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ORIGINAL ARTICLE

# Sperm donor regulation and disclosure intentions: Results from a nationwide multi-centre study in France

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**Abstract** Gamete donation in Europe is not regulated by a common legal framework. Different laws regarding donor anonymity and remuneration exist in different countries. In France, gamete donation is characterized by a stable legal framework – the existing system of anonymous and non-remunerated donation remained unchanged following a period of public and parliamentary debate in 2011 – but little evidence is available concerning recipients' views and experiences of gamete donation. This article describes findings from a questionnaire completed individually by 714 heterosexual couple members undergoing a donor conception procedure at one of 20 national fertility centres in France. Participants were invited to report their attitudes towards the French legal framework, their perceptions of the anonymous donor, and their intentions to disclose donor conception to their child and to other people. The majority of respondents (93%) approved of the current legal framework. Participants indicated that they thought about the sperm donor in ways that emphasized his act of donation without describing him as a specific individual. A majority (71%) also stated that they intended to tell their child about their donor conception. Given that this is the largest nationwide study of French recipients of donor sperm, the findings make an important contribution to the research evidence currently available about prospective parents' perspectives in the increasingly uncommon context of donor anonymity in Europe.

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**KEYWORDS:** anonymity, assisted reproduction, disclosure, France, sperm donation

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## Introduction

Over the last 40 years, the legal landscape of gamete donation has changed significantly, such that in Sweden, Germany, Austria, the UK, the Netherlands, Switzerland and Finland, identifiable sperm and egg donation is now mandatory (Glennon, 2016). Such legal changes have been accompanied by much public and political debate about children's right to know their origins (Appleby, 2016; Freeman, 2015; Frith, 2015; Harper et al., 2016; Pennings, 2015; Ravelingien et al., 2015; Turkmendag, 2012; Zadeh, 2016). However, in Europe, despite the fact that many common legislative and regulatory frameworks exist, there is no common law regarding assisted reproduction. As such, a plurality of polarized policies on gamete donation can be identified. In some countries, such as Italy, all forms of gamete donation are illegal, while in others, such as Spain, it is possible to access fertility treatment using donor gametes irrespective of marital status or sexual orientation (Glennon, 2016). Moreover, the practice of gamete donation is differentially organized, such that in some countries, such as France, fertility treatment is subsumed under public health care, while in others, such as the UK, it remains largely privately funded.

The situation in France is of interest because legislative changes leading to donor identifiability that have taken place in other countries have not occurred there, and because of the way in which gamete donation has been organized over time. Since 1973, French fertility centres have been organized in a national network embedded within public healthcare provision [French Federation of CECOS (FFC)], and regulated by French bioethics law (L. 2011-814 passed on 7 July 2011). Despite a comprehensive legal review in 2011, social and political challenges to donor anonymity (CCNE, 2008; Claeys and Vialatte, 2008; Théry, 2010), and citizen forums organized for this purpose (Graf, 2009), the parliamentary vote maintained the *status quo* regarding donor anonymity and non-remuneration, as well as the restriction of access to treatment to heterosexual couples alone (Leonetti, 2011). While there may be some variation, information provided to prospective parents about donors is limited, and generally includes information about basic phenotype alone.

Despite the general transition to donor identifiability, both in countries within Europe and beyond, the only piece of legislation that mandates state-led disclosure of donor conception is the Children and Family Relationships Act (2015), which has recently come into effect in Ireland. Despite the limited legislature, much research has focused on the question of the relationship between the anonymity or identifiability of the donor, and patterns of parents' disclosure to their children. Some studies have found higher rates of disclosure or intentions to disclose amongst prospective parents (Brewaeys et al., 2005; Crawshaw, 2008; Godman et al., 2006; Greenfeld et al., 1998; Isaksson et al., 2011) and actual parents (Lalos et al., 2007; Scheib et al., 2003) who received gametes from identifiable sperm or egg donors. However, other research has not substantiated this (Baetens et al., 2000; Greenfeld and Klock, 2004; Kalampalikis et al., 2013). Studies of parents' disclosure practices following the introduction of

identifiable donation in Sweden found both no evidence (Gottlieb et al., 2000) and substantial evidence (Isaksson et al., 2012) that parents using identifiable donors were more likely to disclose. In the UK, no significant increase in the rate of disclosure has been shown following the introduction of legislation mandating identifiable donation in 2005 (Freeman et al., 2016). In Finland, a large retrospective study of 58% of all offspring conceived using sperm donation since 1990 indicated that the parents of offspring born since 2000 were more likely to disclose to their children than the parents of offspring born before this date (Sälevaara et al., 2013). However, legislative moves towards donor identifiability in Finland did not occur until 2007. A review of the factors that might contribute to parents' decision-making about disclosure in the studies conducted over the last 30 years concluded that the impact of legislation on parents' disclosure decisions is unclear (Indekeu et al., 2013).

In qualitative studies, parents' representations of sperm donors have been shown to be characterized by ambivalence and tensions (Kirkman, 2004; Wyverkens et al., 2014; Zadeh et al., 2016). Specifically, the sperm donor may be depersonalized while simultaneously being regarded as a person (Grace et al., 2008). The way in which parents represent the donor has been shown to be unrelated to his status as anonymous or identifiable (Zadeh et al., 2016). Moreover, parents have cited both the anonymous and identifiable status of the sperm donor as a reason not to inform offspring about their donor conception. Amongst parents who have used identifiable donors, the prospect of disclosure has been described as arousing the fear that offspring could form an attachment to the donor. Amongst parents who have used anonymous donors, it has been argued that disclosure is unnecessary or may even be frustrating for offspring, who remain unable to access identifying information (Daniels et al., 1995; Golombok et al., 2006; Losos et al., 2007; Lycett et al., 2005; Sälevaara et al., 2013). It is, however, worth noting that some donor-conceived offspring do search for their anonymous donor (Beeson et al., 2011; Hertz et al., 2013; Jadva et al., 2009, 2010; Klotz, 2016; Mahlstedt et al., 2010).

This article contributes to the limited evidence about recipients of donor sperm in France. A recently published retrospective follow-up study of 105 French parents who conceived using donor sperm (Lassalzede et al., 2017) found that 38% ( $n = 40$ ) of parents – the majority of whom had planned to tell their child before undergoing the procedure – had now told their child about their donor conception. Of those who had not yet disclosed, 65% ( $n = 42$ ) planned to do so. Despite offering an important insight into parents' actual and intended disclosure, the study by Lassalzede et al. (2017) recruited participants from a single fertility centre, in Marseille, and did not establish parents' thoughts and feelings about the legal framework of anonymity or the anonymous donor.

This article reports findings from a large-scale, multi-centre study of disclosure intentions and perceptions of the donor amongst heterosexual couples seeking fertility treatment with donor sperm in France. Given the French context, unparalleled in other parts of Europe, this systematic study sought to elicit the views of heterosexual couples regarding the legal framework of anonymity, the anonymous donor and their disclosure intentions (Kalampalikis et al., 2010).

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