

Editorial

Debating donor anonymity in Belgium

Rights and balances

Like in a number of other European countries, Belgium currently debates donor anonymity. The essence of the debate is the right of the child to know, as far as possible, his or her parents and to be taken care of by them (Article 7 of the European Convention on Children's Rights). The main problem with this, and other similar, articles is the interpretation of the term 'parents'. Some read the first part of the article as 'genetic parents' and conveniently leave out the second part. If the second part is also read as 'genetic parents', one should abolish gamete donation since donors, by definition, will not take care of their donor offspring. This interpretation is diametrically opposed to the essence of gamete donation, namely that the social parents are the parents.

Two positions can be adopted towards this right: first, there is no such right (it cannot be defended in the same way as other rights) or second, there is such right. Even when such right is recognized, this does not mean that donor anonymity should be abolished. This right must always be balanced against other rights of the other parties involved. In the recent discussion in Belgium on non-invasive prenatal testing, it was stressed that parents, when offered the possibility of prenatal screening, should retain the freedom to opt for a handicapped child. This freedom, which has far greater repercussions for the welfare of the child, is defended while the freedom to choose an anonymous donor would be taken away. Where is the right to reproductive autonomy of the parents now? At the same time, the right of the parents is not absolute either. If a right of the child is recognized, a compromise should be sought.

Several different compromises can be designed in the context of donor anonymity. The present double track system (in Belgium both anonymous and known donation are allowed) is already such a compromise. Several law proposals are suggesting to extend the options of the parents and thus indirectly of the children. Much emphasis was put on the additional option of identifiable donors, where the child would have the possibility to obtain the name of the donor when it turns 18. Most fertility centres support this proposal since it coincides best with the interests of their patients. Simultaneously, other law proposals want to abolish the donor anonymity completely. No proposal at the moment imposes an obligation on the parents to inform the child of its donor conception.

Welfare of the child

Reasonable people may disagree. It is good to keep this in mind in this debate. People may disagree about many things in the domain of medically assisted reproduction also because the evidence is limited especially when the social and psychological aspects are discussed. Still, caution is recommended when drawing conclusions that go far beyond the available evidence. One such statement is that a child needs the identity of the donor to create an identity. There is no evidence to support this statement. We do not even know whether knowing the identity of the donor helps the children. No reliable study exists on whether people who have looked for their donor are happier when they found him or her. The present research, sometimes due to unavoidable limitations, shows serious methodological flaws and is strongly biased by pre-empted moral positions. We do know that a fraction of the donor offspring experiences serious psychological problems but it is fully unclear whether abolishing donor anonymity will not lead to a greater fraction of the donor children experiencing even greater psychological problems. One only has to imagine that most likely a considerable percentage of the donors will refuse to have contact with their offspring in 18 years. How will that affect the children? As long as there is no clear evidence on the effects, the decision about anonymity should be made by the parents, without interference by politics. Those who argue that their proposal protects the best interests of the child should demonstrate this.

Number of donors

The defenders of the change of law argue that the opponents are lying when they state that the number of donors will drop strongly. Experience in other countries that abolished donor anonymity would show this. No data are available from Sweden. In The Netherlands, there were 917 sperm donors in 1990 compared to 185 in 2005, the moment of the change of law. This number was still the same in 2010 and there is little reason to assume that it has changed now (Kop et al., 2014). In fact, the only country (quite nicely selected) they constantly use is the United Kingdom. However, the HFEA mentions different numbers on different places on its website. In answer to a question from the public (HFEA, 2014a), it states that there were 346 new UK donors and 34 new non-UK (imported) donors (9% of the total) in 2010. In 2013, there were 209 UK registrations and 159 non-UK registrations (43% of the total). In their yearly report, they state other figures: 586 newly registered donors in 2013 (instead of 368) with about 30% non-UK donors (HFEA, 2014b). The number of donors does indeed go up, as does the percentage of imported donors. Since the reimbursement has been considerably increased in 2013, one can predict that the number will increase further with more younger and childless donors. If we accept the last set of data as correct, this number is not sufficient to cover demand. Still, the UK should be applauded because it at least makes an effort to recruit donors through large-scale campaigns. In most European countries, including Belgium, a miracle is needed before we will see anything similar.

The issue of donor numbers is mostly advanced as an argument to maintain the status quo. However, in itself this is not a strong argument. Multiple elements (such as anonymity, reimbursement etc.) determine the recruitment of donors. Society should not try to recruit the maximum number of donors; it should try to recruit as many donors as possible respecting a certain ethical framework (Pennings, 2001). The point is that even if there would be a sufficient number of donors to cover demand, it would still be wrong to ban donor anonymity. Choosing an anonymous donor is a way to position the donor vis-à-vis the family. These parents want a family without a third party in the background. The present evolution with ever stronger emphasis on contact between child and donor, long term relationships with the donor and increasing rights for donors only reinforces parents in their wish to keep the donor out. They should maintain the right to make their own choices and this should include the right not to tell and not to have an identifiable third person in their family.

References

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