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Gender and bioethics intertwined: egg donation within the context of equal opportunities

The first baby in the world conceived by egg donation was born in 1982. Egg donation has generally caused considerably more discussion about ethics than sperm donation. So why is this? Is there a gendering of egg and sperm influencing the way we think about egg donation and assisted reproduction? Is the debate about egg and sperm actually about gender and thus associated to themes like sexuality and equal opportunities?

The subject of this article is the political debate on egg donation in Norway. We will discuss the debate on egg donation in Norway using source material from the Parliamentary discussions about amendments to the Biotechnology Law.ⁱ In both policy documents on bioethics and the Biotechnology Law, gender is not a spoken issue, but bringing egg and sperm directly to the fore highlights how gender is implicated in bioethics debates.ⁱⁱ Gender perceptions affect the understanding of 'what egg and sperm may do' at the same time as the debate sets established perceptions of gender in motion. Thus new reproductive technologies have destabilized conventional perceptions of the process of reproduction and the relationship of male and female within it.

The context of our research is the Norwegian society in the 2000s. In Norway, all questions about gender tend to be immediately associated with the notion of equal opportunities for women and men. This is also true when discussing new reproductive technologies. Yet what is to be equalized – women and men, or egg and sperm? And what does equality mean in this context? What can a debate on egg donation reveal about contemporary notions of gender, sameness and difference, in relation to parenthood in our times?

In this article, we study the egg donation debate as a process of cultural co-production where we ask how the Norwegian emphasis on gender equality influences the debate on egg donation and, *vice versa*, how debates of assisted reproductive technologies (ART) re-open debates on gender in relation to reproduction and parenthood. We begin with the theoretical approach of our study, followed by a presentation of the political context that informs issues of biotechnology and bioethics in Norway. We then turn to an analysis of the role of gender in the Parliamentary debate on egg donation. Finally, we draw some conclusions about the intertwining of gender and bioethics and discuss how ART sheds new light on contemporary notions of gender, parenthood and relatedness.

Egg, sperm and equal opportunities

Feminist research, especially within the field of science studies, has provided us with some important basic insights regarding modern medicine, reproduction and gendered bodies. Most basic is the scope of science as constitutive for how we understand the body and its functions (e.g. Bleier 1984, Birke 1999, Martin 1987 and 1995, Oudshoorn 1994, Schiebinger 1989). More specifically, feminist researchers have pointed out how ART and new visualization techniques have given an impetus to rethink our imaginations of bodies and body parts. Two new imaginings are particularly relevant to our study: (1) the process of reproduction is no

longer imagined as one process, but rather as a series of separate and different steps, (2) the mother and the embryo are perceived as two different human beings, not at birth, but from the moment of conception (Duden 1993, Franklin 1997, Ravn 2004, Saetnan et al. 2000). We may ask a parallel question about the egg cell in the egg donation process: Is an egg cell to be understood as an integral part of a woman's body or as a potential separate individual? This leads to two other questions: Are male and female gametes basically similar or different in this sense? Can we say that egg and sperm metonymically refer to women and men, so that we may literally 'translate' utterances about them as statements about gender relations and even a proper gender order?

What is at stake when egg donation is under debate? If we consider egg and sperm as metonymic versions of women and men, there is an implicit discussion of themes like gender and family relationships, sexuality and heteronormativity within the debate. Talking about gametes and reproduction is very close to discussing intercourse, thus the discussion involves cultural constructions of sexuality. At the same time, sperm and egg cells belong to the field of science and medicine. Such tacit and implicit intersections of sexuality and science may colour the official debates.

An eye-opening text in these matters is Emily Martin's celebrated account (1991) of the romance of the egg and the sperm. In the science textbooks, the egg cell is attributed a classic feminine gender role as stable and nurturing, whereas the sperm is given the role of the conqueror, active but unstable. It is possible that the cultural imagination of sperm as 'free riders' makes it easier to accept sperm donation than egg donation. The egg is depicted as immobile and well contained within the female body. The egg connotes stability and safety.

It was, however, only from the 19th century that human reproduction was described as the meeting between egg and sperm. Historian Thomas Laqueur attributes the discovery of the egg to William Harvey in the mid-17th century. However, without a microscope, the cells could not be observed or demonstrated at that time. This happened during the 18th century, and by the last half of the 19th century, conception was presented as the fusion of the two cells (Laqueur 1990: 142–143). Parallel to Martin’s account of how gender roles are attributed to the cells, Laqueur tells how, after the discovery of egg and sperm cells, intercourse was depicted as a marriage: ‘Fertilization became a miniaturized version of monogamous marriage, where the animalcule/husband managed to get through the single opening of the egg/wife, which then closed ...’ (Laqueur 1990:172).

Whereas the story of the egg and the sperm appears as a romance in the stories of Martin and Laqueur, the contemporary Norwegian debate on egg donation contains an implicit ‘sex war’ combined with an explicit emphasis of equal opportunities. The ‘sex war’ aspect refers to the question of parenthood: is a mother more important to a child than a father, or are they just equal? When there has for a long time been access to sperm donation, why do we not permit egg donation? Is there a basic difference – and is this question of equality or difference about cells, or about women and men? Following the cultural analysis approach of Martin, we will read egg and sperm as metonymic versions of women and men. Analysing the Norwegian Parliamentary debate we ask if the question of relative importance of the two parents, and even the two sexes, is today implicitly asked on the level of cells.

Equality within the Norwegian context

When ARTs are introduced in different countries, the political debate takes place within different cultural and social contexts. In England, for instance, the first wave of the political

debate of ART took place within the context of the ‘Thatcherism’ period of the 1980s, a era characterized by a new enterprise culture influencing all walks of life and preference for individual consumer choice unhampered by government regulation (Franklin 1997). Becker (2000) revealed how the notion of family values, being laden with moral authority and influencing the choices taken, became a cultural tool within the political debate of ART in the US,. In the US, Rothman (2000) suggests, motherhood rests on three deeply rooted ideologies: patriarchy, technology and capitalism. In contrast, in Norway the parallel ideological pillars backing the new debates of parenthood would be equal opportunities, technology and the welfare state.

In the Norwegian welfare state, family politics receives much attention and the family is undergoing rapid change. Most marked is the increase of children born out of wedlock, now nearly half of the children born. In addition, re-marriage or re-cohabitation is common in the sense of ‘serial monogamy’ (Jensen 1996, Ravn 2004). The fertility rate is high in Norway compared to other European countries (1.84 in 2005) and approximately 90% of women in Norway give birth.ⁱⁱⁱ This is generally linked to both the generous public support at birth and to a tradition that emphasizes the importance of childbirth and motherhood. At the same time, there is an increasing public focus on the importance of fatherhood, and today one of the most hotly debated issues of equal opportunities between women and men in Norway concern parental rights after divorce.

Norway has a long established consensus on the ideal of an equal opportunities society under the reign of ‘state feminism’ (Hernes 1983). There is seemingly an overwhelming political consensus regarding equal opportunities for men and women, with disagreements only on what this means and how it is set into practice. The debate may actually be regarded as a new

version of the question of ‘equality versus difference’ (Scott 1988), which refers to feminist strategies that have claimed both equality (all people are equal) and difference (women are different from men). The tricky thing with the latter is that it may imply that all women are equal and have common interests. Scott delineates how this is a trap made by constructing a faulty opposition between equality and difference. The opposite of equality is not difference but inequality, whereas the opposite of difference is sameness.

Equality	-	Inequality
Sameness	-	Difference

Moreover, a claim for equality is always contextual in the sense that we have to ask what aspect of gender is being compared. Only then does it makes sense to discuss whether the claim is justified by sameness or difference.

However, in Norwegian, the words equal and same are translated as one and the same word – ‘*lik*’ – and the words for difference and inequality (*forskjell og ulikhet*) are used interchangeably. To be identical is to be ‘*lik*’ and the notion of (gendered) equal opportunities is based upon the word ‘*likestilling*’ (equality, equal status). The conceptual confusion that Scott points out may be particularly relevant within the Norwegian context because it is claimed that Norwegians are obsessed with a quest for equality, and that equality is understood as sameness (Gullestad 1992). Traditionally, Norwegians like to present themselves as ‘ordinary people’, just like everybody else. This does not mean that, in contemporary society, one cannot stand out and make oneself visible but even this is done with modesty as a person “just like anyone else” (ibid.). Equality in the sense of sameness is, in other words, valued and asserted within the Norwegian context. Claims for equality may be

more justified if they are made on the basis of sameness, thus a feminism based on difference has never gained a strong position in Norway (cf. Halsaa 2006).

The tendency to speak of women and men in dichotomous terms and thereby constructing each group as identical has often reduced women to their reproductive functions – and this has been a point of critique in feminist texts like Scott's mentioned above. In Norway, the overall feminist strategy has been to focus on social inequality and not biological difference. In the debate of ART however, the themes of equal opportunities and reproductive differences come together. So how do the actors balance their arguments of equality/inequality and sameness/difference when they speak of egg donation as a question of equal opportunities?

The politics of egg and sperm

The first Norwegian law on ART, "Law on artificial conception" is from 1987. In 1994, new regulations were included in "Law on medical use of biotechnology". In the first law prohibition against egg donation was absolute, while in the second from 1994 it was still generally forbidden but accepted on certain medical conditions. (det som er foreslått strøket diskuteres på neste side)The present "Law on human- medical use of biotechnology" was accepted after a long debate, both in the public sphere and the Parliament in 2003. In this section, we analyse part of this Parliamentary debate.

The topics that caused most discussion in 2003 were repealing anonymity of sperm donors and lifting the prohibition against egg donation. Sperm donation has been a medical practice offered by the Norwegian public health service since the 1950's, and until 2003 the donors were anonymous. But with developments in genetics and reproductive medicine, there is increasing focus on genetic parenthood, and information about one's genetic origin has gained

added value (Spilker 2006). Thus with reference to the child's right to know its origin the anonymity of sperm donors was repealed. In contrast to sperm donation, egg donation has never been legal in Norway. Since the first law in 1987, opponents of egg donation have argued that motherhood is tied to biological processes within the individual woman's body and therefore egg donation would challenge the natural category of motherhood. The reason given for a re-evaluation of egg donation was that most other European countries offer this medical service and that a small, but growing, number of Norwegian women travel abroad to receive donated eggs. In the final version of the 2003 law, Parliament abolished sperm donor anonymity while maintaining the prohibition against egg donation.

In Norway, the Christian Democrats are a conservative political party that has clearly promoted bioethics as a vital issue in their political profile. They have launched two ideas as main markers in the Norwegian debate: 'the value of the human being' (*menneskeverdet*) and 'the sorting society' (*sorteringssamfunnet*) (cf. Solberg 2003 and 2005, Melhuus 2005). The latter refers to all practices related to selective abortion and selection among fertilized eggs. In this way, the party has created a relatively uncontested framework within which the debates of bioethics take place.

The Labour Party represents a liberal view, generally emphasizing the possibilities given by the new biotechnologies. They argue in favour of public responsibility to secure new technologies that can benefit the population and advocate equal access to these innovations by different groups. Accordingly, the Labour Party was the only political party that argued in favour of legalising egg donation. The Christian Democrats was most strongly opposed to egg donation, followed by the traditional conservative party *Høyre* (literally 'The Right').

The following quotes (notably, all by women) are taken from the Parliamentary debate of the suggested amendments to the Biotechnology Law.^{iv}

Britt Hildeng (Labour): The Labour Party sees it as a goal to help women who are involuntarily childless and who are infertile. We see this as a medical condition – it can be a consequence of an illness or disease – and hence we feel that when we have the knowledge, and given our society and health service, we have a responsibility to offer these women treatment. We have long helped men who have been unable to inseminate by accepting sperm donations. The Labour Party does not recognize, in principal, the differences between egg donation and sperm donation and believes that also men who are married to women who are unable to conceive should have the possibility to be biological fathers of their own children whenever this is possible. When it comes to the question of biological mothers, the discussion is, of course, about what is important. When an egg is implanted and grows inside a mother, clearly she will have a special relationship to the child that grows inside her, and this will, of course, also mean that to an even stronger extent she will feel a social responsibility for the child as it grows up. The decisions that have to be made – to what extent it is the genes, the biology, or whether it is the safety net around a child that is important – are clearly evaluated differently, and perhaps the question is entirely an existential one.

The main aim stated here is to help women who are involuntarily childless. This is compared to the fact that men who are not able to reproduce have already for a long time had this type of assistance. Equality is used to support the standpoint in favour of egg donation. Following this line of argument, Hildeng implies that it is the men married to infertile women who will benefit from egg donation, because they will have the possibility of becoming ‘biological fathers’. After dealing with possible arguments against egg donation, the representative of

Labour concludes that the importance of social versus biological parenthood is an existential question and should not be a matter of political debate. It is consequently not necessary to take a standpoint on the question of the importance of genetic or biological parenthood.

Science is also a resource used to support the Labour representative's argument. She argues that when a society actually possesses the knowledge for providing a medical treatment, there follows a responsibility to make such treatment available. Supporting that argument, another representative from the same party draws attention to the possibility of having an egg donation in another country if Norway continues its restrictive policy.

Gunn Olsen (Labour): *In Norway it will also continue to be legal to be able to be artificially inseminated with sperm from a sperm donor, but not with an egg from an egg donor. I believe that most of us can do without sensations such as 58-year-old women travelling to USA in order to receive a donor egg. This is also why we have amended the law with an age limit. But is it not the case that the representative Woie Duesund and the Christian Democrats are concerned that national restrictions for childlessness will lead to such examples? That people will, for example, travel to USA in order to receive an egg implant? Does the representative Woie Duesund think this it is good policy on equality to allow artificial insemination with sperm, but not with eggs?*

The representative refers to the argument of equality before the law. If there is a restrictive law in Norway, some people will have the opportunity to receive this treatment because they can afford to travel to a country which permits egg implantation, whereas other people will not have the resources to do so. We should not let sensational stories blur our vision but rather focus on equality. Ultimately, the question is whether legal restriction of egg donation is to be

considered in line with equal opportunities politics. In other words, if it does not support equal opportunities, how can one argue that it is good politics?

Åse Gunhild Woie Duesund (Christian Democrats): *I believe it will always be the case that some will manage to find a way round the regulations, that some will buy their way out of a difficult situation. This should never be allowed to prevent us from passing laws in Norway that are considered to be in our best interests. For the Christian Democrats it is important that we do not choose to eliminate unwanted children. It is important for us that children are not eliminated on the basis of genetic inheritance, and we believe that egg donation provides a different biological origin than is the case with sperm donation, which is a more simple intervention. With egg donations the woman has to be treated with hormones. With egg donations it can be difficult to determine the difference between a biological mother and a social mother. We want this to be clarified, that it should be the biological mother. Nor should it be the case that having children is made so easy that it becomes part of human rights. Hence, we make a distinction between sperm donors and egg donors.*

Whereas the Labour Party stressed the general politics of equal opportunities, the representative of the Christian Democrats refers to her party's main principle in the debate of bioethics: the Christian Democrats are against a 'sorting society'. As a general principle, this is grounded in the religious platform of the party: God's Creation (*Guds skaperverk*) and the associated notion of 'value of the human being'. As stated in the quote, this means that there should never be the possibility of choosing children on the basis of their genetic inheritance, whether through abortion or fertilized egg selection. The other point of importance is the protection of the family unit and the possible confusion of who the mother and father of a child are. From this point on, it is more difficult to follow the line of the argument, but one

point is the different medical procedures used in egg and sperm donation. Sperm donation is not only a simpler procedure but, more importantly to the speaker, it does not confuse the concept of fatherhood. It is not clear whether she means that sperm donation does not cause confusion (at this point in time it has not been decided whether sperm donors will be anonymous or not) or if the point is that knowing the identity of the biological mother is more important than identifying the biological father. In any case, the main point is that there must not be any doubt about biological motherhood and this is exactly what is at stake in the case of egg donation with a genetic donor mother and a biological 'womb mother'.

The Christian Democrats' representative receives support from 'The Right' party in her rejection of the equal opportunities as an argument to support legal access to egg donation.

Beate Heieren Hundhammer (The Right): *I am also entirely unsympathetic towards the argument of equality between men and women which the Labour Party draws on in its justification for equalizing sperm donation and egg donation. Not everything can, or should, be made equal. To bear and give birth to a child has always been a woman's task. Let us hope that it will continue to be so. There has never been any doubt regarding the identity of the biological mother, but the biological father is still not accorded equal recognition – and sometimes is not recognized at all. For this reason, sperm donation remains something quite different. Yet in this respect too, the whole committee, with the exception of the Labour Party, has realized that the time has come for children to be assured of being able to now who their biological father is.*

Here comes the punchline that seeks to pierce the argument that only equal opportunities politics is good politics: everything cannot be equal, and moreover, it should not be so.

Accordingly, sperm and eggs are not equal and should not be equalized. This speaker is most concerned with identifying biological parenthood. Egg donation should be rejected on the grounds of biological difference for two reasons: firstly, because women give birth and, secondly, because there should be no doubt about the biological motherhood. The positive news is that with the abolition of sperm donor anonymity (of which there is political consensus) and the availability of DNA tests, not only will a child know the identity of the biological mother but also who is the biological father.^v

In December 2005, the Commission of Equal Opportunities who enforces the Norwegian Gender Equality Act^{vi} came to the conclusion that the prohibition of egg donation is inconsistent with the law of equal opportunities. In a letter to the Ministry of Health and Care, the Commission stated: ‘There are no impartial and acceptable reasons not to offer equal assistance to infertile women and infertile men.’^{vii}

This statement asserts that the current law justifies inequality and should be changed in order to reinstate equality. This is in line with the arguments from Labour, whose representatives argued strongly in favour of equality before the law. For Labour it seems unproblematic to translate the principle of equal opportunities from the area of social policy to the area of reproductive policy. Working towards equal opportunities regardless of social background is a main political principle of the party, and in this case, social equality (ART should not only be available for those with resources to seek help elsewhere) goes hand in hand with gender equality (donation for women and men). Infertility is firmly placed within the field of health policies as an illness that may be cured.

The conservative coalition, however, underlines the ultimate differences not only between men and women within the process of reproduction, but between reproductive policy and other policy fields. Both the Right and the Christian Democrats argue in favour of equal opportunities in the workplace. Representatives of the Right have raised issues like women's access to the board rooms and advocate more women representatives within the political system. In the case of reproduction policy, however, a line is drawn and it is stressed that only women give birth and that motherhood is different from fatherhood. In other words, women and men should be treated equally within certain policy areas, but as mothers and fathers, difference overrules the possibility of equality politics.

Are we here witnessing a negotiation of the limits of gender equality? The overwhelming consensus on equal opportunities falls apart when the debate shifts from issues of social equality, such as equal pay, to issues related to reproduction. The discourse of egg donation alternates between the possibility of equalizing egg and sperm, and of equalizing women and men. Even when equality is advocated, there is still the question of who is actually assisted and thus 'equalized' by having the benefit of 'one's own' child – is it the woman who thereby may conceive, or the man who thereby may have successors from his own sperm and genes?

Gender and bioethics intertwined: Equal opportunities for whom and what?

We have asked what characterizes the Norwegian version of the debate on egg donation and which issues enter into the debate. Certain themes are easily identified, but more interesting is the wider relevance of the debate and the contested borders. New technologies serve as the point of departure for the political debate but the debate quickly invokes gender politics, love, science, sexuality, religion, political struggles, etc. These themes both explicitly and

implicitly enter the debate, blurring the line between public and private as discussion of a law invokes intimate matters of sexuality and conception.

In Norway, gender equality is a valid and important premise within the general political debate. It is, however, contested as valid argument in the context of egg donation. The case of egg donation has actually become a field of negotiations about the limits of equal opportunities. At the same time, the debate is confused by an understanding of gender equality that is based on sameness ('lik') because this has been a valid argument in political debates of gender issues centred on work, wages, divorce, and legal rights. Whereas the representatives of the Labour Party call attention to equal opportunities as a main argument in favour of egg donation, their counterparts in the political debate state exactly the opposite: this is an area of basic difference between men and women and accordingly there is no basis for equal opportunities. In this debate the representatives from Labour do not argue that sameness exists, however, but hold equal opportunities as having a value of its own.

Moreover, whether equality is the aim or not, it is difficult to say who the possible loser in the legal amendments is. One argument is that since the medical procedure of sperm donation is much easier than that of egg donation, men will be the losers. That is because their female partners may have sperm donation and become 'genetic mothers' whereas men with infertile female partners cannot become biological fathers. Another position sees women as the losers, however. The argument is that women are not equalized with men as long as only sperm is available and shared between men; when a man has a problem, sperm is donated, but when a woman has a problem she may not receive an egg donation.

To phrase this differently: are we dealing with a debate of whether egg and sperm should be treated equally, or women and men? From the way the arguments shift between women and men versus egg and sperm it can be concluded that the gametes have a separate existence in the discourse.

Summing up, we have argued that the debates about ART in Norway are negotiations of the limits of equality understood as sameness. Some people argue that women and men can not be considered similar in biological nor cultural terms. Others argue that different biological bodies and different medical treatments do not justify unequal treatment of egg and sperm. What remains in both lines of argument, however, is that the cultural and social expectations regarding men and women are not the same. This is most clearly stated by the last of the quotes from the Parliamentary debate: whereas biological fatherhood has never been certain, there has never been any doubt about who the biological mother is. Thus gender is made highly relevant in bioethical debate, both by the way the statement above supports the primacy of motherhood in Western culture and the way it creates different norms of sexuality. Whereas sperm may go ‘astray’ and always have, a woman should guard her eggs.

Finally, what does the emphasis on equal opportunities say about parenthood in contemporary Norway? In the debate on egg donation, the topic of family values has not been as explicit as found in studies of other countries but the cultural model of the family prevails as the unity of mother, father and their biological children. In practice, there is however, a wide variety of family types — more and more people live in families with children that are not their ‘own’ in the biological sense, and being married is no longer a precondition for infertility treatment within the public health care system. At the same time, there is a strong cultural acknowledgement of the importance of having one’s ‘own’ children, both for women and

men, and a general public support for helping those who cannot conceive - indicating that the biological tie between mother and child / father and child has gained a value of its own.

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i This particular article is based solely on analysis of the textual accounts of the Parliamentary debate on egg donation, regulated in the Norwegian law on biotechnology (LOV-2003-12-05-100). The textual accounts can be found on

<http://www.stortinget.no/otid/2003/o031118-01.html>

The textual accounts are a part of a wider research material from the research project 'Perceptions of Gender, Genes and Reproduction'. In the overall project we have investigated several aspects of assisted reproduction, and our main concern has been how technological developments in the field of human reproduction have been interpreted and negotiated in relation to kinship and parenthood. The research design is a multi-sited ethnographic approach (Marcus 1986, Martin 1987, 1995, Clarke 2005), incorporating qualitative interviews, media-analysis, and textual analysis of White Papers.

ii This applies not only to the obvious case of assisted reproductive technologies (ART) but also stem cell research and other fields of human bioscience which are closely associated to the process of reproduction.

iii Data for 2005, from Statistics Norway.

iv These textual accounts can be found on <http://www.stortinget.no/otid/2003/o031118-01.html>

v The new legislation of DNA testing allows any person concerned, i.e. the child, the mother and a possible father, to request a test.

vi The Commission of Equal Opportunities' task is to enforce the Norwegian Gender Equality Act and also work actively to promote equality. On 1 January 2006 the new Equality and Anti-Discrimination Ombud was established to enforce the new Act prohibiting discrimination on the basis of ethnicity, national origin, ancestry, skin colour, language, and religious and ethical orientation (Discrimination Act). The Ombud also enforces the anti-discrimination regulations in the Working Environment Act. The mandate of the Ombud is to actively promote equality for discriminated groups and to develop new knowledge through documentation and monitoring.

vii Aftenposten 31.12.2005