

ESF Exploratory Workshop on

**ASSISTED REPRODUCTION AND CHANGING  
EUROPEAN FAMILY STRUCTURES: CURRENT AND  
FUTURE CHALLENGES**

Cork (Ireland), 18-20 April 2010

Convened by:  
**Dr. Deirdre Madden, Dr. Linda Connolly, Dr. Máire Leane**

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**SCIENTIFIC REPORT**

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## 1. Executive Summary

The ESF SCSS Exploratory Workshop entitled *Assisted Reproduction and Changing European Family Structures: Current and Future Challenges* was held in University College Cork, Ireland between April 18<sup>th</sup> and April 20<sup>th</sup>, 2011. The workshop had two core aims:

- to explore the social, ethical and legal consequences of scientific developments in the arena of assisted reproductive technologies in a comparative context;
- to examine and compare how these developments relate to the broader changes occurring in family structures and intimate relations in European societies.

Thirteen participants from six European countries and representing ten universities or research institutes attended the workshop which was conducted through English. The participants were drawn from a range of academic disciplines including law, sociology, ethics, psychology and social policy and all had a keen interest in the topic with many being recognised experts in the field. The cross-national and interdisciplinary characteristics of the participants facilitated a vibrant and productive exchange of information and ideas which resulted in stimulating discussion and the identification of a number of key research themes which will underpin plans for furthering the research endeavour begun during the workshop. The atmosphere of the workshop was convivial and respectful and the two conference lunches and dinners organized by the convenors played a key role in developing a positive working atmosphere and in facilitating extensive exchange of information about Assisted Reproduction in various jurisdictions. Furthermore the small size of the workshop optimized opportunities for participant involvement and for the adoption of an interactive format which promoted in-depth discussion. Feedback from participants confirmed that that workshop provided an academically stimulating forum, was well organized and enjoyable.

In keeping with the workshop aims of generating interdisciplinary dialogue about the intersections between family structures and the social, legal and ethical debates generated by ART, the workshop was divided into five thematic sessions spread over three days:

*ART in European national contexts- Regulatory Position in each State in relation to Assisted Reproduction and Family Structures*

*Assisted Reproduction, Sexualities, Gender and Changing Family Structures*

*Assisted Reproduction, Sexualities, Gender and Changing Family Structures*

*Ethical Governance of Assisted Reproduction*

*Legal Frameworks and Issues*

The presentations on day one of the workshop outlined current legal, welfare and social policy regimes relating to the regulation and provision of ART in specific national contexts and discussion centred on the similarities and differences in prevailing practices and governance structures. On the second day of the workshop, attention turned to some of the issues emerging as a result of ART. These included topics such as the new family formations being created through ART and the experiences and identities of children and parents in these families, the potential for and implications of reproductive tourism caused by differing regulatory and service provision systems in various countries and questions about what professionals, interest groups or other stakeholders are emerging as 'experts', decision-makers or influential players in relation to the practice, provision and regulation of ART.

The workshop was also attended by Prof. Akile Gürsoy of the ESF SCSS and Yeni Yüzyıl University, Turkey, who provided useful insights during discussions and also suggested

some future directions for research and collaboration. In attendance for part of the workshop also were two members of Ireland's Department of Health with responsibility for policy-making in the area of assisted human reproduction, which allowed for useful knowledge exchange between researchers and policy-makers.

A number of research questions and objectives were distilled from the workshop discussion and these are outlined in section 3 below. Overall the workshop highlighted the very critical need for further research on the implications of ART for family structures and emphasized the value of an interdisciplinary, cross-national, approach to investigating the topic.

## **2. Scientific content of the event**

The workshop combined expertise from a number of disciplines including law, sociology, applied social studies, bioethics and psychology. Developments in reproductive technology have revolutionised our capacity to exercise choice in relation to reproduction and have raised questions about concepts of identity, dignity, personhood and changing family structures. This workshop explored strategies for responding to these technological developments in the context of their intersection with changes in family life and personal relationships.

The main aim of the presentations on Day 1 was to provide an overview of the different regulatory frameworks, policies and practices for Assisted Reproductive Technologies (ARTs) in different national contexts. In the first session, **Frank van Balen** (University of Amsterdam) gave an overview of the **Dutch context** in which assisted reproduction takes place, referring to the themes of resistance and constraints in relation to ART. He presented a somewhat contradictory picture of a society that is generally perceived as very liberal with an acceptance of same sex relationships and positive attitudes towards the use of soft drugs as well as liberal views on "the ending of life". Van Balen argued however that the Dutch society still has a 'patriarchal attitude' towards the "beginning of life" and gave several examples of resistance towards IVF from several different groups in The Netherlands. He concluded that Dutch society often compromises in order to please different views among the political parties and every new development leads to new directions. The following presentation, by **Manuela Perrotta** (University of Trento) outlined the fundamental changes that have taken place in **Italy** during the last decade in the field of assisted reproduction and family models. These issues have been debated for many years and more than 30 different bills have been proposed since the 1980s. The most important is Law 40 which was introduced in 2004, and amended in 2005 to enforce many restrictions on ART practices. Most importantly, while clinical and experimental research on Italian embryos is illegal, it is permitted on other imported embryos. In this sense Italian embryos are treated as persons, but other nationalities lack this particular status. There were several other unexpected effects of the law, such as an increase in multiple pregnancies. Although the Italian law allows for embryo reduction, this is not used as there is confusion among medics as to the precise definition of what an embryo is.

Finally, **Sally Sheldon** (University of Kent) gave an overview of the regulatory position on ARTs in the **UK**. The Human Fertilisation and Embryology Act 1990 (amended 2008) covers a wide range of aspects of assisted reproductive technology, for example the creation, storage, procurement or ex-utero use of embryos. There was discussion of the current proposal in the UK to abolish the HFEA and transfer its remit to other public bodies. Fertility treatment would then fall under the department of normal reproductive medicine and a new research body on ethics (such as organ-donation) would deal with embryos. The dilemma

however, according to Sheldon, is if the Government then really is cutting red tape or losing expertise? Another consequence could be that the loss of public consultation/information could create a vacuum to be filled by tabloid press who already explore the topic of ART in a sensational manner.

In the second session on Day 1, **Marcin Smietana** (University of Barcelona) discussed the political and historical context in which **Spanish society** turned away from the political right as well as the Catholic Church after the collapse of the Franco regime. The new socialist government introduced gay marriage in 2005 and in 2006 a Bill on Assisted Reproduction was published. This bill is quite liberal and permits many techniques not available in other countries. He also discussed in detail the means by which gay men in Spain rely on tourism for surrogacy when adoption proves difficult. This was followed by an overview of the Irish context regarding assisted human reproduction (AHR), by **Deirdre Madden** (University College Cork). There is currently no regulating body responsible for collecting data or providing information on AHR in **Ireland**, so all data presented is anecdotal. As there is no legislation, the Ethical Guidelines of Medical Council (7<sup>th</sup> edition 2009) serves as the only form of professional guidance. The only relevant legal document is the Irish Constitution of 1937 Art 40.3.3 – this relates to the right to life of the unborn, and does not apply to embryos outside the womb. There are both advantages and disadvantages to introducing legislation in Ireland. The CAHR (Commission on Assisted Human Reproduction 2005) report recommended the establishment of a regulatory body with remit to issue licenses and guidelines and the Department of Health is currently preparing for introduction of legislation.

The presentations on Day 1 allowed the participants to become familiar with the regulatory and policy contexts of ARTs and their interactions with changing family structures in different national contexts. Discussion centred on the role of political climate, historical practice and religious and ideological norms in different western European countries in shaping convergences and divergences in policy and practice. This set the scene nicely for the more thematic discussions on Day 2.

The first set of papers on Day 2 presented research findings on **the intersections of assisted reproduction, sexualities, gender and changing family structures**. **Petra Nordqvist**, sociologist at University of Manchester, presented her research on choices and negotiations in UK lesbian donor conception. Nordqvist's paper was based on a qualitative study involving 25 lesbian couples from England and Wales with experience of pursuing donor conception together. The research focused specifically on how these couples dealt with issues of selecting donors, deciding on siblings and choosing names. According to Nordqvist the key concern for open and visible lesbian couples is to protect their children from stigma and homophobia. On a closely related theme, **Marcin Smietana** (University of Barcelona) presented a paper that explored the impact of assisted reproduction in creating lesbian and gay families in Spain. Smietana's research showed that family life follows a normalisation discourse where both gay and lesbian parents constructed themselves as not being different. The parenting desire was indifferent to whether the child was biologically or socially related to the parent. All families were living completely openly and interviews with children showed no bullying and good peer relationships. Smietana, however, pointed out that the children were still relatively young at the time of the research.

**Linda Connolly** (UCC) gave a sociological perspective on the construction of reproduction and family structures in Ireland. Historically, there has been a reproductive revolution taking place preceding legal and policy structures where women have gained access to both contraceptives and abortion by travelling abroad. The perception of Irish society is still that of

a Catholic conservative society. However, the economic boom years brought some changes in society with a record number of women entering the workforce, a growing number of children born outside marriage, an increase in the number of households without children, older mothers, low divorce rates and rapid modernisation. Irish society is becoming a post-catholic society where marriage is no longer necessary for having children. Childlessness still remains stigmatic and ART is contributing to reconstituting families in what still remains a pro-natalistic society.

A second set of papers within this theme focused more on questions of ethics and rights. **Inez de Beaufort** (Erasmus Medical Centre) provided a thought-provoking argument about increasing the current age limit for IVF. She argued that changes in society, such as the emancipation of women, longer life-spans and better technologies, should be reflected in changes in the age-limit for ART for women. Thus, a 60-year-old woman could be in very good health and live until she is 120 and should be as entitled to a “second nest” as a man of the same age. She also discussed counter-arguments such as the ‘nature’ argument, cost and best interests of the child. **Fiona McCallum**, psychologist at University of Warwick, focused on the rights of the parents’ offspring and the welfare of the child. In the 1990 Act ‘welfare of the child’ included ‘the need of the child for a father’. However, in 2008 the revised wording replaced this with ‘the need for supportive parenting’, a much more vague and broad term. McCallum’s presentation looked at how this legally stipulated consideration is currently applied as a criterion for parent selection comparing ART with the assessment of other non-traditional parents. McCallum argued that there is room for a larger role of psychosocial factors in ART such as supportive counselling after birth in ART. **Frank Van Balen** discussed studies done in the field of non-genetic parenthood which found that such fathers were more active in helping their partners and that non-genetic parents were more involved in general with their children. More positive and engaged parenting was also found in research on planned lesbian and planned gay families as well as partial surrogacy families. He concluded that research findings supported the theory that parent/child relationships are more positive in these families and that no negative effects were found regarding child development, social adjustment or psychological problems, even in adolescence. Van Balen nevertheless warned of a possible selection-bias in these studies as, due to the difficult pathway to achieve the status of parenthood, the parents involved could be seen as more motivated and more positive in comparison to other parents.

The focus after lunch shifted to questions of ethical governance. **Takis Vidalis** (Hellenic National Bioethics Commission) discussed the Greek “laissez faire” policy regarding ART under the title “A dynamic market: A combination of economy, politics and love”. The basic Act 2002 was a liberal regulation which was almost unanimously passed. However, in 2005 a new act was introduced by a new conservative government. This new legislation prescribed licensing for fertility clinics and gamete banks as well as an independent regulatory authority based on the UK-model. Fertility tourism is popular in Greece, especially importation of gametes. This has created a dynamic market requiring liberal legislation and the doctors promote this despite conservative objections (Orthodox Church). The argument is that it is better to accept and regulate practice rather than try to prohibit it. The combination of a liberal legislation with an effective control mechanism was, in principle, a guarantee for protecting the quality of services and the interest of the persons with fertility problems, but this has not been the case in practice. **David Smith** (Royal College of Surgeons) explored the political sensitivity of developing legislation in Ireland. He also discussed the ethical recommendations of the Report of the Commission on Assisted Human Reproduction (CAHR) and the current ethical guidelines of the Medical Council. He noted that the the CAHR report in 2005 gave rise to an emotive debate. The key issues at stake were firstly the

ethical value of the in vitro human embryo and secondly whether or not assisted reproduction should be offered to people who are married, same sex-couples and/or single people? Smith warned that legislation would create a divisive debate which includes the abortion-issue, highly controversial in Ireland and something which politicians want to avoid. **Manuela Perrotta** discussed the Italian state's heteronormativity in the context of assisted reproduction. General statistics show that 95 per cent of Italians are Catholics. This, however, is a more cultural than religious belonging and only a minority, albeit very influential, support the church. The public debate in the 80s/90s concerned the right of the unborn and the right of single/same-sex couples to have children. The influence of the catholic pro-life movement increased and the legislation became stricter. In 1995 the Code of Medical Ethics prohibited surrogacy as well as treatment for homosexuals, single and post-menopause women as well as post-mortem use of gametes.

In the final set of papers, **Sally Sheldon** took a close look at the amended HFE Act in relation to the welfare clause, status provisions and information rights following use of donated gametes. This led to discussion of topics such as the 'fragmentation' of parenthood and a greater willingness among people to recognise more than two people as parents. **Deirdre Madden's** second contribution was entitled "Fitness to parent in Irish law" and focused on the right to have a child versus the rights of the child. The question posed was whether or not it is the State's role to vindicate/support the right to a child of one's own? The right to privacy is enshrined in the Irish Constitution and appears to provide a qualified right to reproduce, subject to the interests of the common good. There is currently a lack of consensus in Europe as regards to parental rights outside traditional family structures. The concept of the welfare of the child is a broad concept and does not apply to natural reproduction, thus the presumption of fitness only applies in cases of ART/Adoption.

There was considerable discussion among participants in relation to each set of papers, but a number of key themes emerged during the course of the workshop. The issue of 'reproduction tourism' was identified as a widespread phenomenon which crossed multiple boundaries and borders, and which raised very interesting questions relating to the transnational nature of ARTs and family structures. Secondly, the ways in which ARTs challenge normative assumptions of traditional family structures was highlighted, in particular their role in problematising issues such as parentage, parenting rights, children's rights and sexuality. The potential of commercialisation and of the coexistence of differing national frameworks for reproducing multiple inequalities was discussed, raising important issues in relation to racialisation, class and gender.

### 3. Assessment of Results

There were a number of key learning outcomes from the workshop. Firstly, the international nature of the workshop highlighted the role of national histories as well as current political climates in shaping situations in different European contexts. However, across national contexts, the power of normative ideas of the family and of the nation in shaping policies, practices and debates around ARTs was striking. It was felt that important priorities for future research in the area should incorporate a multi-scalar approach to research on ARTs and changing family structures, recognising the national, global, European and transnational scales of analysis. While there is a wealth of research from different disciplinary perspectives in the area of ARTs, it was felt that there was still a need for more sociological research with families. Finally, it was suggested that a 'fertility roadmap' is needed to predict future practices and scientific developments.

The group identified the following key research questions for future exploration in relation to the intersection of assisted reproductive technologies and changing family structures:

- Is there a need for strict regulation of the sector? Are there advantages to a situation of less regulation?
- Who are the decision-makers in relation to the application of ARTs? Who is making knowledge claims? Where are the public voices in the debates? Who are the 'experts'? What is the role of the media? Who is framing the discourses?
- To what extent do changes in national political climates affect regulation?
- What are the implications of reproductive tourism? Is it possible to reach a trans-national consensus? What role has the nation-state within this global trade?
- How do societies do we respond to scientific issues? Are there cultural differences?
- What are the vested interests in the ART sector?
- What are the social determinants of the increase in use of ARTs?
- What are the experiences of children conceived through ARTs and raised in 'non-traditional' family structures? How are their identities constructed?
- What are the identity management and disclosure practices within families?
- To what extent could an intersectionality approach shed light on the complex dynamics of ARTs and changing family structures?
- What are the implications of the marketisation/commercialisation of ARTs for families and for society?
- How do people communicate in relation to ART decisions? How do private conversations take place (outside the state and medical profession)? What is the role of the Internet and how can people be protected from exploitation?
- To what extent are birth certificates a reflection of practice?

A number of follow-up actions to be pursued after the end of the workshop were agreed. There was interest among the group in continuing to communicate and to collaborate as a network of researchers. In particular, it was agreed that funding would be sought for a small follow-up focussed workshop on a specific theme identified during workshop. It was felt that in any future collaboration the group also needed some representation from a number of other European and non-European countries. More specifically, it is intended to explore the possibility of submitting a proposal for a collaborative interdisciplinary and international research project to FP7 (Socioeconomic Sciences/Humanities or Science and Society) in 2012/13, depending on the exact nature of forthcoming calls for proposals. Finally, some of the workshop papers will be published as a series of working papers in an open-access online format.

## 4. Final programme

### Monday 18 April 2011

- 11.30 Arrival and tea/coffee
- 12.00 **Welcome by Convenors**  
*Máire Leane, Deirdre Madden, Linda Connolly (UCC, Cork, Ireland)*  
**Welcome to University College Cork**  
*Prof. Anita Maguire, Vice-President for Research, UCC*  
**Introductions by the group**  
**Welcome on behalf of Institute for Social Sciences in 21<sup>st</sup> Century**  
*Linda Connolly (UCC, Cork, Ireland)*  
**Presentation of the European Science Foundation (ESF)**  
*Prof. Akile Gürsoy (Standing Committee for Social Sciences (SCSS))*
- 13.00-14.00 Lunch
- 14.00-17.30 Session 1: ART in European national contexts**  
**Regulatory Position in each State in relation to Assisted Reproduction and Family Structures**
- 14.00-15.15 Session 1a (Presentations of 10 minutes each)**
- The Netherlands: Frank Van Balen
  - Italy: Manuela Perrotta
  - UK: Sally Sheldon
- Discussion (40 minutes)
- 15.15-15.45 *Tea/Coffee break*
- 15.45-17.15 **Session 1b (Presentations of 10 minutes each)**
- Spain: Marcin Smietana
  - Ireland: Deirdre Madden
- Discussion (50 minutes)
- 19.30: Dinner in the Weir Bistro, River Lee Hotel

### Tuesday 19 April 2011

- 09.15-10.45 Session 2a: Assisted Reproduction, Sexualities, Gender and Changing Family Structures**
- 'I don't want us to stand out more than we already do': Choices and negotiations in UK Lesbian Donor Conception**  
*Petra Nordqvist (University of Manchester, United Kingdom)*  
**Changing family dynamics in Ireland**  
*Linda Connolly (University College Cork, Ireland)*  
**Just an alternative to adoption? Gendered and classed ARTs helping to build lesbian and gay families in Spain**  
*Marcin Smietana (University of Barcelona, Spain)*



**Discussion (30 minutes)**

10.45-11.15

*Coffee/Tea Break*

**11.15-12.45**

**Session 2b: Assisted Reproduction, Sexualities, Gender and Changing Family Structures**

**'Can I still parent when I'm 64 ?' Some thoughts on elderly parents**

*Inez De Beaufort* (Erasmus Medical Centre, The Netherlands)

**Does the HFE Act offer the best protection for the rights of parents and offspring?**

*Fiona McCallum* (University of Warwick, United Kingdom)

**Assisted reproduction and non-genetic parenthood: child rearing and child-development**

*Frank Van Balen* (University of Amsterdam, The Netherlands)

**Discussion (30 minutes)**

12.45-14.00

*Lunch*

**14.00**

Future funding and collaboration opportunities

*Prof. Akile Gürsoy* (Standing Committee for Social Sciences (SCSS))

**14.10-15.30**

**Session 3: Ethical Governance of Assisted Reproduction**

**Assisted Reproduction in Greece: The Experience of "Laissez Faire"**

*Takis Vidalis* (Hellenic National Bioethics Commission, Greece)

**Ethical governance of assisted reproduction**

*David Smith* (Royal College of Surgeons, Ireland)

**State heteronormativity: the Italian legislation on assisted reproduction and the everlasting model of "natural family"**

*Manuela Perrotta* (University of Trento, Italy)

**Discussion (30 minutes)**

15.30-16.00

*Coffee/Tea Break*

**16.00-17.30**

**Session 4: Legal Frameworks and Issues**

**Reproducing the Family? The HFE Act 1990, as amended**

*Sally Sheldon* (University of Kent, United Kingdom)

**Fitness to parent and the welfare of the child in Ireland**

*Deirdre Madden* (University College Cork, Ireland)

**Discussion (30 minutes)**

19.30

Dinner in the Cornstore Restaurant

**Wednesday 20 April 2011**

- 09.15-10.45**      **Session 5: Key outcomes of Days 1 and 2**  
Workshop/discussion format  
*Led by Máire Leane (University College Cork, Ireland)*
- 10.45-11.15      *Coffee/Tea Break*
- 11.15-12.45**      **Session 6: Planning Ahead**  
Workshop/discussion format  
**Planning for FP7 and/or COST/other ESF proposals**  
*Led by Caitríona Ní Laoire (University College Cork, Ireland)*  
**Planning for workshop publication**  
*Led by Convenors (University College Cork, Ireland)*
- 12.45-14.00      *Lunch and End of Workshop*

## **5. Final list of participants**

Deirdre Madden, University College Cork, Ireland  
Linda Connolly, University College Cork, Ireland  
Máire Leane, University College Cork, Ireland  
Akile Gürsoy, ESF Standing Committee for the Social Sciences, and Yeni Yüzyıl University, Turkey  
Inez de Beaufort, Erasmus Medical Centre, The Netherlands  
Fiona MacCallum, University of Warwick, UK  
Petra Nordqvist, University of Manchester, UK  
Manuela Perrotta, University of Trento, Italy  
Sally Sheldon, Kent University, UK  
Marcin Smietana, University of Barcelona, Spain  
David Smith, Royal College of Surgeons, Ireland  
Frank Van Balen, University of Amsterdam, The Netherlands  
Takis Vidalis, Hellenic National Bioethics Commission, Greece

## **6. Statistical information on participants**

<b>Gender</b>	<b>Number of participants</b>
Female	9
Male	4

<b>Academic Stage</b>	<b>Number of participants</b>
PhD Student	1
Postdoctoral Researcher	1
Lecturer/Associate Professor	7
Professor	4

<b>Country</b>	<b>Number of participants</b>
Ireland	4
United Kingdom	3
The Netherlands	2
Spain	1
Italy	1
Greece	1
Turkey	1

<b>Disciplinary Background</b>	<b>Number of participants</b>
Law	2
Social Sciences	6
Ethics/Medical Ethics	3
Psychology	1