT.

3 states have adopted the 2017 version: VT, CA, WA (introduced: MA, ME, PA)



General Principles

- Fertility treatment, 3rd party gamete donation programs, cross border of gametes and patients, surrogates, change of sex, DNA manipulation, etc. and new types of family patterns all call upon updated parental definition in UN's Children Convention from 1989.
- The most important for a child is not necessarily to know his or her parents as stated (whoever it is?), it is not necessarily two persons and not necessary of different sex and it does not necessarily need to be a biological related person.
- The most important for a child is to have at least one responsible legal parent with the associated obligations and rights.
- Other parental relations (biological, social, foster, shared, family members, donors, friends, etc.) must be handled in the best interest of the parties involved independent of the legal parental status.
- Gamete donor must be protected from legal parental obligations and rights. Must apply independent in which country donation took place, treatment took place or birth took place.



Suggested amendment of the UN's Children Convention

Article 7

*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 **legal parent(s)**.*

Legal parent(s) are the woman who gave birth to the child and/or any other person(s) who accepts or are sentenced to be the legal parent of the child.

Other parental relations must be handled in the best interest of the parties involved independent of the legal parental status.

Thank you

