Social Science & Medicine 124 (2015) 391–397

Contents lists available at ScienceDirect

Social Science & Medicine

journal homepage: www.elsevier.com/locate/socscimed

# Cross-border reproductive care for law evasion: A qualitative study into the experiences and moral perspectives of French women who go to Belgium for treatment with donor sperm

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ARTICLE INFO

*Article history:*
Available online 10 September 2014

*Keywords:*
Belgium
France
Lesbian
Single mothers
Reproductive tourism
Sperm donation

ABSTRACT

One consequence of the legal diversity in Europe is that legal restrictions on treatments can be evaded by going abroad. Many French lesbian couples and single women are crossing the border to Belgium because they are denied access to treatments with donor sperm at home. This is the first qualitative research study into the experiences and moral perspectives of these women. Between June 2012 and May 2013, 11 lesbian couples and 2 single women were recruited at the department of reproductive medicine at Ghent University Hospital. The data from the semi-structured interviews was analysed using inductive thematic analysis. The results show that these women face several additional challenges to the already difficult process of cross-border treatment. Before they can start the treatment, they can only obtain information from the internet or from stories of friends who also went abroad for treatment with donor sperm. During the treatment, they need to find local clinics or physicians to monitor their cycle. Several women managed to game the French system to ensure partial reimbursement for their treatment when they were successful in finding a physician who was willing to prescribe drugs and perform tests. Most women had difficulties justifying their absence from work. In general these women felt that they were discriminated against and that their rights were not protected because of who they are. In that regard, the lack of legal recognition of the genetically unrelated partner in their country was particularly hard to cope with for the lesbian couples. These women have to develop many different strategies to deal with the difficulties they face during cross-border reproductive care. It is concluded that it is very important that they find a physician who is willing to support them in their 'baby project'.



## 1. Introduction

Cross-border reproductive care (CBRC) is a growing worldwide phenomenon where infertile patients travel across borders to obtain treatment abroad (Gürtin and Inhorn, 2011). Pennings et al. (2008) list the main causes of CBRC: a type of treatment is forbidden by law (e.g. sex selection, anonymous gamete donation), certain categories of patients are not eligible for assisted reproduction (e.g. lesbian couples), the waiting lists are too long in one's home country (e.g. oocyte donation), the out-of-pocket costs for the patients are too high (e.g. absence of insurance), a technique is not available because of lack of expertise or equipment (e.g. pre-implantation genetic diagnosis), a treatment or technique is not considered safe enough (e.g. cytoplasm transfer) and personal wishes (e.g. privacy considerations). In general, the different causes of CBRC can be divided into two groups: legal restrictions and availability of good quality care. We define CBRC for law evasion as movement across borders to make use of assisted reproductive technologies that are forbidden in the home country or that certain categories of patients are denied access to.

CBRC for law evasion is made possible by legal diversity with regard to assisted reproduction. One of the consequences of imposing restrictions within such an international patchwork of radically different policies is that patients always have the option to go abroad to evade them. For example, after the restrictive Italian law was enacted in 2004, 'reproductive emigration' quadrupled (from 1066 in 2003, to 4173 in 2005) (Ferraretti et al., 2010).

CBRC for law evasion is a common phenomenon in Europe. The largest study to date found that 54.8% of patients travelled for legal reasons, resulting in a conservative estimate of 8000 law evading

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http://dx.doi.org/10.1016/j.socscimed.2014.09.018
0277-9536/

cycles across Europe annually (Shenfield et al., 2010). French patients constitute one of the largest groups in the study, with most of them travelling to Belgium. Belgium is a popular destination country for medically assisted reproduction, because of its central location in Europe, liberal legislation and several highly reputable clinics. Between 2005 and 2007, 2288 French women received treatment in Belgian fertility clinics (Pennings et al., 2009). This number is likely to be higher now. The overwhelming majority of French patients who travel to Belgium are lesbian couples and single women who are denied access to treatment with donor sperm at home (Pennings et al., 2009; Gomez and de La Rochebrochard, 2013). Recent changes in the French laws on gay marriage may influence the flow of French women to Belgium in the future because lesbian couples now have the right to adopt a child, giving them the chance to start a family in France. However, they still have to travel abroad if they want a child that is genetically related to one partner or if they want to experience pregnancy because they do not have access to treatment with donor sperm (Loi n° 2013-404 du 17 mai 2013).

In France, assisted reproduction is intended to respond to the desire for parenthood of a couple, consisting of a man and a woman. Assisted reproduction is considered to be a medical treatment intended to remedy infertility, the pathological nature of which has been medically diagnosed, or to prevent the transmission to the child or to one of the members of the couple of a particularly serious disease. Lesbian couples and single women are not infertile for medical reasons and hence they are denied access to treatment with donor sperm.

This is the first qualitative study looking into the experiences of French women who travel to Belgium for treatment with donor sperm. Culley et al. (2011) described the experiences of UK infertility patients who travelled abroad. The main motivations for travel among these patients were the long waiting lists due to a shortage of gamete donors in the UK. Zanini (2011) gave an ethnographic account of CBRC for law evasion by Italian patients, indicating that these patients feel abandoned and betrayed by their home country and that they see their decision to travel abroad to evade the law as embodied dissent and the affirmation of a different morality. Bergmann (2011) identified the experiences of three German couples who travelled abroad to evade the ban on egg donation as reproductive agency. He described these patients as "some kind of 'moral pioneers' in circumventing and overriding national regulations and ethical dilemmas" (Bergmann, 2011). In the present article the focus is on the experiences and moral perspectives of French women who go to Belgium for treatments with donor sperm.

Reproductive treatment is a burdensome process (Boivin et al., 2012). Having to deal with the practical issues related to crossing borders for treatment adds even more stress to the process. In practice, treatment with donor sperm is a lengthy process consisting of a general appointment with a physician, counselling by a psychologist, usually mild hormonal stimulation, blood tests and several ultrasound exams to monitor the cycle, the insemination of the donor sperm and ultimately a pregnancy or, in most cases, another insemination or IVF as the next step. For cross-border patients each step in this treatment process involves additional challenges, especially when they are evading the law of their own country. In this article, we aim to identify these challenges and the way in which patients cope with them.

## 2. Methods

We gathered data about 11 French lesbian couples and two single women. Most couples were interviewed together. In two cases only one partner was present, but specific questions were asked about the other partner's experiences and perspectives. The participants were purposefully sampled to ensure that many different profiles of patients were represented. The women were recruited at the department of reproductive medicine at Ghent university hospital. This study was authorized by the ethical committee of Ghent University Hospital (EC: 2011/865) and all participants provided written informed consent. The women were interviewed after their insemination or embryo transfer. This is a relatively short procedure that represents the potential endpoint of treatment in the clinic. After the interview, the women were given pseudonyms to ensure anonymity.

The interviews were conducted in French by the first author between June 2012 and May 2013. Before the interview, in the informed consent form and through oral communication, as well as during the interview, it was repeatedly made clear that the interviewer did not work at the hospital and that the participants would be anonymous. The semi-structured interview had the following basic parts: reasons for travelling, practical challenges, and moral views on gamete donation. It started with very open questions about the participants' reasons to go to Belgium. After that, a timeline was constructed using post-its which remained in the middle of the table during the interview to remind participants of previous experiences. Next the questions focussed on their experiences and practical issues. Their moral perspectives were subsequently questioned using fictitious declarations from other women who had gone to Belgium for reproductive treatment. Finally, we asked about their own experiences in moral areas like gamete donation, legal recognition of the second mother and the wellbeing of the future child.

The interviews were transcribed by the first author, read in detail and analysed with Nvivo using inductive thematic analysis (Braun and Clarke, 2006). Data analysis was conducted in French, the quotes in this text are translated as literally as possible. Initial codes were gradually combined to form initial themes inductively to ensure that proper attention was given to relevant data not directly asked for in the interviews. The emerging themes were continuously reviewed to see if they worked in relation to the coded extracts and the entire data, gradually developing a thematic map of the data. The links between the themes were explored revealing both the meaning of the themes as well as their relationship with one another. The final thematic map was discussed between the three authors, checking definitions, content and interrelationships until consensus was reached.

## 3. Results

After presenting the participants and their reasons to travel abroad, we will focus on their perspectives on the role their home country played in what some women called their 'baby project'. We will describe how they felt about the French law and society and what their perspective was on their reproductive rights in relation to the French policy. Then we will explore their moral perspectives on the issues of legal recognition of the second mother and the wellbeing of the child. After describing the meaning of CBRC for law evasion for the participants and their feelings and perspectives on the matter of legal and moral diversity with regard to their private life, we will describe their experiences by looking at the main challenges they faced and at the strategies they developed to deal with them.

### 3.1. Participants

Data was gathered from 11 lesbian couples and 2 single women (see Table 1). The average travelling time for the participants from their home to the clinic was 3 h (range 1–7 h). The average age of the woman in treatment was 35.5 years (range 25–42), the average