

EXAMINATION OF IDENTIFICATION RIGHT (RIGHT TO KNOW) FOR CHILDREN BORN THROUGH THE GAMETE DONATION

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Abstract

Given the importance of family and its role in the formation of human society and Islam's accentuation on family and its consistency, carelessness and negligence against the new issues that arise in this regard is not justified. One of these issues is artificial fertilization. With regards to high rate of infertility in the society (10% to 15% of couples) in the current situation, the probability that the present and biologic parents of children to be different or the children to be formed in someone other than their biologic mother's womb or the ectopic pregnancy is much more than past. This issue brings about a lot of questions in relation to what the persons should know about their parents and birth condition and what the effect of this knowledge their fate. The method of gamete donation include of infertile couples, third party and born child and one of the important subjects is to tell the truth to the born child or not, because each of these strategies has its own effect on the couple's life. Right to know about the lineage of true self is an important reason to inform the children that have been born using the donated gametes.

Keywords: Children, donation, gamete, biologic parent, identification right

Introduction

Right to have child for the couple or one of them who cannot reproduce should not be an excuse for ignoring the ethics and having child by abnormal or outside of marriage methods of reproduction. Nowadays, new technologies provide gamete and embryo donation to the infertile couples. In recent years, advances in medical science and infertility make many couples fertile in the near future. Therefore, the identity of persons were clear in the past and they had no problem to identify their real parents but with regards to high rate of infertility in the society (10% to 15% of couples) in the current situation, the probability that the present and biologic parents of a child to be different or the children to be formed in someone other than their biologic mother's womb or the ectopic pregnancy is much more than past.

The Children' Right to Know their Biologic Parents

Right to know about the lineage of true self is an important reason to inform the children that have been born using the donated gametes. (Daniels, K & Taylor 1993, p 159). Chair

of Committee of Inquiry into human fertilization and embryology confirmed this right and stated that the children's right will be ignored if the truth is not disclosed in favor of the parents. However, the parents have right to be anonymous, but the basic principle of the family is that the interests of the child should be always the primary concern. (Warnock, 1984).

Many commentators and scholars of law confirm that there is necessary to lay down laws on children of the donated gametes, because such children already have reached to the legal age or they will be in the near future and many of them inquire to find the donor's identity who has contributed to their birth. (Julie, 2009, p 919).

There are arguments to give the information properly in this regard to the children. The children usually ask questions in special ages which are difficult to answer. It's not for that the parents don't know the answer but they prefer not to answer it in that situation.

Today, most psychologists and psychiatrists emphasize that how to answer and time for answering to these kinds of questions is very important. Many questions about the child's birth are among this kind of questions where the manner of answering is more important than the content of answer. Furthermore, the consequences of answer should be considered instead of avoiding answer to the questions. (Mac Dougall, 2007, p 23).

Both knowing and not knowing can create stress on the person, so we can not definitely say that which of them is good for anyone. Thus it is better for the person to decide to know about it or not. That is, the persons determine that if they want to access to such information or not.

The persons' right to know their biological parents can involve the community and government's commitment to provide information about the person so that the government is bound to find the information and give them to the claimant by any means even if there is no previous record or if they are confidential. That is the community and government shall spontaneously give the respective information to the person or his or her legal parents even without application of children of assisted reproductive techniques.

If we give the right to know to the persons but we only give them the freedom to know with no cooperation, then we do not consider the community and government liable to pursue the right to know for the children born through the donated gametes. The person has right to know his or her biologic origin but it does not seem that knowing biological parents is a kind of right. Basically, right arises where the inherent dignity and moral agency of the person put him or her at risk.

This lack of knowledge does not impair the identity of persons at general because the children have lived with carers who were not their biological parents but they have considered them as their real parents and almost all relationships between the parents and children is common among them. (Rasekh and Khodaparast, 2007, p 247-258). On the other hand, the family is the most suitable place for growth of character and mental aspects of the person especially in the early years of his or her life and the people do not necessarily live with their biologic parents in the family. Therefore if the family is basis, then we will not define the parents as the biologic ones. (Farahanchi and et al, 2009, p 22).

Conflicting Interests between the Parties Involved in the IVF Process

Laws that authorize disclosure of donor identity emphasize on the conflicting interest of both parties who are involved in In Vitro Fertilization process in the laboratory where the donor's eggs or sperm is used for fertility. These contradictory interests are such as tendency to keep the donor's information confidential, tendency of children to find information about their true self and tendency of present parents to take family decisions on raising their children without unnecessary intervention of government. (Julie, *ibid*, p 919-952).

Change of attitudes and greater acceptance in the treatment of infertility happened just that time the most societies have attempted to focus more on the rights of children. For example the United States Convention on the Rights of Child (1989) is the fastest signed international convention on the Human Rights. (Freeman, 1996, p 273-297).

One of the most important rights of children is to know their real parents. (Clause 7). The children's right to know the identity of gamete donor is expressed in the issue of donor anonymity. Development of knowledge and gradual change in attitudes and views will enable us to acknowledge that the young people have harder moral claims to know their biologic identity in the contemporary society.

Now it is time that these moral claims become the moral rights. Such an argument which is based on law is used by various legislators to justify the policies in relation to the anonymous gamete donation. Reproduction act 1992 and Austrian medical science interpret the clause 7 of convention on the Rights of Child and conclude that right to know the parents, clause 8 of Europe Convention on Human Rights and right to respect the family life show that the sperm donor should not be anonymous because it is a violation of such rights. (Blyth, 1998, p 69-77)

Proponents of legislation that allow or require the disclosure of donor identity argue that the children who have been born by the Assisted Reproductive Technology have benefit to realize their genetic inheritance and identity of their genetic parents. Moreover, a child may look for an opportunity to begin a relationship with his or her genetic parent or to find out that if he or she has any brother or sister or not.

The abovementioned benefits may be considered legal but they should be kept in balance with benefits of the donor's anonymity. In addition, knowing the identity of donor can defame the child and it may have other negative effect on the child. For example, the child calls the donor but he or she is rejected. It is unrealistic to expect that the donors who have agreed to be anonymous to be ready to accept the disclosure rules.

First, it is likely that later the donors do not react positively to the children born through the donated gametes. Second, it is wrong to think that the government is responsible to allow the children born through the donated gametes to access the information about the donors.

The children born through the donated gametes have different and special interests at different times. For instance, at a time when the child needs a bone marrow transplant or financial support, he or she has benefit to contact the donor. But this does not mean that the children can claim to get a bone marrow or financial help.

These examples show that the benefits of children born through the donated gametes are unique. In some cases, the child's interest to find information about the donor may be more

than curiosity and or this interest overshadow the interests of donors who prefer to be anonymous.

Good judgment in these cases requires balancing the personal interests of child against the donor's interests. In a balancing test, It may better for the legislators take a look at this issue that how a good reason allow the children to access their real I.D.

Conclusion

It seems that the cultural-social beliefs and family conditions are effective in assessing the advantages and disadvantages of disclosing truth about the children born through the donated gametes. The realistic and devotedly factors in one hand and the genetic relationships with family on the other hand compete with each others. It worth noting that the parents are not only bound to provide a good life for their children, but also they should make them to be happy and satisfied. In fact, the special counseling can help the people to know about the right way and time to tell the truth to the child. The families prefer to deprive the children from their natural right to know about their identity because they fear from the people's reaction and possible consequences of disclosing the truth. If the society solves this problem, it will help the free flow of information.

In general, the abovementioned principals and the medical ethics confirm the need to disclose the biological background of child.

Actually, it should be noted that the parents who have raised the child are responsible ethically but not legally to disclose the biological parentage of child born through the donated gametes. So, any real or legal person has no right to disclose the relevant information or right to put pressure on the parents in relation to how and when to disclose the biological lineage of the child.

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