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An Ravelingien & Guido Pennings

Ghent University


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Target Article

The Right to Know Your Genetic Parents: From Open-Identity Gamete Donation to Routine Paternity Testing

An Ravelingien, Ghent University
Guido Pennings, Ghent University

Over the years a number of countries have abolished anonymous gamete donation and shifted toward open-identity policies. Donor-conceived children are said to have a fundamental “right to know” the identity of their donor. In this article, we trace the arguments that underlie this claim and question its implications. We argue that, given the status attributed to the right to know one’s gamete donor, it would be discriminatory not to extend this right to naturally conceived children with misattributed paternity. One way to facilitate this would be through routine paternity testing at birth. While this proposal is likely to raise concerns about the conflicting interests and rights of other people involved, we show that similar concerns apply to the context of open-identity gamete donation. Unless one can identify a rational basis for treating the two groups differently, one’s stance toward both cases should be the same.

Keywords: gamete donation, open-identity donors, genetic parenthood, social parenthood, paternity testing, ethics

Over the past 10 to 15 years there has been a noticeable shift from anonymous to open-identity gamete donation across the world. Several governments now grant children conceived by donor insemination (once they have reached maturity) access to identifying information about their donor. This is, for instance, the case in Sweden, Norway, Austria, Switzerland, the Netherlands, the United Kingdom, New Zealand, and several Australian states. While initially the anonymity of donors was beyond question, it is increasingly being argued that gamete donor offspring have a fundamental right to know the identity of their progenitor.

In this article, we argue that if donor-conceived children have a fundamental right to know their genetic origins, it would be unjust and discriminatory not to extend this right to all children with uncertain or unknown genetic backgrounds. This means that all children who were conceived naturally should be informed about the genetic relationship with their social father, because paternity is always uncertain. Given the standard objections against paternity testing, it is likely that our proposal will raise concerns regarding the extent to which the “right to know” conflicts with other rights and interests. We demonstrate, however, that comparable issues arise within the context of open-identity donation as well.

THE RIGHT TO KNOW

A key justification for policy changes toward open-identity donation has been the argument that access to identifying information about one’s gamete donor is a fundamental human right. Precluding access to such information is said to violate Articles 7 and 8 of The United Nations Convention on the Rights of the Child (1989) in which the rights to respectively “know and be cared for by his or her parents” and “preserve his or her identity” are outlined (McWhinnie 2001). The right to respect for privacy and family life (Article 8 of the European Convention) has also been referred to as a reason to receive information about one’s gamete donor (Frith 2001a).

Underlying this rights claim is the conviction that the child is harmed and severely wronged when the child lacks information about one or both genetic parents. Knowledge of one’s genetic inheritance and genealogy is increasingly considered useful for personal assessments of health and disease. Awareness of one’s genetic background is deemed necessary for a better understanding of and decision making about one’s health risks (Ravitsky 2012). Access to a full picture of one’s genetic background is also regarded as essential in terms of one’s psychological well-being and family relationships.

Most of the literature claiming “a right to know” is based on a wealth of experience in the field of adoption. For adoptees, knowledge about their genetic parents appears to be beneficial, whereas lack of such knowledge can cause psychological problems (Feast 2003; Golombok 1998). The term “genealogical bewilderment,” as coined by Sants (1964), is often used in this respect to describe the difficulties adoptees may experience in developing a coherent self-identity and a sense of belonging. Adoptees who are deprived of information about their genetic parents can have problems constructing their own unique and
consistent personal narrative, a history that requires information about “those who came before them and those who will follow” (Chestney 2001, 375). It is suggested that the situation of donor-conceived children is in this sense similar: Donor anonymity denies the child feedback about half of his or her genetic history and about those he or she may regard as a “significant same.” Relying on principles of equal treatment, it is argued that donor-conceived children should therefore be granted the same benefits (BAAF 1984; Cahn 2009; Chestney 2001). In a recent Canadian court case, it was ruled that the province’s anonymous donation laws are discriminatory because they do not grant donor-conceived children the same rights as adoptees (Motluk 2011).

Empirical studies on donor-conceived children’s attitudes toward their conception show that many participants are at least curious about their donor (Jadva et al. 2009; Scheib, Riordan, and Rubin 2005) and some genuinely yearn for more information about or even contact with their donor (Mahlstedt, LaBounty, and Kennedy 2010; Snowden et al. 1993; Turner and Coyle 2000). In countries that still support anonymous donation, donor-conceived offspring have voiced their concerns and indignation about the inability to access their donor’s identity in court cases, academic publications, Internet blogs, support networks, and documentaries. While these personal accounts are diverse, they highlight a number of psychological implications of not knowing one’s donor, including a feeling of incompleteness, lack of genetic continuity, and lack of understanding one’s place within the family. After unsuccessful searches for their donor, donor-conceived offspring often report feelings of grief and loss.

Many people do indeed have informational needs regarding their familial, cultural, and genetic ancestry to help define who they are. Given the importance our culture attributes to genes, it is understandable that reference to an anonymous donor is not enough for the offspring to complete a worthy sense of self (Kirkman 2003). The increased emphasis on the importance of genetics—through, for instance, the recent impact of the Human Genome Project—has reinforced our interest in genealogy and supports the argument that “children not only need but also have a right to know their genetic capital for their ontological security” (Donovan 2006). The weight attached to the “right to know” also corresponds well with the current political sensitivity for values of transparency and openness in decision making, access to personal information, and the importance of children’s rights (Frith 2001b). Proponents of open-identity donation policies therefore feel that lack of openness regarding donor conception and the donor’s identity is a grave injustice.

In acknowledging the “right to know,” open-identity policies have introduced measures to help ensure that it is respected. They abolish anonymous donation, collect and maintain information about the donor, provide a medium for the donor-conceived offspring to request contact, and promote the imperative to be open and honest with the child about his or her conception status. This latter aspect is of vital importance: A child cannot exercise his or her right to know the donor if the child is not told that he or she was conceived by one. Although there is evidence of an increased willingness of parents to disclose (Daniels, Gillett, and Grace 2009), a significant proportion of parents still have not told and do not intend to do so. As this seriously limits the impact and consistency of open-identity legislation, some authors have argued that mandatory disclosure mechanisms are required for ensuring that the right to know is guaranteed (Cahn 2009; Frith 2001; McGee et al. 2001). Suggestions include the recording of donor conception on birth certificates or the formal linking of such information to the birth certificate registries.

Given the growing acknowledgment of the donor-conceived child’s right to know about his or her genetic origin, surprisingly few authors (Cohen 2012) have questioned what this right implies when extended to natural conception. In what follows, we argue that such an extension would nonetheless be consistent with the status accorded to this right and with the shared grounds for claiming it.

THE CASE FOR UNIVERSAL PATERNITY TESTING

If one accepts the weight attributed to the right to know about one’s genetic origin, this right should not only apply to children who were conceived through donor insemination. Naturally conceived children also have an interest in information about their genetic heritage. Even children growing up in apparently secure, traditional families cannot be certain that their rearing parents are in fact their progenitors. Whether or not one’s social mother is actually one’s genetic mother does seem rather straightforward: As long as the mother is the birth mother, the sole possibility of non-maternity (except perhaps in rare cases of baby swaps or abductions) is when oocyte or embryo donation was used. For the fathers, however, paternity has always been uncertain. Estimated rates of false paternity in the community at large commonly range from 10 to 30%, although various studies demonstrate that the rates are likely much lower: between 1 and 4% (Turney and Wood 2007). Following this lowest estimate, that means that in the United Kingdom in 2009, for instance, between 7,060 and 28,240 naturally conceived children with misattributed paternity were born (Office for National Statistics 2010). In comparison, that same year, only 1,756 children were born following donor conception treatment (Human Fertilisation and Embryology Authority 2012).

Naturally conceived children with misattributed paternity are just as much harmed and deceived as donor-conceived children who lack information about their genetic origin. Whether the child is adopted, conceived by an anonymous donor, or conceived by someone other than the social father, in each case, the child should have equal access to information that is deemed crucial for a full(est) estimation of his or her health risks and a true picture of who he or she is and where he or she comes from. To argue otherwise would be irreconcilable with the fundamental and universal character attributed to the right. It would also be discriminating on the grounds of means of conception. The fact that
donor insemination is used is in itself morally irrelevant. Indeed, the right to know was extended from outside the field of artificial reproduction: namely, the practice of adoption.

We therefore propose that those who support a fundamental right to know for adoptees and donor-conceived children should acknowledge and defend such a right for all children with unknown or uncertain genetic backgrounds. Here too, measures should be taken to guarantee that this fundamental human right is respected. While this suggestion may sound impractical and vague, we wish to put forward a realistic and feasible scenario that could theoretically ensure universal respect for this right: one in which DNA paternity testing is routinely performed on the newborns of heterosexual couples. DNA paternity tests are a reliable and easy way to discover the genetic relationship between a man and child. The genetic analysis is quick and noninvasive: it can be performed on a saliva swab. It is generally accepted that genetic tests will be affordable and widely available in the near future. As such, this would be a practical means to ensure that each instance of false paternity is intercepted and that all children are given an equal chance to learn the truth about their genetic origin.

The fact that the testing would be done at birth has some important advantages. For one, the child would not have to take the initiative to determine his genetic heritage him- or herself. This is important given that most children do not automatically question the paternity of their social father. Here too, it is clear that the right to know implies the right to be told. In cases of misattributed paternity, the child cannot begin to exercise the right to know his or her genetic father if the child is not made aware of the fact that this is someone other than his or her social father. Therefore, simply allowing DNA paternity testing on request of the child does not go far enough. Also, by testing at birth, it would be possible to pass on the results (confirmed paternity or nonpaternity) to the birth registry and to have them recorded on or linked to the birth certificate. Compliance would be virtually guaranteed—at least in those countries where parents bear adverse financial, legal, and administrative consequences for not registering a birth. Every child whose birth has been registered thereby has definite access to information about the genetic relationship with his or her social father, at the latest by the time the child needs to consult the registry. Finally, the decision about what to do will be simplified compared to a later revelation since no (or a very limited) social and psychological bond has been established between father and child.

Of course, a negative paternity outcome will not in itself reveal the identity of the genetic father; it only disproves the genetic tie between the child and the social father. However, as mentioned earlier, awareness of misattributed genetic parenthood is a first step in—and conditio sine qua non for—exercising one’s right to know. In their defense of donor conception disclosure, McGee, Brakman, and Gurumankin (2001) speak of “the right to know as much as possible about one’s true origin,” (2035) and according to Triseliotis (1988), “Truth is always better than deception” (22). Indeed, even within anonymous donor systems, counselors now commonly encourage parents to disclose the nature of conception (Peterson et al. 2012). Aside from the growing societal appreciation for openness and transparency, this tendency is also based on the view that secrecy can have destructive effects within a family and can give rise to communication pressures (Daniels 2007; Imber-Black 1993; Shehab et al. 2008). The continual deception involved in the decision not to disclose is said to create an uncomfortable, tense family environment and requires that the parents be permanently focused on keeping the secret (McGee et al. 2001). Following this rationale, with paternity testing, at least this discomfort is lifted. Moreover, compared to offspring of anonymous donors, children with misattributed paternity have an obvious advantage: It is highly likely that at least the mother knows the identity of the genetic father. Having the nonpaternity out in the open, and the fact that the child will find out eventually (once he or she accesses his or her birth certificate), would put pressure on the mother to inform the child about his or her genetic father early on.

THE RIGHT TO KNOW: WHERE TO DRAW THE LINE?

Interestingly, various governments have considered a policy involving paternity testing at birth. Recently, a New Jersey legislator—following a similar proposition in Kansas (McCray-Miller 2011)—proposed a bill mandating that genetic tests be applied to determine the paternity of every newborn (Friedman 2012). In Portugal, enforced paternity tests have been performed since the Civil Code of 1966. This code obliges the state to automatically initiate paternity investigations of all children under the age of 2 years whose birth certificate does not list a father. This mandatory testing policy involves paternity testing at birth. Recently, a New Jersey legislator—following a similar proposition in Kansas (McCray-Miller 2011)—proposed a bill mandating that genetic tests be applied to determine the paternity of every newborn (Friedman 2012). In Portugal, enforced paternity tests have been performed since the Civil Code of 1966. This code obliges the state to automatically initiate paternity investigations of all children under the age of 2 years whose birth certificate does not list a father. This mandatory testing policy involves paternity testing at birth.

However, many people will feel that the child’s right to know cannot be upheld unconditionally and that routine paternity testing at birth goes a bridge too far. Paternity testing is a subject of great controversy and generally evokes concern about the extent to which pursuing the genetic truth undermines other relevant rights and interests. In what follows, drawing on arguments commonly made against paternity testing, we identify various possible objections against the scenario we presented. Interestingly, the context of open-identity gamete donation appears to invoke much less concern about the potential impact of seeking the genetic truth. We argue that this double standard is unfounded, as the objections against paternity testing also apply against open-identity gamete donation. In our view, the two situations are more alike than different, and demand a consistent stance toward openness regarding the child’s genetic origin.

1. In single-parent and same-sex families, the child is automatically aware of the absence of one genetic parent.
Protecting the Family Unity

In ethical discussions on paternity testing, there is great concern for the repercussions the discovery of nonpaternity could have on the family. Here, the common view is that the “right to know” the truth about the genetic ties is not the only factor to be considered. Paternity tests have “the capacity to reveal knowledge that can change forever the way people and families relate to each other” (Turney 2010, 401). The general intuition is that paternity testing will severely disrupt the relationships within and, at worst, break up the family.

This risk obviously exists. If the nonpaternity is the result of the mother’s adultery, paternity testing will reveal a form of deceit that could be severe enough to destroy the social father’s trust in the mother. However, negative paternity results must not always have such damaging effects. Surprisingly little empirical research has been done on the effects of paternity testing on the well-being of the family members and on the continued existence of the family. It is not known how many couples effectively decide to split up after discovery of misattributed paternity and to what extent the awareness of nonpaternity causes lasting damage to intrafamilial relationships. Most of the information we do have is gathered from court cases in which the relationships between the family members involved are hostile by definition. It may turn out that revealing the truth has neutral or even positive effects and is appreciated by all those involved. In fact, in anecdotal reports of accidental discovery of nonpaternity in a medical context, the disclosure was said to be much appreciated by the parties involved and did not disrupt their relationship (Soderdahl et al. 2004; Wright et al. 2002). Particularly in the setting we constructed, less harmful outcomes could be produced. Paternity testing at birth would enable the couple to clarify their situation and discuss the problems and available options head on. A woman who conceives in adultery would anticipate the paternity testing and be impelled to inform her partner sooner rather than later. This would give both partners more time to come to terms with the facts and to work out how they will proceed. Chances are that the situation is resolved before the child is born, or in any case, before the child can suffer from possible tensions and conflicts resulting from the paternity testing.

Having said that, it is realistic that awareness of nonpaternity will be challenging for many couples and families. Nonetheless, parents of donor-conceived children also commonly express concern that information about the child’s donor origin will be detrimental to the family unity and the child–parent bond. While the relationship between the parents in itself is less affected, donor-conception parents worry that sharing information about the donor will create a “wedge” between them and the child (Burr and Reynolds 2008). In fact, many parents prefer anonymous donation out of fear that the identifiable donor will at some point interfere in their family life (Brewaeys et al. 2005; Vanfrausen, Ponjaert-Kristoffersen, and Brewaeys 2001). Within open-identity policies, however, there is a duty to facilitate and promote the values of truthfulness, openness, and transparency. Why should similar norms and values regarding families and parenthood not apply for naturally conceived families? In other words, if one feels that dishonesty and deception are intolerable in the context of donor conception, why should it be okay for naturally conceived families? Betrayal can hardly be regarded as the ideal basis for a loving, warm family—especially when it involves fundamental issues such as the conception of a child.

Protecting the Interests and Rights of the Social and Genetic Parents

Those who find the case for routine paternity testing too radical will likely draw attention to the ways in which pursuing the genetic truth thwarts other important interests and rights, in particular those of the social and genetic parents. Historically, there has always been great appreciation for the need to protect the various people involved in the determination of nonpaternity. However, open-identity gamete donation has comparable implications for the parents’ well-being and rights, although these are less emphasized.

The mother and social father. With paternity testing, the interest in knowing the truth about the paternity is generally weighed against the mother’s right to privacy. If misattributed paternity is established, it reveals a part of the mother’s past that she likely did not intend to share. This breach of privacy could bear heavy consequences, including, for instance, rejection of the mother (and perhaps of the child) by the social father, social stigma, and social and economic difficulties related to single parenthood. In fact, before medical paternity tests existed, common law referred to the “marital paternity presumption”—which held that any child born within wedlock was the husband’s legitimate child unless implausible contact (“beyond the four seas”) for more than 9 months could be proved—to avoid such consequences and to promote family stability.

In open-identity donation policies, there is also a breach of rights, but in this case it concerns both parents: by making identifiable donation compulsory, the system interferes with their choices as to how to organize their family. It also directs them toward openness about their infertility and about the use of a gamete donor, regardless of their own potential interests in keeping this matter to themselves. Having to reveal one’s infertility—a crucial aspect of a person’s self-image—is a serious violation of the social parent’s right to privacy. Moreover, the imperative to be open about gamete donation can also bear significant consequences for the parents, particularly in sociocultural environments that still do not accept donor conception and in which infertility and nongenetic parenthood are shameful. This is, for instance, the case in several Asian and especially Moslem communities (Burr 2010; Gong et al. 2009). In their study of ethnicity and infertility, Culley and Hudson (2005/2006) found that contemporary British South Asian couples experience severe pressure from family members and peers to have a child. Exclusionary techniques are used to marginalize childless women within the family unit and social networks. For some women, the inability to conceive
can severely damage their marriage, leading to abuse, rejection, or polygamous marriage. However, while infertility is highly stigmatized within these communities, there is evidence that donor conception treatment is also regarded as socially unacceptable. In their study of British South Asian men’s perceptions of donor conception, Culley and Hudson (2007) report that all participants were unanimous about the need to keep donor conception confidential. If it were known that a child had been conceived in this way, the participants feared that the “failing of manhood” would be personally and socially damaging for the man concerned and that the use of donor sperm would trigger highly negative responses from his community. In this respect, it is worth noting that Islam mandates biological inheritance and regards sperm donation as a form of adultery (Hudson and Culley in press). In such environments, if the use of a gamete donor is made known, the recipients and children are subject to scrutiny, humiliation, possibly even peer rejection. But also in the general community, donor conception is still a taboo, particularly in lower socioeconomic groups (Brewaeys et al. 2005) where other family values may prevail and where it could be particularly important not to be different from peer families. To these infertile/subfertile couples who wish to have a child of their own, secrecy about donor insemination is essential to safeguard the unity and social integration of their family. Indeed, donor conception secrecy was initially preferred to support the appearance of a “normal” father–child relationship and to protect the father from the stigma of childlessness and “failed masculinity.” The current imperative to be open about the donor denies parents the possibility of maintaining a normal appearance in these respects and makes it difficult for the social parent to override the genetic link between donor and child.

In this context, however, the right of the child to know is considered to be primordial. In fact, proponents of open-identity donation are increasingly arguing that a further intrusion of the parents’ rights and liberties is necessary in order to fully facilitate that right. As noted earlier, some authors feel that donor conception disclosure should be made mandatory. Various arguments in favor of overruling the parents’ preference for secrecy have been given. By not disclosing, the parents are said to disregard the child’s rights to autonomy and to personal information that might contribute to his or her well-being. In disregarding these rights, it is felt, the parents take an instrumental approach toward their child for the fulfillment of their own needs and ends (McWhinnie 2001; Warnock 1984). Parents are nonetheless assumed to be directly responsible for their children’s welfare; indeed, the best interest of the child is the guiding principle in present-day family law (Chestney 2001). It is argued that the interests of a donor-conceived child are even owed particular consideration because the child is the one party who was not involved in the decision to use a donor, but who is nonetheless most affected by the consequences (Daniels and Thorn 2001). Also, mandatory disclosure is not held to be overly intrusive; while it would limit some parental liberties, it does not interfere with when, how, or who can use assisted conception (Chestney 2001) and so does not interfere with one’s basic right to form and organize a family.

The current practice of paternity testing does not give nearly as much weight to the child’s perspective. Indeed, DNA paternity tests are now mainly being adopted by social fathers to discover and protect themselves against instances of “paternity fraud.” In such a setting, the child’s interests are even “disqualified and made invisible” (Turney and Wood 2007). However, it is unclear why a similar emphasis on the right of the child to know should not apply equally here. As we argued earlier, the child’s interest in information about his or her genetic origin is the same, regardless of the conception circumstances. While the term “paternity fraud” draws attention to the way in which the social father is deceived, the child is just as affected by the lie. If the nonpaternity is not disclosed, this conflicts with the respect owed to the personal autonomy of both. For the child, the lack of information undermines his or her capacity to construct an accurate image of himself or herself and to make informed decisions regarding reproductive, medical, and family-related matters. Keeping the nonpaternity a secret is therefore an equally instrumental approach toward the child in favor of the mother’s (and perhaps also the social and genetic father’s) own needs to keep up appearances. If it is in the child’s best interest to know about the misattributed paternity, the parents should act accordingly. As for the respect for privacy due to the mother, one could even argue that she has no right to keep this information to herself, as paternity information is essentially family and kinship information that concerns and belongs to the whole family (Turney 2005). Also, here too, the child’s right to know does not in itself interfere with the mother’s basic right to form and organize a family.

**The genetic father.** Another concern about paternity testing could be that if the nonpaternity results effectively pressure the mother into revealing who the (possibly unknowing or uninterested) genetic father is, the latter’s privacy too is invaded. If the child traces and contacts the genetic father, this could have an adverse impact on his personal and family life as well.

Again, there is ground for shared concern in the context of open-identity donation. Even if a donor has consented to being identified in the future, his or her circumstances years later may alter the initial view on and stance toward the donor offspring. Moreover, not all donors who agree to be identifiable also want to be contacted. Also, donors and offspring could differ in terms of the desired level of contact and the meaning they attribute to their genetic “connectedness.”

For proponents of open-identity donation, such possible negative effects for the donor do not constitute a convincing argument. There is a tendency to regard the donor’s interests as subordinate to those of the donor-conceived child. Some authors take this quite far: the Law Reform Committee in Victoria, Australia, has recently defended a right to access the identity of the donor retrospectively (Law Reform Committee 2012). The committee recommends that donor-conceived offspring be given the right to access information
about their donor, even if the donor was promised confidentiality when he donated. This means that these donors, who had no intention or desire to contact the child, would suddenly be confronted with the possibility that a child intrudes in their lives (Pennings 2012). Since most of these older donors probably have not told their partners about their donations, this could obviously cause serious frictions or disruptions in their family.

**Protecting the Child’s Best Interests**

A third objection against our paternity testing scenario could be that pursuing the child’s “right to know” here is actually against the child’s overall best interests. The well-being of a child is not an isolated variable; it will be affected by the potential threat to the family integrity and to the parent–child relationship (Ross 1996). There are also ways in which knowledge of nonpaternity could be directly harmful to the child. However, attempts to distinguish the context of paternity testing from that of open-identity donation on the basis of the potential harm to the child are not straightforward either.

The child’s sense of belonging. With paternity testing, one can assume that awareness of negative paternity results will affect the child’s sense of belonging and place in the family. Both the fact that the child is not genetically related to the social father and the probability that the child’s conception was “unintended” can be distressing in this regard. Also, insofar as the genetic link within a family is regarded as important—as is the case for many cultures—the child’s broader familial and social environment may have trouble accepting the child as a real part of the family. As a result, it is conceivable that the child will receive negative reactions and perhaps even feel rejected.

While these are genuine concerns, the context of open-identity donation raises similar difficulties. Essentially, all situations that shed doubt on the paternal ties with a child can be very upsetting for all family members involved. In this basic sense, at least, learning that the social parent one grows up with is not one’s genetic parent can be equally disturbing for both donor-conceived and naturally conceived children. Indeed, parents of donor-conceived children who prefer not to disclose the donor origin are often concerned that the child will find the news too confusing and upsetting (Brewaeys et al. 1997). Still, one may believe that the nature of the information is fundamentally different in the two contexts and the information will therefore have different effects. With gamete donation, the information to be shared involves the intense desire and deliberate decision to create a family through the use of gametes from a third party. By comparison, the information at stake in paternity testing could be far more painful and embarrassing, for instance, if it reveals the mother’s infidelity. Such information could be particularly burdensome to the child’s self-esteem.

While this is undoubtedly true, one must note that openness about the use of a donor can also be painful and embarrassing for the child if he or she experiences a negative perception of donor conception in his or her personal and/or social environment. Parents of donor-conceived children commonly fear that disclosure of donor conception will trigger negative reactions from and possibly even rejection of the child by others (Lalos, Gottlieb, and Lalos 2007), particularly by the social father’s mother and the mother’s “adulterous” act of using another man’s sperm (Kirkman 2004). The connotation of “having a baby by another man” can even lead recipients themselves to feel guilty or uncomfortable about the situation (Burr 2009).

Still, one may feel that, in general, the social discomfort involved with disclosure of misattributed paternity will be greater than with disclosure of donor conception and that our scenario will therefore have a greater impact on the child’s self-esteem and adjustment. If so, this negative impact must still be weighed against what the child has to gain in terms of a more true and full understanding of his or her identity. Moreover, in addressing the difficulties that donor-conceived children experience in dealing with their donor-conceived status, proponents of open-identity donation rely heavily on the role counseling can play. It is also argued that the potentially disturbing effects of donor conception disclosure can be curtailed if the child is told at an early age. It has been shown that age of disclosure is a critical factor in donor-conceived offspring’s feelings about their conception. Offspring who were told during adolescence or early adulthood report significantly more negative feelings toward donor conception than those who were told at an earlier age (Jadva et al. 2009; Lalos et al. 2007; Scheib et al. 2005). For those who grow up with an accurate version of their origin, the conception circumstances appear to be much less of an issue. If these strategies are reassuring for dealing with difficulties donor-conceived children may have in coping with their genetic origin, this should also apply for dealing with negative paternity test results. One of the advantages of paternity testing at birth is precisely that early disclosure is possible. As such, here too parents could seek help and counseling on how best to share this information with the child, and the child could be offered counseling if he or she has difficulties accepting the truth. This early disclosure is far more preferable than situations where misattributed paternity comes to light once the child is older. When this happens, the child is confronted with unprepared and uncontrolled circumstances on top of the difficulties related to revising his or her personal history.

As proponents of open-identity gamete donation often argue, the chance that the child will eventually find out about the nonpaternity is high, given the increased understanding of genetic inheritance throughout the child’s education and the growing popularity and availability of DNA testing. Another advantage of universal paternity testing is that it would prevent feelings of suspicion and discomfort in the children. Proponents of open-identity systems frequently argue that many donor-conceived children have always felt...
that “something was wrong” (Daniels, Grace, and Gillett 2011; Turner and Coyle 2000). Surely, this must also be true for nonpaternity in naturally conceived families.

The child’s relationship with the social father. Another obvious ground for concern with paternity testing is the effect this will have on the child’s relationship with the social father. With our proposal, it is conceivable that proof of nonpaternity could end or fundamentally change the relationship between the social father and the child. In societies that attach great importance to genetics, the unexpected absence of a genetic link can be hard to cope with. An Australian study on the use of paternity testing revealed that most men, after finding out that they were not the genetic father, felt this dismissed their right to be the father (Turney 2010).

By comparison, the situation in the context of gamete donation may seem completely different: Here, the social father agrees to the use of donor sperm from the beginning and thereby indicates that his parenting is not based on genetics. Still, many parents of donor-conceived children, the social fathers in particular, also struggle with their position toward the donor-conceived child. It is in this respect interesting that mothers often attribute physical resemblances between the social father and the child to invoke a sense of (biological) relatedness (Hargreaves 2006). Brewaeys and colleagues (1997) found that social parents are more reluctant to gain information about the donor than genetic parents, which suggests that they experience the donor as more threatening. For these parents, keeping the donor at a distance is important to minimize the donor’s significance and to protect their bond with the child. When an identifiable donor is seen as a threat to the social father, this can make it difficult for the social father to fully adopt his parental role.

The child’s relationship with the mother. With paternity testing, there is also a risk that a negative paternity result will adversely affect the child–mother bond. If it uncovers the mother’s adulterous or promiscuous past, this could undermine the child’s respect for and trust in her. Be that as it may, the current wisdom in the context of gamete donation—as mentioned earlier—is that having the truth out in the open is liberating and essential for healthy parent–child relationships, or in any case not worse than maintaining a relationship that is built on deceit and lies. Moreover, offspring who eventually find out they were donor conceived are said to feel very angry, especially toward their mother, for having been lied to (Jadva et al. 2009). By contrast, for both adopted and donor-conceived children, higher levels of communication between parents and children about their origins is thought to be associated with more positive child and family functioning (Cahn 2011; Freeman and Golombok 2012; Lycett et al. 2004). It is unclear why this justification should not hold for openness about nonpaternity in naturally conceived families. As the deception involved is likely to be more severe (since it involves both the child and the father), the secrecy should be even more stressful and destructive than in donor-conceived families. In any case, the decision not to disclose nonpaternity would appear to be a poor strategy to protect the child–mother relationship.

The child’s relationship with the genetic father. Another problem raised by paternity testing is that a negative outcome introduces a potential role for an outsider—the genetic father—in the child’s life. A confrontation with this genetic father could turn out to be difficult and disappointing, for instance, if the man does not meet the child’s expectations or if the man and child desire a different level of commitment. It is in itself interesting that, in the context of paternity testing, the emphasis lies on the risk of damaging the child–social father relationship, whereas the focus in open-identity gamete donation is rather on creating an opportunity for the child to establish a relationship with the genetic father. Through contact with the donor, the child can expand his or her group of “significant sames,” rather than diminish it. In this respect, the few studies that have been conducted on contact between donors, parents, and donor-conceived offspring are reassuring, as they report overall positive experiences (Freeman et al. 2009; Jadva et al. 2010). The question here is why one should not share the same optimism about potential contact between a child and the genetic father in nonpaternity cases. The risk of disappointment is essentially the same. For donor-conceived children, there is also a chance that they will not “connect” with the donor when they meet him. Particularly in countries where the parents have no say in the selection criteria, the donor could turn out to be very different from what the child hoped for. In fact, for these children, this is an even bigger risk: In nonpaternity cases, at least the mother knows (and “chose”) the genetic father. It is also possible that the donor will not live up to the child’s expectations in terms of the type of relationship the child envisages. In fact, and as mentioned earlier, the donor may not be interested in contact with the child at all. True, in contrast to most nonpaternity cases, the donor deliberately helped to conceive the child but accepted in advance to share his identity. However, this does not necessarily mean he wants to play an active role in the child’s life. In both contexts, the progenitor did not intend to have a child himself, and contact requests may, or may not, create a complicated situation, depending on the donor’s personal motives and family situation.

CONCLUSION

Proponents of open-identity donation policies have grounded the right to know one’s donor in universal human rights principles. We have argued that, given the assumed importance of this right, it would be unjust and discriminatory if this did not apply equally to all children with the same underlying interests. This implies that all children with unknown or uncertain genetic backgrounds should be made aware of their genetic roots. One way to facilitate such a universal right to know would be through routine paternity testing of children at birth. Granted that the test results are recorded on or linked to a birth register, such a measure would reveal the truth of the assumed genetic ties between father and child and—if the results are negative—pressure
the parents/mother into disclosing the genetic father’s identity. Although the impact of revealing nonpaternity on the well-being of and relationships between all parties is potentially severe, these concerns largely apply to the context of open-identity policies as well. Insofar as the consequences of pursuing the child’s right to know are comparable in both settings, one’s stance toward this right should be consistent. One should conclude either that the “right to know” is of paramount importance in both contexts, or that the weight attributed to this right is disproportionate to the other interests and rights at stake.

REFERENCES


Chestney, E. S. 2001. The right to know one’s genetic origin: Can, should, or must a state that extends this right to adoptees extend an analogous right to children conceived with donor gametes? Texas Law Review 80(2): 365–391.


