Mandatory Sperm Donor Registration
*Instrumental, Symbolic or Somewhere in Between? A Comparison of Laws*

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**Abstract**

Seven European countries prohibited anonymous sperm donation. This article looks at the similarities and differences of these laws. The laws share the structure of a prohibition and an obligation. Another common characteristic is that they all lack the legal provision to inform children that they are donor offspring. This suggests that the laws are merely symbolic.

The laws differ regarding their orientation. The Swedish and Norwegian laws are value-oriented. They explicitly aim at the best interest of the child and try to guarantee that the child will grow up under good conditions. The Dutch law is merely process-oriented.

To decide whether the laws are instrumental or symbolic, the missing provision of the laws is discussed. Next to that, the ultimate goal of the laws is considered. The conclusion is that a deeper look in to parliamentary debates is needed to determine the characters of the laws.

**Keywords**

artificial reproduction – non-anonymous sperm donation – review of the policy underpinning the laws – characterising laws
1 Introduction

In Europe, and elsewhere in the world, artificial insemination with donor sperm is regulated along two different lines. Some countries allow insemination with the semen of anonymous donors, others do not. In this article I will focus on the latter: the group of countries which prohibit this practice. Lawmakers in these countries wish to help donor offspring who want to obtain information about the donor. They do so by making the registration of sperm donors mandatory, which means that children can later obtain donor information. In this article I will compare how the laws on mandatory sperm donor registration in six civil law countries (Sweden, Austria, Switzerland, Norway, Finland and the Netherlands) are designed. A comparative analysis of the actual effects of these laws in these six countries is not feasible in the framework of this study, given the lack of data available. Therefore, this research is limited to the question of how these laws can be characterised and compared with respect to their potential effects.

1 The Design of the Laws on Mandatory Sperm Donor Registration

1.1 A First Look

In 1985 Sweden was the first country to prohibit anonymous sperm donation in clinics. Today, this law is integrated in a wider legal framework which not only regulates artificial insemination, but also in vitro fertilisation, genetic research,

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1 The laws on artificial reproduction not only regulate sperm donation but also egg donation. However, because sperm donation is by far the most common, and there are hardly any differences with respect to the other regulations, I write for the sake of convenience only about sperm donation.

2 Seven European countries have introduced laws on mandatory sperm donor registration: Sweden, Austria, Switzerland, the Netherlands, Norway, the United Kingdom and Finland. Alongside these countries, four states outside Europe possess such regulation: New Zealand and the Australian states of Victoria, Western Australia and New South Wales. (E. Blyth and L. Frith, ‘Donor-conceived people’s access to genetic and biographical history: an analysis of provisions in different jurisdictions permitting disclosure of donor identity’, International Journal of Law, Policy and the Family 23 (2009) 174).

3 I speak of children in the sense of the offspring of sperm donors. The persons seeking information can be, and often will be, adults.

4 The UK law, an act within a common law jurisdiction, is in its purpose more or less equivalent to the other laws, but incomparable in its length and detail. I have therefore omitted the UK law from this study.
handling human embryos and so forth. (*Lagen om genetisk integritet: The Genetic Integrity Act*).\(^5\) Austria was the only country to follow the Swedish example during the 20th century and enacted a similar prohibition (*Fortpflanzungsmedizin-Gesetz*,\(^6\) in effect since 1992). In 2002, Switzerland was next (the German title of this act is similar to the Austrian one: *Fortpflanzungsmedizin-Gesetz*),\(^7\) quickly followed by Norway (*Lov om humanmedisinsk bruk av bioteknologi m.m. (bioteknologiloven: Act relating to the application of biotechnology in human medicine*)\(^8\). The Netherlands (*Wet Donorgegevens Kunstmatige Bevruchting: Artificial Insemination (Donor Information) Act*)\(^9\) and Finland (*Laki hedelmöityshoidosta: Act on assisted fertility treatments*)\(^10\) enacted laws prohibiting clinics from working with anonymous semen donors in 2004 and 2006 respectively.

The Norwegian *Lov (5-12-2003:100)* resembles the Swedish Genetic Integrity Act in many ways. With respect to content, the Finnish, Austrian and Swiss laws on artificial insemination are less extensive than the Swedish and Norwegian ones; where the latter also regulate genetic research and the handling of human embryos, the former do not. The Dutch law is the least extensive in this respect; it only regulates sperm and egg donation. This law also differs in another way, as it only covers insemination with donor semen and not insemination with a partner’s semen (as the other laws do). See Table 1 for a summary of the artificial reproduction techniques subject to regulation.

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The six laws are very much alike in their gist. As we have seen, they prohibit artificial insemination with semen from anonymous donors. They also regulate the collection and storing of data. The clinics that obtain the sperm or in which the fertilisation takes place are required to collect the data. The countries differ

12 Lag (2006:351) Chapter 6, Section 5; Article 1. §§ 23 FMedG [Ö]; Chapter 4, Article 24 FMedG [S]; Lov (5-12-2003:100), §2.11; Article 2.1 wdkb; Lag (1237/2006) Chapter 2, Section 12.
with respect to where the data should be stored. The fertility clinics have to store the data in Sweden and Austria, whereas in Finland, the Netherlands, Norway and Switzerland the information is stored in central databases.¹³ Table 2 sets out the laws’ main provisions.

1.2 A More Detailed Look

In principle, the laws on mandatory sperm donor registration have consequences for various parties: donor offspring, parents, donors, clinics and databanks.¹⁴ What are the rules regarding these different persons and institutions?

1.2.1 Donor Offspring

Table 3 summarises the main provisions on the information to be collected. The six laws regulating assisted reproduction in the jurisdictions studied provide donor offspring with the possibility of obtaining donor information. In some laws this possibility is framed as a ‘right’. For example, Article 2.7 of the Norwegian Lov (5-12-2003:100) reads: ‘Any person who is born as a result of medically assisted reproduction using donated sperm has a right to information on the sperm donor’s identity at the age of 18 […]’.¹⁵


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¹³ Lag (2006:351) Chapter 6, Section 4; Article 18 FMedG [Ö]; Chapter 4, Art. 25-26 FMedG [S]; Lov (5-12-2003:100), §2.8; Article 4 wdkb; Lag (1237/2006) Chapter 3, Section 19.

¹⁴ Agencies responsible for enforcement and supervision are also regulated by these laws, but I will not consider them further in this article.

¹⁵ Lov (5-12-2003:100), §2.7.

¹⁶ Lag (1237/2006) Chapter 4, Section 23: Right to obtain information:
Non-disclosure provisions notwithstanding, a person who may have been born from a donated gamete or embryo shall, upon attaining the age of eighteen (18), be entitled to obtain from the service provider a copy of the consent to treatment and the donor code noted thereon, and, by providing the donation register with the code, to learn the identity of the donor.

¹⁷ Lag (2006:351) Chapter 6, Section 5: Right to information:
A person conceived through insemination with sperm from a man to whom the woman is not married or with whom the woman does not cohabit has the right to access the data on the donor recorded in the hospital’s special journal, when he or she has reached sufficient maturity.
The age at which a child may obtain such data is also regulated. The Swedish Genetic Integrity Act does not mention a specific age (it uses the term ‘sufficient maturity’); but the other laws discussed here do, providing access to information about donors to children from ages ranging between 14 and 18.19

The information the children can receive differs between countries. The Swedish Lag (2006:351) and the Norwegian Lov (5-12-2003:100) do not specify the information a child can acquire. The Swedish law only states ‘the data on the donor recorded in the hospital's special journal’20 and the Norwegian Act relating to the application of biotechnology in human medicine refers to this being regulated elsewhere.21 In Finland a child can obtain donor-identifying information.22 In Austria donor offspring can also obtain the donor's contact details, more specifically his name, place and date of birth, nationality, place of residence, parents’ names, time of artificial insemination and the results of the medical examination.23 In Switzerland a child can also receive data on the donor's physical characteristics and personal data (such as name, place of birth and data on medical examinations). The Swiss legislator decided that if the donor does not want personal contact, the child should be informed of this (and be told that the donor has this legal privilege).24 In the Netherlands children aged 12 and over and children aged 16 and over have different data access rights. Children between 12 and 16 can obtain information on physical characteristics, education, occupation, social background and character. Children over 16 can obtain person-identifying information (which the donor has to agree to).25

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18 Lag (2006:351) Chapter 6, Section 5. According to Stoll it is clear from the parliamentary debate that the Swedish legislator considered a person aged 16 as mature in this respect (Stoll, Swedish donor offspring (n 5) at 46).
19 Article 1. §§ 20.2 FMedG [Ö]; Chapter 2, Article 27 FMedG [S]; Lov (5-12-2003:100), §2.7; Article 3.2 wdkb; Lag (1237/2006) Chapter 3, Section 23.
20 Lag (2006:351) Chapter 6, Section 22.
21 Lov (5-12-2003:100), §2.12: ‘The Ministry may by regulations lay down further provisions on the organization of sperm banks, the use of donated sperm and the registration of and reporting on sperm donors.’
22 Lag (1237/2006) Chapter 4, Section 23.
23 Article 1. §§ 15 FMedG [Ö]. In exceptional cases the child’s parents or representatives can obtain medical information (Article 1. §§ 20.2 FMedG [Ö]).
24 Chapter 2, Article 27 FMedG [S].
25 Article 3 wdkb. The child’s general practitioner can request medical information if this is in the interest of the healthy development of the child.
1.2.2 The Parents

Some countries demand specific criteria to be met by the recipients of donor semen. In Sweden, Austria, Switzerland and Norway artificial insemination is only allowed to women who live with a partner (in some cases they must be married or have a registered partnership)\(^{26}\). In Finland and the Netherlands single women can also be treated. Most countries also require that the couple must not otherwise be able to conceive. In this respect Finland and the Netherlands are again exceptions.

Most laws make further demands of the parents. For example, the Finnish law (Lag (1237/2006) Chapter 3, Section 8.5) states that artificial insemination is prohibited ‘if it is apparent that the child’s balanced development cannot be guaranteed’; the Swedish law (Lag (2006:351) Chapter 6, Section 3) states that ‘the insemination may only be carried out if it can be assumed that the prospective child will grow up in good conditions’; and the Norwegian law (Lov (5-12-2003:100), Chapter 2, Section 2.6) states:

The decision [to undertake treatment with a view to medically assisted reproduction] shall be based on medical and psychosocial assessment of the couple. Importance shall be attached to the couple’s capacity to provide parental care and the best interests of the child.

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\(^{26}\) Lag (2006:351) Chapter 6, Section 1 (in the near future artificial insemination for single women will be permitted); Article 1. §§ 2.1 FMedG [Ö]; Chapter 2, Article 3.2 FMedG [S]; Lov (5-12-2003:100), §2.2.
The Austrian and Dutch laws do not contain such provisions. See Table 4 for the requirements on sperm recipients.

This overview shows that parents at most play an indirect role in the laws, in the sense that the best interest of the child are sought (or what is regarded as being in the child's best interest, such as having two parents and a stable home environment). The possible direct interests of the parents, such as privacy, do not play any role whatsoever.

### 1.2.3 The Donor

None of the laws on mandatory sperm donor registration in the jurisdictions studied consider the donor's interests; they only make demands on the donor's medical suitability and consent, written or otherwise. The Finnish provision

<table>
<thead>
<tr>
<th>Couple</th>
<th>No other way to conceive</th>
<th>Requirements on parents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>x</td>
<td>Child will grow up under good conditions</td>
</tr>
<tr>
<td>Austria</td>
<td>x</td>
<td>Parents can offer a suitable situation</td>
</tr>
<tr>
<td>Switzerland</td>
<td>x</td>
<td>Ability to provide parental care and the best interest of the child</td>
</tr>
<tr>
<td>Norway</td>
<td>x</td>
<td>Guarantee the child's balanced development</td>
</tr>
</tbody>
</table>

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27 The Swedish Genetic Integrity Act provides little regulation regarding the donor. It merely states that a doctor should select a suitable donor and that the use of semen from a dead donor is prohibited (Lag (2006:351) Chapter 6, Section 4). Importing frozen semen is only possible with permission from the National Board of Health and Welfare (Lag (2006:351) Chapter 6, Section 7). The Norwegian Law on the application of biotechnology in human medicine is very similar: the donor should be of age and a doctor should ensure that the donor is suitable. Furthermore, a donor can withdraw consent before insemination (Lov (5-12-2003:100) § 2.9 and § 2.10). The Swiss Fortpflanzungsmedizingesetz states that donors should be selected carefully to avoid health risks; other selection criteria are forbidden (Chapter 2, Article 19 FMedG [S]). The Austrian Fortpflanzungsmedizingesetz also requires that the semen should not pose a risk to the health of the woman or the child. The law further requires that a donor may only donate to one clinic, and that the clinic should make this clear (Article
that the donor can become the legal father of the child is the only exception to this pattern.28

1.2.4 The Clinics and the Databanks
As mentioned above, the laws prohibit fertility clinics from using anonymous donors and require them to collect donor information. The Swedish and Norwegian laws on artificial insemination offer little information on how data should be collected and stored, merely stating that ‘data concerning the donor shall be recorded in a special journal’.29

The other laws studied here are, as seen above, more prescriptive on how the data should be collected. There are two different regimes for storing donor information: local and central. Local storage (as used in Sweden and Austria) means that the data is stored at the clinics at which insemination is performed.30 Finland, the Netherlands, Norway and Switzerland have central databanks to which clinics send information. The central databanks vary. In Switzerland the information is sent to the Federal Civil Status Office. In Finland the National Authority for Medico-Legal Affairs administers a record of semen donation and related data.31 In the Netherlands the law established a new institution for the storage and provision of information (the Dutch Fertility Donor Information Foundation).32

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1. §§ 12 and §§ 13.2 FMedG [Ö]). The Finnish Law on assisted fertility treatments requires the donor to be at least 18 years old and to have undergone a medical examination for conditions that may pose a potential health risk to the mother or the child (Lag (1237/2006) Chapter 3, Section 13). Some of the laws discussed here need for the donor’s written consent. The Swedish Lag (2006:351) and the Dutch wdkb do not provide for such a requirement, while the laws on donor registration in the other four countries do (Article 1. §§ 13.1 FMedG [Ö]; Chapter 2, Article 18 FMedG [S]; Lov (5-12-2003:100) §2.9; Lag (1237/2006) Chapter 3, Section 16).


30 This means donor offspring will first have to find out at which clinic their mother was treated. The Swedish Genetic Integrity Act provides help for children in their search for information ((Lag (2006:351) Chapter 6, section 5):

If a person has reason to believe that he or she was conceived through such insemination, the social welfare committee is obliged, on request, to help this person to find out if there are any data recorded in a special journal.

31 This organization is also responsible for licensing clinics.

32 The character of the Norwegian databank is unclear. Lov (5-12-2003) refers only to a record of the identity of sperm donors (Lov (5-12-2003) § 2.9).
1.3 An Initial Characterisation of the Laws

Even though the laws on mandatory donor registration are similar at their core, the laws differ considerably in their character (see Table 5). The earliest enacted, the Swedish Genetic Integrity Act, pays relatively more attention to the child and its family situation,\(^ {33}\) and, as we have noted, relatively little to the collection and storage of donor information. This task is left to additional regulation by the Social Welfare Committee. The Norwegian law on donor registration closely resembles the Swedish law.

In contrast to the Swedish Genetic Integrity Act, the Dutch Artificial Insemination (Donor Information) Act does not express concern for values such as ‘the right of the child’, a suitable home environment or restrictions on artificial reproduction. Its main concern is collecting and storing donor data.

The two *Fortpflanzungsmedizingesetzes* and the Finnish Law on assisted fertility treatments take the middle ground between Sweden and Norway on the one hand and the Netherlands on the other. Article 3 of the Swiss *Fortpflanzungsmedizingesetz*, for example, states explicitly that ‘assisted reproductive techniques may be used only if the well-being of the child is ensured’ (Chapter 2, Article 3 FMedG [S]). Furthermore, the Swiss law pays considerable attention to licensing requirements and reporting by license holders.\(^ {34}\)

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**Table 5** Orientations of the laws on artificial insemination

<table>
<thead>
<tr>
<th>Value-oriented</th>
<th>In between</th>
<th>Process-oriented</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden/Norway</td>
<td>Austria/Finland/Switzerland</td>
<td>The Netherlands</td>
</tr>
</tbody>
</table>

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33 In addition to the powerfully formulated ‘right to information’ (Lag (2006:351) Chapter 6, Section 5), the law states that ‘insemination may be carried out only if the woman is married or cohabiting’ (Lag (2006:351) Chapter 6, Section 1); ‘The insemination may only be carried out if it can be assumed that the prospective child will grow up under good conditions’ (Lag (2006:351) Chapter 6, Section 3); and ‘[i]f a person has reason to believe that he or she was conceived through insemination, the social welfare committee is obliged, on request, to help this person find out if there are any data recorded in a special journal’ (Lag (2006:351) Chapter 6, Section 5).

34 Chapter 2, Article 8-14 FMedG [S]. In the Finnish Lag (1237/2006) the first value is represented by the requirement that the prospective mother’s age may not be considered a risk to the health of the child (Lag (1237/2006) Chapter 2, Section 8.3) and that the balanced development of the child should be guaranteed (Lag (1237/2006) Chapter 2, Section 8.5). The second (focusing on administrative tasks) is guaranteed through specifications on consent documents, notification procedures and data storage (Lag (1237/2006) Chapter 2, Section 10,12; and Chapter 3).
The Austrian law is unique: although the Fortpflanzungsmedizingesetz in principle allows artificial insemination, it suggests that it should preferably be avoided. I arrived at this conclusion because the law imposes rather strict requirements on the couple's medical status, pays considerable attention to the formal recording of consent, and provides that doctors and nurses are not required to participate in artificial reproduction. Furthermore, the donor data storage system is not very supportive of children whose parents do not wish to assist them in finding donor information.35

2 The Intended Effects

2.1 Instrumental Law
Laws which try to effect a change in society, as the laws on mandatory sperm donor registration seem to do, are considered instrumental laws. Instrumental laws are divided into two types: laws that regulate the behaviour of the parties affected, and laws that create space for action. The first type of law tells citizens what to do and what not to do (for example, not to drive while intoxicated). The second provides citizens with a power to act: they are free to use it or to refrain from doing so (for example, to write a will).

The analysis of the laws on mandatory sperm donor registration makes clear that these laws represent a combination of both types (see Figure 1). In this combination, the former is a means to the latter. Creating the possibility for donor offspring to receive donor information is the primary aim of these laws.

<table>
<thead>
<tr>
<th>Regulating behaviour</th>
<th>Providing space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibition</td>
<td>Using anonymous donors is not allowed</td>
</tr>
<tr>
<td></td>
<td>Children can obtain information</td>
</tr>
<tr>
<td>Obligation</td>
<td>Collecting information</td>
</tr>
<tr>
<td></td>
<td>Storing information</td>
</tr>
</tbody>
</table>

FIGURE 1 Review of the policy underpinning the laws on mandatory sperm donor registration

35 As in Sweden, the information is stored locally, but unlike in Sweden there is no assistance for children who want to obtain donor information.
When considering the effects of a law, direct effects are distinguished from indirect effects. If a person/institution (e.g. a clinic) acts in accordance with the law because of the law’s provisions, the law has a direct effect. Direct effects are also called rule-guided behaviour. The anticipated results of direct effects are indirect effects. An example of a possible indirect effect is the expectation that refraining from driving while intoxicated will result in fewer car accidents and greater road safety. The empowerment of children to obtain information is supposed to be an indirect effect of prohibiting anonymous donation and requiring the collection and storage of donor information.

It appears that the Netherlands is the only country that has tried to estimate the effects of the law which made sperm donor registration mandatory. Because the Dutch WDKB is so recent that no donor offspring are old enough to permitted to request information, the evaluation of this law is restricted to its direct effects. The research found that Dutch clinics do not use anonymous donors, that they collect the required information and that the central database stores it. As some doctors and parents have already obtained information, it is clear that the system works.

This review of the policy underpinning the laws suggests that the main aim of these laws is to provide donor offspring with the power to obtain donor information. The wording of some of these laws (the Swedish, Norwegian and Finnish ones), however, suggests that there is a more extensive goal: to seek justice for donor offspring (see Figure 2). Providing justice for donor offspring is seen as a second indirect effect (here labelled as the ultimate goal).

<table>
<thead>
<tr>
<th>Regulating behaviour</th>
<th>Providing space</th>
<th>Ultimate goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibition</td>
<td>Children can obtain information</td>
<td>Justice for donor offspring</td>
</tr>
<tr>
<td>Obligation</td>
<td></td>
<td></td>
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</tbody>
</table>

**FIGURE 2 Second review of the policy underpinning the laws on mandatory sperm donor registration**

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37 I looked for references in scientific articles on artificial reproduction and searched the internet using both English and German terms to find articles reporting on empirical research into the laws’ effectiveness. I found no relevant results other than the Dutch report.

2.2 Symbolic Law

The fact that the Netherlands is the only country that has considered the direct effects of its regulation raises the question of whether the laws on mandatory sperm donor registration in the other five countries discussed in this article are intended to be instrumental laws. After all, the laws intrude to quite an extent into the private lives of the parents and donors, as they force them into a system of non-anonymous donation. It is reasonable to examine whether this intrusion can be justified by its effects. According to a study of the effects of law in the Netherlands, there are other reasons for supposing that the laws are not instrumental.\textsuperscript{39} This study argues that a discrepancy between the aim of a law (its intended indirect effect) and the means by which that should be achieved can suggest that the law is merely symbolic. The question is then whether such a discrepancy can be found in the laws regulating artificial insemination in the six jurisdictions.

Several authors propose that the laws on mandatory sperm donor registration have such discrepancies because they do not require children to be informed that they are donor offspring.\textsuperscript{40} The underlying idea is that the laws can only be effective if they provide that children should be informed that they are donor offspring. Accepting this argument requires a third means to be added to Figure 1 above: informing children about the method of their conception (see Figure 3). Such an obligation could act on various parties. For example, the state could change birth certification rules to require that they indicate whether a child was conceived using donor semen\textsuperscript{41} or clinics could be obliged to encourage parents to inform their children. Parents could also be obliged to be open about their child’s conception.

The idea of a missing means for providing information begs the question: who is to be provided with the opportunity to obtain donor information? Is the law aimed at all donor offspring, or is it merely focused on those children who know


\textsuperscript{40} For example Stoll, \textit{Swedish donor offspring} (n 5) at 73; and Winter et al., \textit{Evaluatie Embryowet} (n 38) at 207–208.

that they are donor offspring? In the latter case there is no discrepancy. The laws are silent on this point, but the studies of Stoll and Winter et al. tell us that at least the Swedish and the Dutch legislators had all donor offspring in mind.

3 Discussion

This analysis shows that the laws on mandatory sperm donor registration are both very similar and rather different. Although the measures resemble each

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43 Stoll, Swedish donor offspring (n 5) at 93; H.B. Winter et al. Evaluatie Embryowet (n 38) at 216.
other, some laws are value-oriented, one is process-oriented, and some are a combination of the two. The laws also differ in another sense.

At a first glance, the laws on donor registration can be divided in three types. Because of its character (process-oriented) and the effort made to evaluate its effects, the Dutch WDKB can be characterised as instrumental. At the other end of the spectrum, the Swedish Genetic Integrity Act and the Norwegian Lov (5-12-2003:100) are explicit about their goal: to provide children with the right to know who their donor was and to be born into a good home environment. The fact that these goals are more value-oriented does not make them symbolic laws. If their goals are achieved, then these laws could be regarded as being instrumental. The other three laws on donor registration fall somewhere between value-oriented and process-oriented.

We can also ask whether all six laws on donor registration considered are in fact symbolic. As mentioned previously, none of the laws discussed provide a requirement that children should be informed that they are donor offspring, meaning that even the Dutch law has one aspect which points to it being symbolic.

A second reason to question whether the laws on mandatory donor registration are symbolic is their rather vague goal: protecting the right of the child. From the text of the laws it is not clear which type of right is meant. It could be a right in the sense of Article 7 of the Convention on the Rights of the Child,\(^44\) or as it is conceived by the European Court of Human Rights,\(^45\) or it could be a right as interpreted by the Dutch Supreme Court: a personality right.\(^46\) The Convention and the European Court of Human Rights use a rather empirical reading of the right. They stress the best interest of the child and refer to the development of a psychological identity as the main reason for the right.\(^47\)

\(^44\) ‘A child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.’ (See http://www.ohchr.org/en/professionalinterest/pages/crc.aspx. Retrieved 5 September 2015.)


\(^47\) The countries which proposed Article 7 of the Convention of the Rights of the Child argued for its amendment as follows: ‘to ensure the child’s psychological stability, which is of equal importance to his physical and mental growth, and to help to form his personality’: Sharon Detrick (ed.), The United Nations Convention on the Rights of the Child: A guide to the travaux préparatoires, (Dordrecht, Boston and London: Martinus Nijhoff Publishers 1992). The European Court of Human Rights reasoned its decision in Mikulić v. Croatia, para 64: ‘In the Court’s opinion, persons in the applicant’s situation have a vital
A right to personality is quite different in nature. In this reading, donor offspring as human beings have the right to information and there is no need for recourse to empirical effects.

4 Conclusion

To learn more about the laws on mandatory sperm-donor registration the parliamentary debates in the legislative process need to be studied. In that way, we can determine which approach was intended, and whether the laws in the various jurisdictions are instrumental or symbolic. Such research requires consideration of the perceived relationship between the overt goal of the law – providing donor offspring with the power to obtain donor information – and the more implicit goal, namely to protect the best interest or the personality right of the child.

In sum, it cannot yet be determined whether the laws on mandatory donor registration are instrumental or symbolic. Comparison of the law in the books should be completed by studying societal and political debate around these laws and by studying their effects. It is clear that such a study cannot be carried out by one researcher alone. A research group is needed, comprising researchers from several countries familiar with their respective languages and cultures. The aim of such a comparison of laws would be to try to understand the similarities and differences between countries. Including countries which have not chosen to make anonymous donation illegal would enrich the explanatory force of the comparison.

interest, protected by the Convention, in receiving the information necessary to uncover the truth about an important aspect of their personal identity.'