Submission
No 35

MANAGING INFORMATION RELATED TO DONOR CONCEPTION

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FERTILITY
FIRST
Centre for Reproductive Health

INQUIRY INTO MANAGING INFORMATION RELATED TO DONOR CONCEPTION

Fertility First was established in 1997 by Dr Anne Clark, who has been working in the area of reproductive medicine for over 25 years in Australia, New Zealand and the United Kingdom. Fertility First specialises in personalised fertility care for men and women. Our patients include heterosexual and lesbian couples, and single woman – all of whom may require the use of donor gametes (sperm, oocytes) or embryos in trying to conceive. As such, the topic of managing information related to donor conception and related issues are highly relevant to our practice, our patients and our donors past and present.

As an accredited unit practicing in NSW, we adhere to the following:

- The Reproductive Technology Accreditation Committee's (RTAC) Code of Practice (2010)
- National Health and Medical Research Council (NHMRC) Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research, June 2007
- Assisted Reproductive Technology (ART) Act, 2007

Question 1. Should donor-conceived adults have retrospective access to donor's identifying details?

Fertility First supports the rights of donor conceived individuals to have access to identifying information about their donors after the age of 18 but this access must be subject to donor consent.

Fertility First acknowledges that for individuals conceived prior to the commencement of the ART Act (2007) there is no guaranteed access to information about their donor. It should be noted that donors who donated their gametes prior to the commencement of the ART Act, did so knowing that they did not have to agree to the release of their identifying information to patients with donor conceived children, donor conceived individuals or to an external agency. Patients who accessed donor gametes at this time did so with the understanding that the donor had not consented to be identified in the future. The issue of future identification for both donors and recipients was extensively discussed at their mandatory counselling sessions.

In addition, potential sperm donors are informed that The Status of Children Act 1996, Section 14 *Presumptions of parentage arising out of the use of fertilisation procedures* clearly states that a child conceived using donated gametes is legally deemed to be the child of the recipient(s), and the donor has no legal rights or responsibilities regarding the child. However, donors often raise concerns regarding child support and whether they may be held accountable and whether a donor conceived child can make claim to any future inheritance.

Past donors have been reassured that any donor conceived children will not be eligible for child support or an inheritance as they have similarly been advised that there will be no retrospective release of their identifying details without their consent. On that basis, any attempt to implement retrospective access to donor's identifying details will undermine any trust and confidence that new donors may have in the donation process. This view is supported by Guido Pennings (2012) who concludes that "retroactive laws in the context of gamete donation may jeopardize the whole practice by destroying the trust of candidate donors and recipients in the government".

Consequently, Fertility First does not support retrospective access to donors' identifying details by donor-conceived adults. That said, Fertility First does attempt to facilitate contact between donors and patients with donor conceived children provided both parties are willing. Initial contact occurs through the forwarding of letters containing non-identifying information only. The decision to provide identifying information can be made at a later date by the parties involved if they wish to do so.

Question 2: If the retrospective access were granted what conditions should apply?

As stated above, Fertility First does not support retrospective access and on that basis will not comment on what conditions should apply.

Question 3: What other issues would be raised by granting retrospective access? For example, how would the process of applying for information be managed? Would counselling and support services be required?

Refer to answer to question 2.

Question 4: Which agency is best placed to manage the register of donor conception information (donor register)? Is the current manager of the register adequate?

In NSW the ART Central Register is operated by the Ministry of Health. Identifying information is held there for most conceptions post January 1 2010. A five year transitional period allows for embryos created before the commencement of the Act to be used in a treatment cycle and for gametes donated before the commencement of the Act to be used in a treatment cycle by women who have already conceived a child to the same donor prior to the commencement of the Act. In summary, not all conceptions post January 1, 2010 will have identifying information held on the NSW Central Register.

A voluntary register is also operated by the NSW Ministry of Health to allow donor conceived adults and gamete donors who were conceived or donated before January 1, 2010 to register their information voluntarily.

Fertility First supports the voluntary register and advises patients and donors who have contacted us of the existence of the voluntary register. We would further support all efforts by the NSW Ministry of Health to provide the appropriate resources to maintain and actively promote the voluntary register. Increasing community awareness may encourage past stakeholders to register their details.

Question 5: Should a standalone body be established to manage the register?

Fertility First does not believe that a standalone body should be established. We are supportive of the current situation where adults who were donor conceived pre-legislation and gamete donors who donated pre-legislation are encouraged to register their details on the NSW Health Voluntary Register. Based on the consent received, NSW Health will share the information with current ART providers in NSW in an attempt to locate identifying information about the donor or donor offspring. If any information is made available to the NSW Ministry of Health by the ART providers, this information will only be released if the donor offspring or the donor has given consent.

Question 6: Should counselling and support services be offered to those seeking donor conception information from the donor register?

Fertility First believes that counselling and support services should be offered to those seeking donor conception information from the donor register. We agree that counselling may be beneficial but it should be up to the individual to make this decision i.e. participation should be encouraged but the decision to do so should be voluntary not mandatory.

Question 7: Are there other types of support that could be offered?

As mentioned in the response to question 1, Fertility First supports contact with the donor and offers to make contact with the donor if possible. All individuals involved are advised of the availability of an experienced counsellor and are actively encouraged to make an appointment(s) for supportive counselling.

Question 8: How would support services be funded? By the government, the individual seeking the service, or by the ART clinic?

Fertility First believes that the support services should be funded by the usual practice that an individual seeking a service covers the costs of that service.

Question 9: How would such support be provided? By referral to the Department of Family and Community Services (as with adoption) or by standalone body (as has been recommended in Victoria?

If the donor conceived adult has information regarding the ART provider who provided the treatment that resulted in their conception and the donor knows where they donated their gametes, they could contact the ART provider directly. It is mandatory for all ART providers to have a counsellor who is eligible for Australian and New Zealand Infertility Counsellors Association (ANZICA) membership to be associated with their clinic. The clinic could then refer these individuals to a counsellor experienced in issues associated with donor conception.

Alternatively, the NSW Ministry of Health could provide a list of qualified counsellors to individuals who

- would prefer to use a counsellor who is independent of an ART provider,
- have little or no knowledge regarding the treatment that resulted in their conception
- cannot contact the original treatment provider because the practice no longer exists and/or the treating doctor has retired and/or died.

Question 10: How long should ART clinics be required to retain records?

As a Reproductive Technology Accreditation Committee (RTAC) accredited practice, Fertility First is required to adhere to the requirements for the retention of records as detailed in the NSW Health Records and Information Privacy Act 2002, the NHMRC Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research and the NSW ART Act (2007). The NHMRC Ethical Guidelines stipulate that records should be kept indefinitely and the ART Act states that 50 years is the minimum time records must be retained.

Question 11: What should happen to records if a clinic closes?

It is stated in the RTAC COP, that an ART unit "should ensure the ongoing safe storage of gametes, embryos, tissues and medical records" and the clinic "should inform the relevant statutory and regulatory authorities and all stakeholders." In practice, when a clinic closes, the management of any cryopreserved material and all medical records is taken over by another IVF clinic.

Question 12: How can we ensure the integrity of records? For example, ensuring that they are not destroyed or tampered with?

All clinics are required to follow their legal and professional responsibilities as outlined in the response to questions 10 and 11. To destroy or tamper with records therefore carries legal penalties.

Summary

In summary, Fertility First

- Supports the rights of donor conceived individuals to have access to identifying information about their donors but this access must be subject to donor consent.
- Does not support the introduction of retrospective access to donor's identifying details and view this idea as a fundamental breach of the donor's privacy.
- Would like NSW Health to actively promote the existence of the Voluntary register to encourage stakeholders to register their details.
- Believes that donor conception stakeholders should be made aware of the availability of support services such as counselling. Participation should be encouraged but uptake should be on a voluntary not mandatory basis.
- Believes that the cost of the support service(s) should be privately funded.

This document was prepared in collaboration by;

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Reference

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human reproduction **OPINION**

How to kill gamete donation: retrospective legislation and donor anonymity

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ABSTRACT: Victoria (Australia) is considering retrospective legislation on the abolition of gamete donor anonymity. Retrospective legislation evokes many negative emotions mainly because it is considered unfair. It also makes it impossible for citizens to organize their life with reasonable certainty of the consequences. Introduction of this law for donor anonymity is defended by the right of the child to know its genetic origins. Against this law, people appeal to the right to privacy and confidentiality of the donor. This paper analyses the arguments for and against a retrospective law on donor anonymity by looking at the conditions that should be respected when two principles (the donor's right to privacy and the child's right to genetic information) have to be balanced. It is concluded that the justification for introducing retrospective law is lacking: the conditions are not fulfilled. Moreover, retroactive laws in the context of gamete donation may jeopardize the whole practice by destroying the trust of candidate donors and recipients in the government.

Key words: donor anonymity / ethics / gamete donation / justice / retrospective legislation

Introduction

In 2011, the Senate Legal and Constitutional Affairs References Committee of Australia issued a report on the practice of donor conception in Australia. In that report, the Committee introduced the question of whether information on the donor should be provided to children born before the law that required donor identifiability. About a year later, the Law Reform Committee (LRC) of Victoria, which advises the Parliament on new legislation, recommended that the law should be retrospective. The Victorian Government has 6 months from March 28 to respond to the Committee's report. If this recommendation becomes law, gamete donors in the past, who donated in the understanding that they would remain anonymous, will become identifiable. The legislation in Victoria has maintained complete donor anonymity for donors before 1988. For donors who donated between 1988 and 1997, the identity can only be released to the offspring if the donor consents. Donors after 1998 have to provide identifying information to their donor offspring.

Many people consider the proposed retrospective abolition of donor anonymity as an unacceptable violation of the donor's rights. In this paper, we will analyse and evaluate the arguments for and against retrospective legislation on gamete donation.

Retrospective legislation

Generally speaking, there is a widespread antipathy against retrospectivity in law (Sampford, 2006). The reason for this attitude is that retrospectivity violates the rule of law, i.e. the conditions that have to be respected by lawmakers in order for law to guide conduct in a democratic society (Murphy, 2005). When lawmakers fall short of the rule of law, for instance by introducing retroactive legislation or by contradicting themselves, citizens feel resentment, based on a sense of fairness and justice (Woozley, 1968). Perhaps the most fundamental reason why retroactive legislation is viewed suspiciously stems from the principle that 'a person should be able to plan his conduct with reasonable certainty of the legal consequences' (Hochman, 1960). As a consequence, one needs a strong justification to introduce a retrospective law.

What reasons can be given to introduce retrospective legislation? Retrospective legislation may:

(i) rectify a slowly grown discrimination or inconsistency. The different steps of the Victorian law on donor anonymity indirectly lead to different rights for the donor children born at different times.
(ii) demonstrate the growing conviction that things done in the past are unacceptable. Lawmakers in countries that have abolished donor anonymity may come to believe that the steps taken in previous legislation can no longer be justified. In other words, too many rights were accorded to the gamete donor in the past compared with the rights of the donor offspring.

Why is retrospective legislation about donor anonymity morally wrong? Several reasons can be given. Retrospective legislation is:

(i) unfair; the government comes back on a previous agreement, unilaterally. This decision can be seen as abuse of power.

(ii) ungrateful; donors donate to help others and they do so within a context in which there is a balance between costs and benefits. Instead of being grateful for their help, the government now significantly increases the costs to a point where it can be expected that the majority of the donors would not have donated if they had known. In a way, they have been cheated into donating.

(iii) inconsistent; donors are counselled so as to enable them to make a well-informed decision. When they have done so, the conditions on which the decision was made are changed. The retrospective changes inherently deny the donor's autonomy, because he (or she) has not given informed consent within the amended situation.

(iv) disrespectful; closely related to the previous reason, it can be argued that retrospective changes imply that the donor is used solely as a means to serve someone else's interests. The only way the donor can be respected is by requiring prior consent to the release of the information.

Solving conflicts between principles

There is no obvious reason why all retrospective legislation would be wrong. Whether or not such law is justified depends on the balancing of the principles involved. The two main principles for our discussion are the right of the donor to privacy and the right of the child to know his or her genetic origin. The parties who believe that retrospective legislation is acceptable argue that the donor's right to privacy and confidentiality is overridden by the child's right to know its genetic origin (Allan, 2011; Law Reform Committee, 2012). They are convinced that not being able to know one's genetic origin causes great harm to the child.

When two conflicting principles have to be balanced, six conditions should be respected: '(i) better reasons can be offered to act on the overriding norm than on the infringed norm; (ii) the moral objective justifying the infringement must have a realistic prospect of achievement; (iii) the infringement is necessary in that no morally preferable alternative actions can be substituted; (iv) the infringement selected must be the least possible infringement, commensurate with achieving the primary goal of the action; (v) the agent must seek to minimize any negative effects of the infringement, and (vi) the agent must act impartially in regard to all affected parties.' (Beauchamp and Childress, 2001).

Let us consider these conditions consecutively.

There must be better reasons for the overriding rule

Obviously, both sides believe that they have better reasons. Reasons should refer to morally relevant aspects of the situation, and it is clear that both sides can refer to harm and to violation of rights. When we look at harm, the evidence about the harm to the child when no identifying information is available is weak (Broderick and Walker, 2004). It mostly amounts to anecdotal evidence from donor-conceived offspring. The evidence pointing to 'no (major) problems' is much stronger and based on scientific research. This also explains why the majority of the countries maintain donor anonymity. The data are reassuring for the welfare of the children for both secrecy and anonymity. Firstly, the studies up to date indicate that children who do not know about their donor conception are doing as well as non-donor conceived children (Golombok *et al.*, 2006; Murray *et al.*, 2006). Secondly, children who are informed about their donor conception early in life are curious about their donor but do not suffer from any major problems from not knowing their donor (Vanfraussen *et al.*, 2001). The wish to know more about the donor in children who were informed about their donor conception neither has an effect on the child's well-being nor on the quality of the parent–child relationship (Vanfraussen *et al.*, 2003). Much more can be said about the different elements of the 'need' of the child to genetic information, but the overall conclusion is that the strong justification needed to break the rule against retrospective law is lacking.

The evidence on the harm to the donor in a strict sense is also weak. It is not known at present how much harm will be caused to donors and their families by such legislation. Presumably, many of these older donors have not told anyone about their donations. When their social environment is informed, highly problematic situations may be caused. Whether this harm will outweigh the harm to the child is undecided. Still, harm comes in many forms. When fewer donors present themselves because they no longer trust the government, the infertile couples will have to wait longer or will have to look for treatment abroad, where identifiability is frequently not offered. This balancing of harms and benefits tends to become a highly complex discussion and we need the other elements to break this tie.

When we look at rights rather than harm, Allan argues that the right to privacy of the donor is outweighed by the manifest injustice against the children (Allan, 2011). As I pointed out above, there is no manifest injustice against the children. The argument largely depends on the comparison one makes. Defenders of the right of the child mostly refer to adoption. This is a revealing view, since it leads to the conclusion that gamete donors are like people who give up their child for adoption and have the same obligations as birth parents. However, several analogies can be made, leading to different conclusions. One might, for instance, refer to the millions of children conceived by 'natural' donation, i.e. after adultery or unfaithfulness of the mother. Moreover, if we accept, for the sake of argument, that there is an injustice against the child, the solution would not be to commit an equally manifest injustice against the donor. The donor, in good faith and backed by society, performed an act to help people to have a child and now may suffer serious consequences for it. This message about the protection through the rules of the moment can be illustrated by the statement of the Human Fertilization and Embryology Authority (HFEA) regarding the rights and duties of the donor: 'If you donate through an HFEA-licensed clinic, you will not be legally responsible for any child born as a result of your donation.' (http://www.hfea.gov.uk/egg-and-sperm-donors.html). This statement is clearly inspired by the growing tendency to look for donors outside the official circuit. The HFEA is warning the potential 'grey' donors about the dangers of leaving the regulated practice. Indirectly, the HFEA gives the message that they are safe and that their rights and duties are fixed within the law. Retrospective amendments of legislation, even when outside the UK, unsettle all that.

The moral objective must have a realistic prospect of achievement

The moral objective of the compulsory retrospective donor identifiability is to enable every donor child to obtain the name of his or her donor. However, this goal is clearly not achievable. The most important barrier for this goal is the secrecy by the parents: children who do not know that they are donor-conceived cannot ask for the name of their donor (Janssens *et al.*, 2011). It could also be argued that the objective is that every child who asks for the name of the donor should receive the name. This would very severely limit the number of children who would benefit, since most of the children conceived at the time will not be aware of their donor conception. Moreover, this goal is problematic because it accepts discrimination and one goal emphasized in the report of the LRC is non-discrimination among children born at different time periods. The LRC does not argue that all children should be contacted to tell them about their donor conception, regardless of what the parents think about this. By not doing so, it allows discrimination, not between those before the new law on donor identifiability and those conceived afterwards, but between those children who were told and those who were not. To their credit, the LRC does try to force the parents to tell by giving donors the right to request identifying information about their donor offspring. This is interesting in itself, since this means that the donor children might be informed about their conception in the worst possible circumstances: when they are over 18 years old and by a state agency.

Retrospectively lifting donor anonymity must be necessary

Several alternatives have been presented as morally preferable. The Fertility Society of Australia, for instance, has recommended in reaction to the report that 'donors be contacted in an extremely sensitive, confidential and respectful manner and asked their wishes in relation to this'. This solution would respect the donor's autonomy. Moreover, if he consents to the release of identifying information, he will be better prepared, will be more likely to accept contact if requested (thus preventing harm to the donor offspring) and will be able to inform his partner and/or children in a way he/she considers appropriate. Obviously, this means that one should accept refusal but especially in those cases the revelation of his donation may cause irreparable damage to his family. A second solution would be to provide non-identifying information considered useful by the child. However, the absolutism about the right to know one's genetic origin seems to block the consideration of this solution. If non-identifying information would satisfy the curiosity that the donor children have about their donor, there would be no need to breach the donor's privacy. Empirical research should establish which information would be most useful for the children.

The retrospective law must be the least infringement possible of the donor's right to privacy and confidentiality

The LRC (2011) seems to believe that the negative effects to the donor and his family can be minimized by giving the donors the option of lodging a contact veto. This balance, euphemistically speaking, is skewed. This concession to the donor is so small that it cannot qualify as a compromise. Moreover, it should not be made easy for the donor to obtain a contact veto since, in the mind of the LRC, it has 'the effect of constraining people's ability to freely associate with certain other people' (p. 80). This formulation reveals the assumption that the donors should have long-term relationships with their donor offspring. Identifiability means much more than just revealing the name of the donor. The LRC believes that donors should build friendships and other relationships with the offspring and they even seem to regret the fact that the state cannot compel people to do so (p. 63). But they would make it difficult for the donor to refuse such contact. Therefore, the contact veto has to be renewed every 5 years and the donor should lodge a separate contact veto for every donor child who requests information (which may be up to 30 or more). As a final concession to the donor, they grant that if the child plans to make unwanted contact, he can always apply for a personal safety intervention order against the child (p. 81). Imagine being a donor: would you feel reassured?

The government must make sure that the negative effects are minimized

The LRC seems to believe that counselling will do much good. How would counselling prevent that the partner of the donor feels betrayed by his/her partner's donation? Moreover, the trust they put in counselling seems to be selective since if it would indeed work that well, why not solve the children's problems through counselling? The most evident way to minimize the negative effects is by inserting a step which requires the donor's consent. If, as they point out, many donors have either changed their minds, have always had no desire to be anonymous or have come to realize that donor children need this information, why not trust them and give them the possibility to consent? If all these arguments were true, then donors would already have come forward and registered with the voluntary registers that were installed years ago.

A second important point regards the feelings of the social parents. They too may feel betrayed when they were told at the time of treatment that their children could not make contact with their donor. They might have made a different decision about telling or not telling about the donor conception if they had known about the new situation. Moreover, for single women and lesbian couples, the legal status of the donor may be unclear and a demanding donor may threaten the family unit (Cameron *et al.*, 2010).

The government must act impartially

Impartiality demands that the interests of every person should be considered in the same way. The balancing of the LRC is window dressing, since the result is known in advance. Throughout the LRC report, it is emphasized that the interests and rights of the donor children are paramount and should override the interests and rights of all other people involved. This position has no theoretical foundation. On the contrary, it violates some basic ethical rules like equality and impartiality. The 'interests of the child are paramount' is moral demagogy appealing to the general intuitive weakness of people for children. It is clear that the rights and interests of vulnerable groups should be protected, but that does not mean that their rights should take automatic precedence.

Trust

Apart from the violation of the original contract, the main effect of retrospective legislation is the loss of trust. Uncertainty and distrust are lethal for a practice that may have far-reaching implications for a person's private life. Once one rule is changed retrospectively, what should stop the legislator from coming back on other points? In a few years time, the legislator may decide that it is impermissible to transfer parental rights and duties (Weinberg, 2008). That would mean that the donor might also be forced to take up parental obligations for the donor children. If it is judged to be in the best interests of the child, the donor might be obliged to provide child support for the child and eventually to adopt the child. Some already argue that a child has a right to be raised by his or her genetic parents (Somerville, 2010). The same arguments as those used now to justify retrospective legislation regarding donor anonymity could be used to impose parental rights and duties on the donor. Given the extended time period during which retrospectivity may have an impact (the whole life span of the donor) and given the increasing tendency to attribute an extremely high value to genetic links, a donor should be willing to accept the worst case scenario. Unless a donor is willing to become the parent of the child, he or she should not donate.

Some people may believe that this is a far-fetched argument. However, I would advise reading the report of the LRC. I will give just one example of how they look at gamete donation. At a certain point, they present a discussion on the donor's access to information and state the following: 'For example, the Committee hears from Mr. Ian Smith, a pre-1988 donor, who is the biological father of nine children, seven of whom were donor-conceived'. It is extremely rare to find a similar description of a donor's family in other documents. On reading the report and many of the documents produced by the defenders of the child's right to know, the idea that gamete donors may one day become legally responsible is not far-fetched. It may even be closer than one thinks.

This report of the LRC is a collection of anecdotal evidence from self-selected donor-conceived people who present their wishes and whose wishes are directly transformed into needs to be fulfilled. It shows where attaching absolute value to genetic relationships in gamete donation leads us. Numerous counselling sessions are suggested for the donors, the donor siblings, the non-donor-conceived children of the donor, the partners and family of the donors, the recipients, the family of the recipients, the donor-conceived children, and all that, over a long time period. Intricate stepwise procedures are developed to provide information and to support people in every step. It makes one wonder where the counsellors will come from to do all this work and who is going to pay for this organization. It also demonstrates the dynamics of this movement. The members of parliament in Victoria, Australia, are no longer talking about identifiability: they talk about long-term contact, large family networks, implicit and explicit obligations to form relationships etc. Finally, the report expresses a totally different culture. For decades now, the Australian and New Zealand culture has emphasized the importance of genetic relationships for psychological well-being (identity) and social networks. In doing this, they culturally induced and reinforced the wish to know one's genetic origin and thus indirectly caused the problems that are seen now. There is little doubt that, in a society that tells a person that she cannot know who she is if she does not know her genetic parents, she has a high(er) risk of developing psycho-social problems if she cannot find her genetic parents. This opens a familiar debate: should we do something about the desire (i.e. make sure that people do not need to know their genetic origin to form an identity) or should we do something to increase the chance of fulfilling the desire? Given the context of past gamete donation, it seems far more logical to do something about the need for genetic information.

Hidden agenda

A strategy of some people who oppose a certain practice is to shift focus when their original arguments do not convince the others. They then focus on a different aspect of the practice that carries greater consensus. Some opponents of embryo research moved from the status of the embryo, not very successful since highly contentious, to the argument of exploitation of women in oocyte donation (Mertes and Pennings, 2010). For certain types of embryo research, such as somatic cell nuclear transfer, one has to create embryos. To create embryos, one needs oocytes. By blocking the availability of oocytes for research, they indirectly prevent therapeutic cloning. A similar strategy seems to underlie the present discussion on donor anonymity. Some people are opposed to gamete donation because it contradicts their normative conception of the family. This argument is not very successful, since it conflicts with the increasing acceptance of pluralism in family forms. Instead of pursuing the old line, they shift strategy by emphasizing the importance of genetics for the identity of the child. Children's rights can always count on much sympathy. Even if this does not lead to a prohibition on gamete donation, it will surely make things more difficult. An additional effect is that it renders family building hard especially for same-sex couples, another violation of these opponents' beliefs of what families should look like. Like the feminist argument against oocyte donation is meant to block embryo research, the child's right to know his or her genetic origin argument serves to discredit gamete donation. For this movement, the goal is reached when the child is raised by his or her genetic parents and when social parents become foster parents. Moreover, a retrospective change of law is one of the most damaging steps imaginable for the practice of gamete donation. Why would any donor from now on trust the clinic or the government? Destroying this trust will make it much harder to recruit donors.

Conclusion

Retrospectivity in the law needs a strong justification. This justification is lacking as far as legislation on donor anonymity is concerned. Moreover, retrospectivity in matters of gamete donation jeopardizes the whole practice. By granting a child an absolute right to know his or her genetic origins, thereby ignoring the rights and interests of the other parties, very little benefit will be obtained and a lot of damage will be caused.

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Conflict of interest

None declared.

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