

日本におけるセクシュアルマイノリティの出産・育児の実態把握に関する研究

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Relationship between lesbians involved in childbirth/parenting and sperm donors in Japan

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Abstract

This paper clarified how lesbians access sperm, give birth, and raise children considering the Japanese cultural context and their relationship with sperm donors. Fieldwork data were obtained from an active self-help corporation that comprises sexual minorities who want to have children or are already parents. Data were collected from February 2018 to October 2020. Lesbian couples sought to obtain sperm in several ways including from domestic or overseas sperm banks, friends/acquaintances, friendship marriage websites, matching events, and blood relatives. My research revealed that the weakest legal relationship between sperm donors and children was when sperm was purchased from overseas sperm banks. Specifically, whether a child knows his or her origin depends on whether his or her mother had purchased anonymous or non-anonymous sperm. At the other end of the spectrum was friendship marriage. If a lesbian and a gay get married and have a child, the child is legally a child of both people—just like in a heterosexual relationship. However, my research showed that raising children and living together in a friendship marriage was associated with a myriad of problems. In sum, the sperm donor-child relationship can be very unclear; therefore, both donors and recipients must be prepared for various risks before women decide to give birth and raise a child. Japanese policymakers should promptly establish relevant laws to address these noted issues, starting with the recognition of same-sex marriage.

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Keywords: childbirth, Japan, lesbian, parenting, sperm donor

Introduction

In recent years, there has been an increasing trend across the world to embrace same-sex marriage. Local governments in Japan are also increasingly issuing certificates that approve homosexual partnerships. Concurrently, however, there have been hardly any discussions about childbirth and parenting by homosexual couples in Japan. This paper focuses on the relationships among lesbians who want to give birth and/or have already raised children and sperm donors in Japan.

Research on childbirth and parenting by sexual minorities such as lesbian, gay, bisexual, and transgender individuals has been actively conducted in recent years. Weston (1991) noted that lesbians and gays living in the United States built "chosen families" as an extension of friendship and affection rather than blood ties or biological reproduction-based relationships. Moreover, another study examined those who concealed the fact that they are lesbians in a homophobic society and were raising children in marriages with heterosexual men (Lewin 1993).

Research since the 1990s has addressed sexual minorities who actively take part in childbirth and parenting through adoption and reproductive medical technology. These studies provided an opportunity to reconsider the existing point of view on heterosexual families and had a great impact on kinship studies in cultural anthropology. The following points have been clarified regarding the use of reproductive medical technology by sexual minorities. When a lesbian couple wished to receive sperm donation and gives birth, they may request sperm from the relative of the partner who does not give birth and try to have a child with a blood connection to the couple. Alternatively, lesbian couples may also choose sperm donors with similar physical characteristics (Hayden 1995). While there is a view that childbirth and parenting merely mimic the existing heterosexual view of

the family (Benkov 1994), there is also the view that we are moving toward building new relatedness that has never been seen before (Strathern 1995).

However, most of the above studies were from Western countries, and case studies from Asian countries are limited. In particular, there are no studies on sexual minorities who give birth and raise children using reproductive medical technology. This paper clarified how lesbians access sperm, give birth, and raise children considering the Japanese cultural context.

This study employed data obtained from fieldwork in self-help group Z, which consisted of people who are sexual minorities and want to or are already involved in childbirth/parenting from February 2018 to October 2020. Z has been active since 2010 and was incorporated in 2018. The members who are primarily active are nine lesbians and one gay. The activity funds of corporation Z are membership fees by supporting members, subsidies from foundations, and crowdfunding. Among the participating members of corporation Z, there are about 50 supporting members who pay an annual membership fee to participate in the activity (as of 2020). Events held by corporation Z include exchange meetings with sexual minorities who want children, beginner training sessions for those who are about to start planning for pregnancy, exchange meetings with sexual minorities and their children, exchange meetings with children, study sessions concerning artificial insemination by donor sperm (AID), exchanges with groups doing similar activities outside of Japan, setting up booths at pride parades held in cities, creating publications, and so on. The current author acted as a member of the corporation Z and collected the data.

Lesbians' access to sperm donors

Semen is a valuable "resource" for lesbians (couples) who want children

through their own pregnancy and childbirth. How do lesbians (couples) access semen before giving birth and raising children? Fig. 1 shows the process by which a lesbian might attain semen.

First, there is a sperm bank, which is established when a donor provides sperm to the bank and the recipient purchases it. Overseas sperm banks such as those in the United States and Denmark have already been commercialized as for-profit companies. In contrast, Japanese sperm banks are limited to 12 sperm banks nationwide—managed in hospitals approved by the Japan Society of Obstetrics and Gynecology, which conducts AID. However, since the use of these sperm banks is limited to married male and female couples, lesbians (couples) cannot use said sperm banks. In contrast, there are cases where individuals run their own sperm banks for non-profit purposes by calling for sperm donation on the Internet.

Second, there are "friendship marriage" websites and matching events as a way for lesbians to access sperm donors. A friendship marriage website is a website where lesbians and gays look for someone to have *mariage blanc* (i.e., unconsummated marriage). A matching event is a place where gays who want to donate sperm and lesbians who want to give birth and raise children meet face-to-face.

The third instance is when the sperm donor is a lesbian friend/acquaintance, relative, or ex-husband. These sperm donors can either be gay or heterosexual men. For example, one member of a lesbian couple may give birth by receiving sperm donation from a relative of her partner who is not giving birth. If the sperm donor is a former husband, this is a case where the child born from the previous marriage is raised with the new female partner after divorce.

Commercialized semen: sperm banks outside Japan

Lesbians (couples) consider semen as a commodity. As a commodity, sperm can be given various values and prices. Therefore, you can purchase it if you have the financial power to do so, and vice versa. Some values that cannot be obtained for free will be given to the expensive sperm from this foreign sperm bank.

There are various sperm banks outside of Japan. Sperm banks commonly used by lesbians living in Japan include *Cryos* in Denmark and *California Cryobank* and *Seattle Sperm Bank* in the United States. In particular, Cryos has started international business development, and its website can be accessed in Japanese. These sperm banks have been actively targeting Japanese customers in recent years.

A lesbian who wants to buy sperm from a sperm bank first accesses the sperm bank from a website on the Internet and decides which sperm to buy. Anyone can get sperm donor information for free by registering an email address and creating an account on the website login page. The recipient searches for a donor on that site. Donors' eye color, hair color, race, nationality, ethnicity, academic background, emotions, and intelligence profiles are posted on the site. In some cases, you can even look at pictures of the donor's face during his childhood or listen to the donor's voice. The sperm price is listed next to the donor's information. Sperm is placed in nitrogen-frozen straws and sent to Japanese recipients, and the price changes depending on the number of straws.

Purchasing sperm from a foreign sperm bank is expensive. The price of sperm varies depending on the donor's identity disclosure, sperm motility, and sperm washing, and it becomes even more expensive when overseas shipping charges are included. According to a lesbian couple, it cost 2 million yen to buy sperm from a sperm bank abroad. They wanted Asian

sperm so that the child would look similar to themselves. Certainly, there were Japanese sperm donors in the sperm bank²; but they could not buy the sperm because the sperm from this donor had already been provided for more than five recipients³.

When a lesbian uses an overseas sperm bank in Japan, she must fertilize the purchased sperm by herself. Usually, an obstetrician/gynecologist will perform fertilization if the sperm is ordered from an overseas sperm bank. However, in the case of lesbians, AID is not available in hospitals⁴. Hence, sperm must be purchased directly from a sperm bank abroad and injected into the uterus by themselves using a syringe. During fieldwork, I met several lesbians who became pregnant by using the syringe method in this way.

Benefits of using a foreign sperm bank. One of the major benefits of using a foreign sperm bank is that the sperm donor does not have a

² The Japanese sperm donated to this sperm bank are those of Japanese living in the country where this sperm bank is located. The sperm of sperm donors residing in Japan do not reach overseas sperm banks.

³ This is to avoid incestuous relationships in which children born from the same sperm donor become involved in romantic relationships without knowing it. In fact, some children who attended the corporation Z event were born as a result of sperm from the same sperm donor being donated to different lesbians.

⁴ The Japan Society of Obstetrics and Gynecology⁴ restricts treatment using AID to heterosexual couples in a marital relationship, and hospitals where such treatment can be performed are also limited to hospitals approved by the Society.

direct relationship with the child; thus, the donor cannot acknowledge the child as his own. This also means that the donor cannot deprive the mother of her custody of the child⁵. Some lesbians (couples) who want a child say they do not want the donors to be involved after the child is born. The issues of child acknowledgment and custody by sperm donors lie behind these statements. If a sperm donor acknowledges a born child as his own, the Japanese Civil Code allows the born child to claim support from his or her father. In addition, when a lesbian (couple) gives birth to a child by sperm donated from a third party, the custody is inevitably with the mother of the child; however, if the sperm donor tries to acknowledge the child and claim his or her custody, the lesbian mother may be deprived of custody. Therefore, overseas anonymous sperm donors are more convenient for the child's mother for this reason.

However, this is from the mother's perspective, and the child may have a different perspective. If anonymously donated sperm is purchased from an overseas sperm bank, the child cannot trace his or her blood-related father; consequently, the child is deprived of his or her right to know his or her origin. From the mother's perspective, if the sperm purchased is anonymous, there is no risk that her child will be acknowledged by the donor or that she will be deprived of custody. Therefore, it is possible to close the family relationship as a child of a lesbian (couple) and prevent

⁵ According to explanations by an overseas sperm bank, more than half of the registered sperm donors are men with a girlfriend or spouse. In such cases, recipients often request anonymous sperm donation. If a sperm donor wishes to disclose his information, he is obligated to sign a contract guaranteeing that he would not contact the child.

intervention from a donor. This is one of the greatest benefits of using an overseas sperm bank.

Ambiguous relationships with sperm donors

What kind of relationships do sperm donors, other than those involved with overseas sperm banks, build with their recipients and their children?

Domestic sperm banks. There is no sperm bank in Japan as a for-profit company equivalent to an overseas sperm bank. Sperm banks managed in hospitals accredited by the Japan Society of Obstetrics and Gynecology are the officially recognized sperm banks in Japan. However, since the use of AID at these hospitals is limited to married heterosexual couples, lesbians (couples) cannot use AID directly at the hospital.

Moreover, in Japan, there are also websites on the Internet that call for their own sperm donation, and there is also a non-profit "sperm bank" that was created by multiple sperm donors. However, there is no clarity on the type of people who operate these sites. One lesbian contacted them while considering the use of a domestic "sperm bank" online; however, she was told that only two donors were actually registered. Another lesbian contacted a group of people who were donating sperm; however, she said she thought that it was strange because she could only contact one person at any given time. Nonetheless, there are various problems in using domestic sperm banks compared to overseas sperm banks.

Matching event. A matching event is an event organized by corporation Z that brings together sexual minorities who are interested in having and raising children. Some events are held solely for the purpose of seeking encounters between sperm donors and recipients, while other events are for those who are thinking about raising children and want to interact with lesbians and gays who are involved in childbirth and

parenting. Sperm donation is sometimes discussed during events. At such an event, discussions are not only held on how gay men donate sperm unilaterally, but also on how donors want to establish relationships with lesbians and their children after sperm donation. At that time, considerations are made on how to give birth and raise children based on the "self-checklist" created by corporation Z. There are 20 items on this list, and potential recipients will consider whom to request donation and source of donation, what to do with the acknowledgment of the child, and whether there are people around who can help raise the child. This event is held several times a year in multiple cities.

However, there is often an imbalance in the sex ratio of participants when holding such matching events; i.e., the ratio may be 90% women to 10% men. This shows that, while lesbians are more interested in childbirth and parenting, they are not so interested thus far. Those who participate in gay matching events may want to raise their children as gay couples, or they may not want to be involved in parenting but would simply like to cooperate with sperm donation to lesbians.

For example, one gay who attended this event had a male partner. Both want children but have little knowledge about how to have children. Therefore, he was interested in knowing what kind of people were coming to participate in the matching event. As he attended this event every time, he received a request for sperm donation from two lesbian couples. Since he also wanted to participate in parenting from time to time, he wanted to donate sperm to lesbians who could sympathize with his parenting ideals. He told the first lesbian couple that he and his partner wanted to meet and be with his children even if it was once a month. However, he said he was hesitant to donate sperm even though the lesbian couple understood what

he said, and he was worried that he could not see the child when he or she was born. In contrast, as he met and talked with another lesbian couple, he found that they had a similar idea about parenting as did him and his partner. Since he liked this couple better than the former couple, he wanted to cooperate with sperm donation. He said that he plans to go to the obstetrics and gynecology department with the to-be mother and perform a sperm test to specifically donate sperm to this lesbian couple.

In sum, sperm donation was performed through a matching event; however, as noted, it is sometimes difficult for gays and lesbians to balance their intentions. Lesbian couples often do not want gays to donate sperm and get involved in parenting. This is because it is related to the problems associated with child acknowledgment and custody, as mentioned above.

Friends and acquaintances. A lesbian (couple) who wants a child may get sperm from a friend or acquaintance. In such cases, sperm was sometimes donated by heterosexual men rather than from gay men.

When sperm is provided by a gay man. Building friendships between lesbians and gays varies greatly from person to person. Sometimes, gays have no lesbian friends and, conversely, lesbians might not have any gay acquaintances. Therefore, they participate in matching events hosted by corporation Z, as they have no opportunities to meet gay men. So what are the instances in which they receive sperm donation from a gay friend?

A lesbian who wanted a child asked a gay friend to donate sperm. At that time, the gay friend said that, if he were to donate sperm, she would be forced to choose between breaking the friendship with him after sperm donation or having a friendship marriage (companionship; for details on friendship marriage, see below). If he were to donate sperm and end his

friendship with her, he would not acknowledge the child that will be born, and he would oblige her not to tell the child that he had donated sperm. In contrast, if they are going to have a friendship marriage, he said that they would live together and raise their child. Thus, problems can arise with sperm donors and child acknowledgment when trying to have sperm donated from a gay acquaintance.

When sperm is provided by a heterosexual man. What are the cases in which sperm is donated by heterosexual men? A lesbian who wanted to start planning for pregnancy was thinking about getting sperm donated from a heterosexual couple who are her friends. The couple also greeted each parent of the lesbian couple who was about to receive sperm donation as a sperm donor, and built a system in which everyone, including relatives, would be involved in raising their children. Consequently, it may be ideal to build a relationship that fosters an environment for raising children upon disclosing each other's relationships.

However, this does not necessarily work out this way. When asking for sperm donation from a heterosexual man, situations change depending on whether the donor is married or single. For example, a lesbian who was thinking of raising a child as a single mother received sperm donations several times from a heterosexual man. When the donor donated sperm, he was still single. She had tried fertilization by the syringe method several times; but it did not work. Afterward, the donor married another woman and had a child with her. The lesbian who wanted to receive sperm from him eventually gave up on having sperm donated from him as she did not know how his wife would react. Therefore, sperm donation from heterosexual men carries various risks. If a lesbian wants to receive sperm from a heterosexual married man, they sometimes sign a contract to

ensure that his wife would never find out about the donation.

Friendship marriage website

A friendship marriage website is often used as a place where sperm donors and lesbians can meet. Friendship marriage websites are used so that gay men and lesbian women who want to get married as "formal" heterosexual couples can meet. In other words, it is a website used by people who want to get married as heterosexual while hiding their sexual minority status.

In fact, there was a lesbian couple who used these sites to meet sperm donors. Through this site, they met and talked with several gay men and found a sperm donor. From the first meeting, they had a good impression of him and, after meeting several times, they decided to convey their wishes as a couple and have him donate sperm with mutual agreement. Afterward, one member of the lesbian couple became pregnant and gave birth. The couple sent photos of the child's growth to the sperm donor; however, the donor does not contact them. The sperm donor and the lesbian couple did not complete any written contract about the child's acknowledgment, custody, or whether the child would meet the sperm donor. If a child asks the sperm donor to acknowledge him or her as his child after the child has grown up, there may be trouble when there is no written agreement.

These friendship marriage websites are primarily intended for gays and lesbians to find a friendship marriage partner; but they are also used by lesbians to find sperm donors. However, the men who visit friendship marriage websites are not necessarily gay. Some sperm donors often ask lesbians for sexual relationships. Some lesbians said they were asked to have sex while repeating email exchanges and were depressed and stopped

using it.

Legal issues

So far, this study has addressed how lesbians access sperm donors through domestic sperm banks, matching events, acquaintances/friends, and friendship marriage websites. The next issue is the relationship between the sperm donor and the recipient and the relationship between the sperm donor and the child who will be born. Many lesbians (couples) who want a child want to raise their child as their own, but there are legal issues such as acknowledgment and custody by sperm donors.

Friendship marriage (companionship)

When lesbians and gays get married for friendship, they may try to raise children together. For example, lesbian A received sperm donation from gay D and gave birth to child X. Since A and D are legally married, they could give birth to X using in vitro fertilization techniques used in obstetrics and gynecology. If they are in a marital relationship, it is possible to give birth in this way. Concurrently, A has a lesbian partner: B. B also received sperm from gay C and gave birth to child Y. However, B and C were not in a friendship marriage. When I heard from A, she said that there were five people—herself, B, D, X, and Y—living together in the house. C is just a sperm donor and is not raising children with B (Fig. 2).

The example in Fig. 2 is a legally stable family relationship; but there are also problems. According to A, B lives in A's home with her gay husband D and her child Y. For example, when A's parents came to A's home, they were suspicious of the cohabitation relationship between A, D, X, B, and Y. This was because A had not come out to her parents that she was a lesbian. Later, A and B broke up and lived separately. There was also a problem from the standpoint of D, who donated sperm to A. D wanted

to participate in parenting as X's father and got married in a friendship. However, the relationship between A and D deteriorated after A gave birth to X, and D now goes to A's home just to sleep. D also feels uncomfortable staying at A's house, with whom he got married in a friendship.

As in the example in Fig. 2, there are also cases in which lesbians and gays raise their children together in the form of friendship marriage. However, even if there is legal stability in raising children under marriage, there seem to be problems when lesbians and gays live together, at least according to the people I have met in my fieldwork. However, there is a sense of security from the perspective of the child that the child has a father and a mother and can be raised under the custody of both. This is legally the same as being raised by heterosexual parents. In contrast, some problems could stem from the arrangement in which a lesbian and a gay live together.

Ex-husband

In some cases, a lesbian who married a man as a heterosexual divorces him and raises the child born during marriage with a new lesbian partner. A lesbian raising a four-year-old boy was previously married to a man. Even before she got married, she was slightly aware that she was fond of women; but she married a man. She had a child with him and soon divorced him. After that, she raised her child as a single mother. However, her father (grandfather of the child) takes good care of her child because she lives with her child at her parents' house. The reason she attended the corporation Z event was because she wanted a gay friend. She said that she wanted a gay acquaintance who would sometimes play with her child because her child was a boy. However, when a lesbian couple raises a child from a previous marriage, one has custody; but the other does not. Therefore, if the woman who has custody of the child dies, problems arise regarding who will be the child's guardian. It is not always known whether

the deceased women's lesbian partner can be a guardian, as it requires a family court decision.

Seeking a blood connection

In addition to the legal reasons, some women seek to have a blood connection with the donor. Fig. 3 shows an example of giving birth and raising a child by sperm donation from a relative. Specifically, E and F are a lesbian couple. E gave birth to W after receiving sperm from her partner F's older brother. In other words, W is a child who shares the blood of both E and F. F has come out to her mother that she is a lesbian, and F's mother also knows that she has a female partner named E. However, F's mother does not know that W, E's child, was born by sperm donated from F's older brother. F's older brother who donated sperm is gay. F had long known that her older brother was gay. She says she had seen gay magazines in her brother's room. F, on the other hand, had not come out to her brother. F asked her brother to donate sperm because her friend was having difficulties with infertility. Therefore, F's brother does not know to whom he donated sperm, nor does he know that W, the child of E, was the child born out of his sperm donation.

In addition to the case shown in Fig. 3, I heard stories about a lesbian who gave birth to a child by having sperm donated from a relative of her partner, again highlighting the importance of blood connection over law. As can be seen from the case in Fig. 3, when E gives birth by sperm donation from a relative of woman F who does not give birth, W becomes a child that has a blood connection with both of them. The emphasis here is that it is a blood-connected child of E and F, and how this child is legally connected to the sperm donor is not as vital.

Conclusion

This study examined various cases of how lesbians access sperm donors

to obtain sperm to give birth to children in Japan. The relationships are summarized in Fig. 4, which shows the legal relationships between sperm donors and children.

The weakest legal relationship between sperm donors and children is the purchase of sperm from overseas sperm banks. Sperm is a commodity with various values. When a woman purchases sperm, she searches for sperm that suits her needs; however, after purchasing sperm, she does not face the sperm donor directly. Whether a child knows his or her origin depends on whether his or her mother has bought anonymous sperm or non-anonymous sperm. This is what makes sperm a commodity.

At the other end of the spectrum is friendship marriage (companionship). If a lesbian and a gay get married and have a child, the child is legally a child of both people. This relationship is not legally different from the relationship of a child born to a heterosexual couple. However, as seen from the examples in this paper, it can be difficult for a gay and a lesbian to live together and raise children. The cases discussed in this paper may mirror many instances of friendship marriage; hence, other cases need to be analyzed in the future. For example, even if a gay and a lesbian get married for companionship, they could live separately while raising children together.

Gray relationships that do not fit into any of the above examples are domestic sperm banks, friends/acquaintances, friendship marriage websites, matching events, and blood relatives. What all these examples have in common is that sperm donors may be forced to acknowledge their child during the process of child growth, even if they have some kind of contract with the recipients when they give birth. In these examples, sperm donation is passed directly to the recipient and is not anonymous in

the first place. Hence, the sperm donor-child relationship is unclear. Therefore, both sperm donors and recipients must be prepared for various risks before giving birth and raising children.

The cases discussed in this article are obviously just some of the sexual minorities who want to give birth and raise children in Japan. Regardless of how sperm is obtained, the relationships between those involved will always vary. As there is no legal development regarding the use of reproductive medical technology by sexual minorities in Japan, it may give rise to unforeseen issues in the future. Therefore, it is necessary to promptly establish relevant laws, such as those recognizing same-sex marriage.

Acknowledgments

Declaration of interest

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Figure Captions

Figure 1. Sperm transfer process

Figure 2. A friendship marriage case

Figure 3. Sperm donated by blood relatives

Figure 4. Legal relationship between sperm donor and child

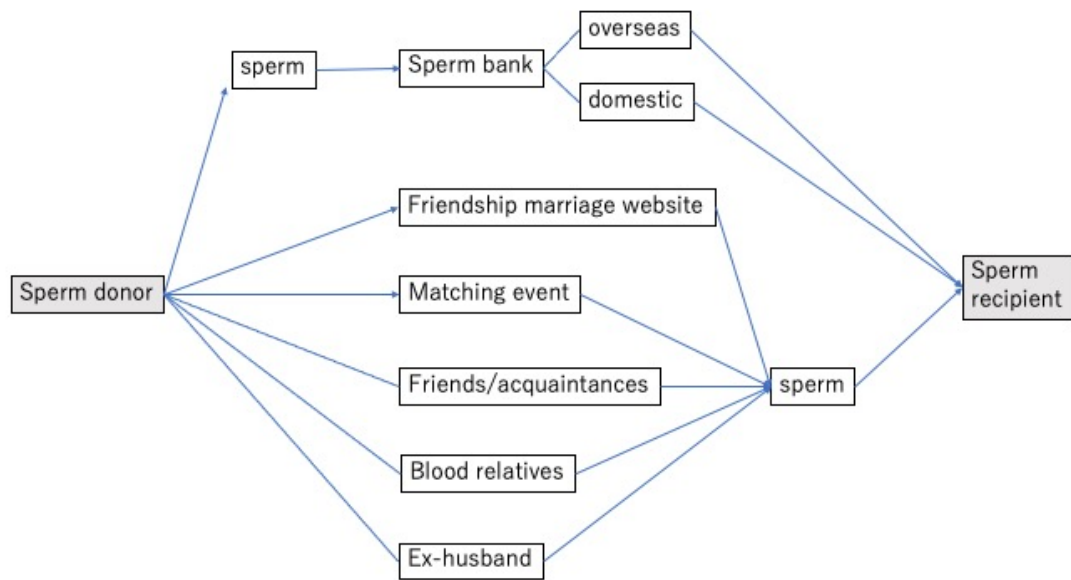


Fig. 1 Sperm Transfer Process

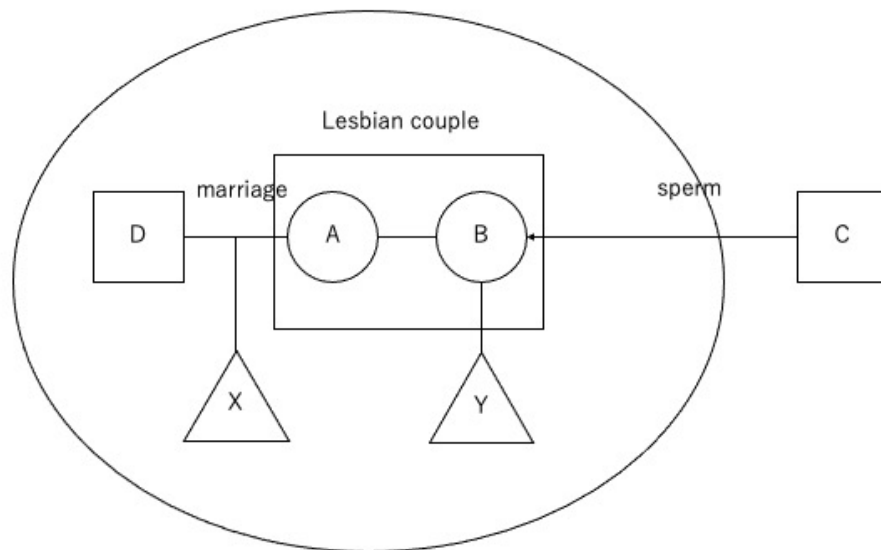


Fig. 2 In case of friendship marriage

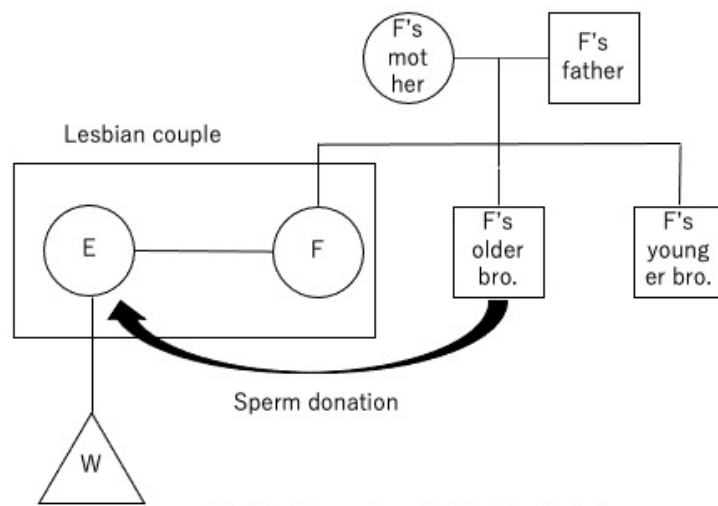


Fig. 3 Sperm donated by blood relatives

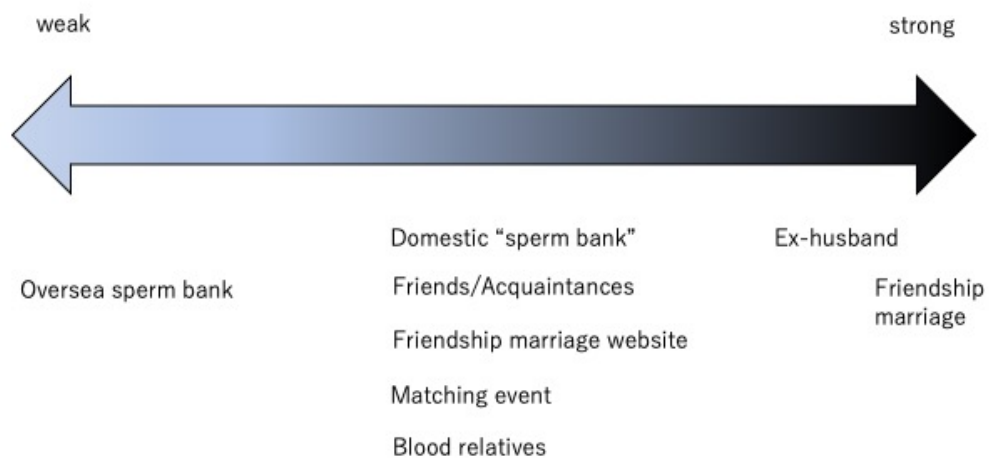


Fig. 4 Legal relationship between sperm donor and child