

## Top court rules transsexual husband as father of in vitro child

1. The Supreme Court has recognized a gender identity disorder sufferer who had a sex change to become a male as the legal father of a child born to his wife through in vitro fertilization using sperm provided by a third person, judicial sources said Wednesday.
2. In a decision dated Tuesday, the top court said, "The child can be assumed as the husband's child even though it is obvious that there is no biological link" between the two. Three out of the five justices of the Third Petty Bench agreed to the decision, while two opposed it.
3. Under the current legal system, a child of a married couple with a transsexual father **conceived** by in vitro fertilization is treated as an extramarital child, while a child normally conceived by a married couple without gender identity disorder is treated as a child born in wedlock.
4. The top court's decision will inevitably affect the debate on the definition of what a family is and how **assisted reproduction technologies** should be used.
5. The ruling in favor of the man, born as a woman who suffered GID, and his wife, both 31, came after two courts ruled they could not register their son, now 4, as their legitimate child at birth at a ward office in Tokyo.
6. A 2004 special law for people with GID allows them to change their registered gender and legally marry. The husband was registered as a man in 2008 and married his wife. Their son was born in November 2009.
7. Both the Tokyo District Court and Tokyo High Court dismissed their plea, saying it is obvious the husband has no reproductive capacity as a male. But the top court scrapped the decisions, determining a civil law clause that assumes a child conceived during a couple's marriage should be assumed as the husband's could be applicable to a female who changed her sex to be the male spouse.
8. Citing again the 2004 special law, the court said, "It is wrong not to certify a father-child relationship on grounds that they are not blood-related, as the law allows a husband who cannot expect to have a child with his wife to marry."
9. Presiding Justice Takehiko Otani was among the two justices who opposed the latest decision, saying legal issues relating to the assisted reproduction technologies should be resolved through legislation.
10. With the latest decision, the couple will be able to record the husband's name as the father of the child in their family register.
11. The couple have another son who was born in May last year and the husband has filed a similar suit seeking recognition as the father. The Osaka Family Court ruled against him and the suit is pending before the Osaka High Court.
12. According to statistics by the Supreme Court, from 2004 to last year, there were more than 3,500 people with GID who changed their gender registry based on the law.
13. The Justice Ministry also said as of Wednesday that there are 39 cases of newborn born to a wife who is married to a husband who changed his registry to male due to GID. But all cases are believed to be registered as a child born out of wedlock.
14. This is because it is obvious from the registry that the husbands, who changed their gender, are not the biological fathers, according to the ministry.
15. But a child conceived normally to a couple without gender identity disorder is registered as their child as there is no legal obligation to reveal that the child and the father are not biologically connected. This has raised criticism from GID sufferers as unfair treatment. 【12/12/2013/Kyodo, Japan Times】



↑ A transsexual man shows photos of himself and his two sons who were conceived through artificial insemination with the help of third-party sperm donors. Their faces are intentionally blurred.

conceive:懐胎する assisted reproduction technologies:生殖補助医療【略】ART

### ★Ice breaker for active discussion★

1. Please explain what GID is.
2. Have you ever known or met a person who has GID?
3. What is the Supreme Court's ruling about the transsexual man's case for his right of being a father to his wife's kids? And what do you think about the decision?
6. What is in vitro fertilization? What kind of advantages and possible consequences may arise from this technology?
7. According to the article, the Presiding Justice says legal issues relating to the assisted reproduction technologies should be resolved through legislation. What do you think about his opinion?
8. Do you believe society causes gender roles?

性同一性障害は心と体の性別が一致しない違和感を持ち続ける状態で、原因は解明されておらず日本では推定数万人いるとも言われています。性同一障害特例法に基づき戸籍上の性別変更をした人は2012年までに約3600人。法務省によると男性に性別変更した人の妻が産出した届け出の数は39件との事。凍結保存した夫の精子で夫の死後妻が妊娠出産した例で父の法律上の子と認められなかったり(2006年)代理出産で遺伝的親子関係はある向井亜紀・高田延彦夫妻に民法上の母子関係の成立が認めなかったり(2007年)等、生殖医療の進歩で民法が想定しなかった親子関係が生じています。