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CHAPTER 8

QUEER FAMILIES ONLINE: THE INTERNET AS A RESOURCE FOR ACCESSING AND FACILITATING SURROGACY AND ART IN FRANCE AND THE UNITED STATES

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In *Access to Assisted Reproductive Technologies: The Case of France and Belgium*, Jennifer Merchant, ed. New York: Berghahn Books (2020), pages 140-158.

In 2012 and 2013, as French legislators contentiously debated same-sex marriage and adoption, several American for-profit agencies offering assisted reproductive technologies (ART), including fertility treatments and surrogacy, held private seminars in Paris. They advertised their services to potential French and European parents, many of whom were gay and lesbian. Building on an already tense social climate marked by massive demonstrations against the proposed legislation, protest leaders of the *Manif pour tous* (Protest for All) publicly denounced the seminars. In addition to their fundamental opposition to parenting by same-sex couples more generally, they specifically decried the American “commercialization” of ART, which they deemed threatening and un-French (Kovacs 2013). That these American organisations could advertise their services as *products* to future clients—and to gay and lesbian people to boot—went against the public, free, and heteronormative imperatives of the French ART system. Yet, on the other sider of the Atlantic, these recruitment and marketing activities are normal and ordinary. Indeed, in the United States, even strong opponents of queer families, such as the lawmaker authors of a Federal court *amicus curiae* in support of same-sex marriage bans, take it for granted that gays and lesbians access ART and other means of becoming parents. For example, even as they argued against same-sex marriage, the authors noted that “Same-sex couples now raise children together by virtue of artificial insemination, surrogacy, and adoption,” and they

mentioned the websites of several well-known agencies these couples use (Brief of Amici Curiae 2013).

The contrast between these examples illustrates the nationally specific circumstances between France and the United States that shape the challenges and opportunities same-sex couples face on their paths to parenthood. Since the legalization of same-sex marriage and adoption in 2013, French same-sex couples can jointly adopt or adopt the children of their spouses. Yet, the ongoing restriction of fertility treatments to “medically infertile” long-term heterosexual couples and a blanket ban on surrogacy means that lesbians and gay men must leave France in order to get the services they need, which requires money and means. Otherwise, their only local legal option is to search for people willing to engage in non-medical forms of reproduction, such as co-parenting or known-donor at-home insemination.

In contrast, in most states in the U.S., same-sex couples can adopt, use tissue banks, fertility clinics, and surrogacy agencies. All of these forms of access to parenting—including, perhaps surprisingly, adoption—charge various fees, many of which clients must pay for out of pocket (Almeling 2011; Swanson 2014). This system of ART as a private, for-profit service open to all, regardless of family structure, has long helped to normalize queer parenting in the United States more generally. It has allowed same-sex couples to create families more easily and with more visibility than in France. The increasing banality of gay families is also reflected in polling data. For example, in May 2009, although only 40% of U.S. respondents in a national survey supported same-sex marriage, 54% supported same-sex adoption (Swift 2014). In contrast, in France, only 46% of respondents supported same-sex adoption in a December 2012 poll taken during the parliamentary debates, even as the majority supported same-sex marriage (Ifop 2012).

Unlike many of their French peers, who frame the legalization of same-sex couples' access to parenting as a threat to children or as the "commercialization" of life and the human body, most American policymakers consider these practices as unremarkable.¹ In fact, in some circumstances, public agencies specifically target same-sex couples in order to encourage them to become parents. For example, in November 2015 in celebration of National Adoption Month, adoption services in Los Angeles posted banners on lampposts advertising an interracial gay couple with their adopted son. They did so in part to encourage same-sex couples to become adoptive parents because, in contrast to France, there is a dearth of potential parents and a long waiting list of children needing homes.

[Insert image 1 here. Image 1 attached at end of document.]

Clearly, the French and U.S. political, legal, and cultural contexts on the issues of queer parenting diverge. Yet, gay men, lesbians, bisexuals, and transgender people in both countries want to create families just like anyone else. To reach that goal, however, they must not only contend with the limitations or advantages of their race, class, and gender, but also with these specific national circumstances that constrain or enable their capacity to get the services and information they need. This chapter examines one tool, online resources, that queer people—and the people trying to reach, serve, and cater to them—use to create the conditions necessary to have children. It focuses in particular on websites run by LGBT organizations, commercial ART and co-parenting matchmaking providers, as well as professional organizations that serve same-sex couples and queer people hoping to become parents. By comparing these sites across France and the United States, we gain insights into the ways the

1. These critiques have come from lawmakers and public intellectuals on both the left and the right. See Borrillo, 2015 for a discussion of these arguments and positions.

restrictions on ART in France and their liberalization in the United States shape on-line resources, and ultimately same-sex parenting more broadly, in both countries.

The internet is an important site of analysis because of its radical potential to disrupt norms, connect people who share common goals, and facilitate the exchange of goods and services even in the face of harsh legal restrictions and social disapproval. Indeed, since the early days of the internet, feminists, for example, seized on the internet's potential to shrink or even neutralize geography and borders. In general, they described the internet as a tool for disadvantaged groups (Mele 1999; Shade 2002) to create collectives, share ideas, and build a community (Harcourt 1999; Friedman 2010). Similarly, gay men, lesbians, bisexuals, transgender people, and other marginalized sexual and gender minorities have turned to the internet to create and explore their identities. These on-line communities, as reflected in webpages ranging from commercial dating sites to activist organizations and forums, sustain activism (Pullen and Cooper 2010) and help people develop a positive sense of self as they connect with others like them (Davis and Brewer 1997; Craig et al. 2015; Hunter 2015). Moreover, such resources are especially important for people who live in hostile or unsupportive environments. Their online connections allow them to resist and overcome the limitations of their circumstances. Inasmuch as ART is impossible for queer people in France, the internet similarly gives them the agency to transcend restrictive legislation.

Previous research describes how queer families on both sides of the Atlantic have mobilized the internet to harness the power of new reproductive technologies and provide each other with solidarity in a largely heteronormative world (Mamo 2007). These spaces help gay men and lesbians develop a sense of what it means to be fathers, mothers, and families (Deomampo 2015). Yet, because of the administrative complexities surrounding gay

parenting—either their bans in France or state-level variation in the U.S.—these online communities are also driven by the legal circumstances in which couples find themselves (Kazyak and Woodell 2016).

Engaging in “economies of online cooperation,” (Kollock 1999), queer parents share and receive advice with each other about how to find the services and products, such as surrogacy, in-vitro fertilization, and gametes, they need. Surrogacy for gay men in the United States (Stacey 2004; Stacey 2006; Dempsey 2013), and France in particular where the illegality of the practice renders their needs especially problematic, is a salient example of the utility of this internet solidarity.² Similarly, lesbian couples network with each other to discuss strategies for finding appropriate sperm banks—especially for French women who have no access local ART centers (Van Hoof, Pennings, and De Sutter 2015)—and tips about whether to use anonymous or donor-release sperm, for example (Hunter 2015; Donovan and Wilson 2008; Descoutures 2010; Gross, Courduriès, and Federico 2014). In so doing, queer families have helped developed online “commodity networks” to facilitate the sharing of biological material between each other or to connect commercial providers, such as fertility treatment centers, to potential queer clients (Pullen and Cooper 2010).³ As described below,

2. See also the chapters by Courduriès and Gross in this volume on the particular challenges and rewards gay couples face as they seek access to surrogacy across national borders.

3. Though it is not the focus of this chapter, it is also important to note that surrogate mothers, some of whom work for same-sex couples, also mobilize the internet to create community, develop collective identities as surrogates, share advice, and support one another (Berend 2016). In so doing, their online communities are also linked to those of queer families.

these networks are visible in the online resources available to queer people seeking to become parents today.

Online spaces for queer family building are also caught up in local material circumstances relating to both the commercialization of ART and the ties between businesses and LGBT activism more generally (Scammell 2000). Online resources for queer families in the United States, for example, reflect the broader intersection between the economy and new forms of access to parenthood (Radin 2001; Almeling 2011). On the one hand, beyond the ethical qualms some have with the commercialization of health and reproductive services, the liberal commercialization of tissues and surrogacy means that these services are costly and unaffordable to many people. On the other hand, the framing of ART as a product in the U.S.—rather than as a state-controlled “medical” procedure as it is in France—has been a formidable advantage in helping queer families grow, especially white middle-class ones (Chasin 2000). Same-sex couples’ desires to have children has created a formidable niche market that American service providers nurture as they seek to cater to queer customers (Ginder and Byun 2015). This means that U.S. companies specifically target an LGBT clientele in some of their marketing. At the same time, in an effort to appeal to the values of queer consumers, some companies espouse pro-gay policy stances, sponsor LGBT organizations and events, or use their economic influence to persuade policymakers on gay rights issues (Stambolis-Ruhstorfer 2015; Badgett 2003; Boyd 1997). Justified warnings about the neo-liberal cooptation of queer mobilizations and the fraught economic and racial issues it generates notwithstanding (Duggan 2002; Twine 2015), activists and queer families alike have successfully used markets to help propel gay rights and families forward in the United States (Brown 2009). The liberal commercialization of ART and the “corporatization” of gay rights are reflected in American online resources for queer families in the United

States. Inversely, their absence is visible in the lack of certain resources, especially for-profit ART agencies, in France.

National differences in ART online resources

Online resources for same-sex couples reflect the specific challenges people in each country face and the broader national trends in legal, political, and economic circumstances across contexts described above. I find four major types of websites addressing the access needs of potential queer parents: 1) LGBT advocacy organizations; 2) commercial ART providers; 3) commercial matching services; and 4) and professional organizations. Each contributes in specific ways to the ability of same-sex couples to have children. Each also varies according to national context. The types of services they offer, their level of commercialization, their commitment to activism and expanding the rights of queer families, and their relationship to queer people—either treating them as a target audience or growing organically out of LGBT initiatives—have characteristics specific to France and the United States.

Broadly speaking, unlike in the U.S., in France there are no local commercial providers of any services, but some international websites for surrogacy and donor sperm try to reach them. However, both LGBT websites and commercial providers in France feature matching services in which men and women of a variety of sexual orientations seek one another to create arranged non-medical donation and parental-sharing. In the U.S., LGBT advocacy organizations and professional organizations, such as the American Society of Reproductive Medicine, are primarily geared to providing future parents with information and resources on how to navigate legal complexities that come from differences across states or how to find a suitable for-profit agency. LGBT organizations in France, however, help couples find ART services abroad and deal with the legal and medical challenges that arise from the lack of

local legal access. Finally, unlike their American counterparts, French professional organizations remain largely silent on the issue. Table 1 and the following sections describe these characteristics in further detail.

[Insert Table 1 here. Table 1 attached at end of document.]

Queer advocacy organizations

Growing out of queer movements, LGBT advocacy organizations focusing on parenting push for legal and administrative reforms. They aim to help queer people have children and make their families more secure and safe in a context of anti-LGBT discrimination and heteronormative family law (Garnier 2012; Gross 2007; Stambolis-Ruhstorfer 2015).

Activism is their primary goal. As a result, their policy agendas and demands are intimately tied to specific political circumstances in each country. Not surprisingly, French organizations, such as the *Association des Parents et futurs parents Gays et Lesbiens* (APGL) and the *Association des Familles Homoparentales* (ADFH), focus on pushing lawmakers to open ART access to same-sex couples and litigation in courts to secure the citizenship rights of children of same-sex couples conceived through surrogacy abroad.⁴ Their U.S. counterparts, such as Family Equality Council, Lamda Legal, or Men Having Babies, are more geared toward pushing to secure the legal recognition of same-sex families that already exist. Their websites describe and document these various activist activities.

Complimenting their advocacy work in the policy sphere, these organizations also provide services and information to their online-communities that help same-sex couples navigate

4. Note that the APGL was founded over a decade and a half before the ADFH. These organizations diverge on some policy issues. For example, surrogacy, which also splits French feminists, tends to divide their memberships.

their local circumstances as they seek to become parents. In both countries, their websites give detailed legal analysis, contact information for allied lawyers and agencies, as well as ratings and recommendations about ART agencies, sperm banks, and other service providers. These groups act as curators, ensuring that the organizations and agencies they recommend to their internet users are welcoming to queer clients.

Beyond these similarities, several key differences characterize advocacy organizations and their online presence in each country. In the United States, they offer a range of information and services about how to create local family groups and parenting clubs, reflecting the relatively large size and scope of American organizations, especially on the national level. They also share information about legal situations in order to help families navigate the legal complexities that come from state level variations and inconsistencies. It appears that American advocacy organizations do not connect families in on-line forums for the purpose of finding potential co-parents or known donors to the degree that they do in France. Rather, American LGBT family advocacy organizations forward their users on to local fertility clinics and surrogacy agencies that cater to queer customers. In addition, unlike French organizations, U.S. organizations benefit from corporate sponsorships and ties to businesses, which help support their activities.

In France, advocacy organizations are unable to point their members to French fertility clinics. Instead, they list advice and information about services in countries such as Spain, Belgium, the United States, and elsewhere. This information addresses the specific needs of future parents who, because of legal restrictions in France, must travel abroad and navigate challenges in different languages, legal regimes, and medical systems. Furthermore, some French LGBT advocacy organizations offer specific services for a membership fee. These

include personal profiles and forums that allow people hoping to exchange either gametes for at-home inseminations to find one another as well as couples and individuals seeking to establishing co-parenting arrangements.

I did not find evidence of American advocacy organizations setting up such matchmaking. This is likely due to the easier availability of both surrogacy and sperm banks in the U.S., which reduces demand for co-parenting and non-medical artificial insemination. French advocacy groups also use their websites to provide detailed instructions, reviews, and explanations about fertility clinics and mail-order sperm delivery companies servicing France. To access these areas of the advocacy organization websites, potential parents must join the organization, pay a membership subscription, and, in some cases, go through a verification process to verify their identities and trustworthiness. The heavily-laden political controversy around queer parenting in France—as well as disagreements between organizations about whether or not ART and surrogacy *should* be made legal—makes it particularly important for these groups to keep much of their information and services behind this private pay-wall.

Commercial ART providers

Commercial ART providers, such as sperm banks, fertility clinics, and surrogacy agencies are also among the ways in which prospective queer parents find access to parenthood. As described above, many LGBT advocacy organizations provide links to and recommendations about these service providers. While generally providing the same services in both countries—including access to gametes and surrogates as well as many of the medical and legal amenities necessary for assisted procreation—French and American families face a stark contrast in online commercial options. Most fundamentally, in contrast to France, U.S.

providers are plentiful, based in a range of states, and some cater explicitly to queer families. It is difficult to estimate the number of these private for-profit clinics and agencies but it is evident that they are present across the country and range in size and scope. They have no doubt flourished from a combination of high demand and low regulation.

The websites of these U.S. companies show a range of involvement and engagement with a queer clientele. On the lowest end of this spectrum, fertility clinics and surrogacy agencies will often have a section of their website that specifically addresses the needs, concerns, and questions of gay, lesbian, bisexual, and (sometimes) transgender future clients.⁵ On the other end of the spectrum, some U.S. fertility clinics not only cater to queer families; they emerge out of them and fully integrate the specific issues of LGBT families into their mission statements and marketing. For example, Pacific Reproductive Services, based in California, describes itself as a “lesbian-owned sperm bank” that is a “trusted resource for women planning alternative families” (Pacific reproductive services 2016). In addition to providing the largest number for identity-release donors, according to its website, the organization grew organically out of the lesbian family movement and accumulated knowledge and practices over time that are especially useful to these kinds of women.

In addition to their varying level of involvement with queer families, these for-profit providers also show a range of interest and willingness to engage in activism. Unlike advocacy organizations, these groups are not primarily geared toward changing public policy. Nevertheless, inasmuch as they have contributed to the growth of certain kinds of LGBT

5. The multi-service fertility clinic/surrogacy agency, The Fertility Institutes (www.fertility-docs.com), is a good example of this type of LGBT engagement. For example, under the tab for surrogacy, it includes a section devoted to “Gay Surrogacy.”

families—those with the means to access for-profit fertility services—they have changed the political and social landscape in the United States. Some have also engaged in a degree of advocacy in the direction of policymakers in order to facilitate the access of LGBT clients to their products. Expanding access also necessarily increases their client base. Most engaged, however, are the fertility clinics that grew out of the LGBT movement or were founded by queer people themselves. They have included activism and fighting for expanded rights and protections for non-heteronormative families in their range of activities.

In sharp contrast to the U.S., no commercial service providers exist within French borders. The alternative, state-run fertility clinics, are legally inaccessible to same-sex couples and single women and men. Not surprisingly, websites for these clinics make no mention of queer families or queer parenting. Thus, the only option available to these families and future parents is to seek commercial providers abroad. They often research these websites based on the recommendations of French queer family organizations. Capitalizing on tight French legislation, some international commercial providers market their services online directly to French queer families. This is the case for surrogacy organizations, including those in the United States, and sperm banks. A notable example of these sites includes Cryos International, a Danish sperm bank that includes mail-order donor sperm, which they ship to countries such as France (Cryos 2016).

Commercial meeting groups

Same-sex couples hoping to become parents can also turn to non-medically assisted forms of procreation. This usually involves informally having children in co-parenting agreements with other people. Although technically beyond the scope of ART, it is important to mention the online resources that facilitate these kinds of arrangements because they provide a more

accurate description of the realities queer families face on their paths to parenthood (see Martine Gross in this volume). Commercial matchmaking companies, which exist on both sides of the Atlantic and facilitate this process, operate much like dating services. They feature individual profiles that display pictures and explanations of what kinds of exchanges people are seeking. In the examples of websites in either country, such as Co-Parents.fr, in France or Modamily.com, in the U.S., people of all sexual orientations and situations can find future co-parents. Yet, unlike LGBT advocacy groups that also facilitate co-parenting—at least in France—these commercial matchmaking services operate for a profit and do not tailor their services to gays, lesbians, bisexuals, or transgender people. Nevertheless, upon fee payment, LGBT clients of these websites can browse profiles that would allow them to find others willing to either provide them with sperm or, more rarely, carry a child. Of course in all these situations, the companies warn customers that all legal and medical issues are their own responsibility.

Although there are few differences between French and American commercial meeting groups, my analysis of them suggests that French websites have a more visible presence of future queer parents. In particular, given French lesbians' lack of access to state-run fertility clinics, it makes sense that these women would turn to online offers in order to obtain access to informal donor sperm. This would also be the case for women seeking access to sperm in which the identity of the donor is known, an option that is forbidden in French clinics. The American matchmaking websites appear to be primarily aimed at heterosexual single people, particularly women, who do not want to use commercial ART agencies. They are generally seeking men willing to donate their sperm or co-parent without being in a romantic relationship.

Professional organizations

Professional organizations complement the range of online resource that same-sex couples and other queer people can use on their path to parenthood. Although they do not engage in directly providing future parents with access to ART, I highlight them here because they serve an important role in guiding people in their decision-making about reproduction. Unlike people who do not seek ART in order to have children, queer families who do use such techniques may also seek guidance and advice that comes from medical, legal, and scientific professionals and experts. Indeed, doctors, lawyers, psychologists, psychiatrists, and the professional organizations that represent them, are part of the web of people involved in facilitating—or hindering—queer people’s ability to procreate.

As of 2016, French professional organizations that are mostly likely to directly address issues related to reproduction, such as the *Académie Nationale de Médecine* and the *Société de Médecine de la Reproduction*, include no mention of same-sex couples or indeed of LGBT people at all on their respective websites, www.academie-medecine.fr, and www.s-m-r.org. They discuss parenting and access to parenting according to the legal limits of French law and clinical practice. Judging from their websites, they do not conceive of nor consider the possibility that non-heterosexual people want to have children through ART. The erasure of queer families from these professional organization websites highlights the steep barriers these families face when dealing with official French institutions. These websites mirror the timidity—or hostility—with which many French medical professionals speak about gay parenting in the French media and legislature (Stambolis-Ruhstorfer 2015). The invisibility of queer parenting from these groups is all the more apparent when contrasted with their American counterparts.

Indeed, as of 2016, a range of mainstream American professional organizations openly acknowledge, promote, and aid LGBT people on their path to parenthood. From the American Society for Reproductive Medicine and the National Infertility Association to the American Academy of Assisted Reproductive Technology Attorneys and the American Bar Association, U.S. professional websites specifically speak to the issues and needs of queer families on their respective websites, www.reproductivefacts.org, www.resolve.org, www.aaarta.org, and http://www.americanbar.org/groups/sexual_orientation. Complementing LGBT advocacy organizations, these groups provide legal or medical advice, guidance, and counseling to future queer parents. Their willingness to openly address the issue of LGBT parenting not only reflects the relatively long-standing legality of same-sex couples' access to ART in the United States. It also suggests that these families enjoy a certain amount of institutional legitimacy, at least from a professional perspective, in the country. At the same time, that such professional services are necessary also emerges out of the complex financial and legal frameworks American people face as they seek fertility treatments.

Conclusion

The range of online resources French and American queer families use as they strive to have children through ART reflect the specific national circumstances they face in each country. The public French ART system that currently bars same-sex couples and single women and men from using fertility treatments and donor sperm while also fully banning surrogacy, drives LGBT people to international websites. Local French LGBT advocacy organizations help people organize to overcome these hurdles while pushing for change at home. Finally, for-profit matchmaking services fill the gap as they connect co-parents and facilitate the exchange of gametes and reproductive capacity. In a context of liberal commercial access to fertility treatments, donor gametes, and surrogacy, American online resources are geared

toward selling products and services to future queer parents. As a result, this population is visible and represented even in mainstream professional organizations and for-profit clinics. Furthermore, this model has also allowed LGBT people to develop their own self-designed clinics and services specifically geared toward queer parenting.

These divergences also have implications for the meaning and future of LGBT parenting more broadly. Although in general the French system is currently hostile to queer parenting, it also has the potential to create a much more inclusive system of access for queer families. Although the capitalistic, market-logic of ART has helped to both create and normalize queer families in the United States, it has also reproduced inequality on the basis of class. Because ART in France is public, opening access to queer families could allow working-class and poor queer families to use these services. Such a change would ultimately be a greater advance in social justice because it would theoretically avoid the inequalities inherent in the American situation.

The commercialization of ART has been an undoubted boon to the growth and visibility of some—largely privileged—LGBT families in the United States. Coupled with the power of the internet to deploy resources that facilitate access and create communities devoted to queer parenting, access to ART seems easier for LGBT people there. Nevertheless, as demonstrated by the kinds of resources described in this chapter, French sexual and gender minorities also use the internet to successfully overcome the barriers of their national context to have children. We can expect that if the French government were to legalize access to ART for lesbians and single women and open surrogacy to all, the powerful organizational resources of the French bureaucracy could potentially create a system that is more open, equal, and legible than that in the United States.

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Image 1

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Table 1: Online Contributors to Queer Family ART Access in France and the United States

	Queer advocacy organizations		Commercial providers		Commercial meeting groups	
	France	U.S.	France	U.S.	France	U.S.
Examples	adfh.net adheos.org apgl.fr	familyequality.org hrc.org lamdalegal.org menhavingbabies.org	No local providers cryosinternational.com	Many providers circlesurrogacy.com ctfertility.com fertility-docs.com pacrepro.com surrogaycenter.com	co-parents.fr co-parents.co	familybydesign.com modamily.com
Services	Connecting families Legal advice Information Reviews/Ratings Connecting co-parents Helping ART access	Financial assistance	Information Delivery and clinical ART Surrogacy services		Connecting co-parents	
Commercialization	Non-profit Paid member services	Corporate sponsorship	For profit and Not-for-profit		For profit	
Activism	Core mission		None	Some		None
Queer family presence	Organic		Targeted	Organic and Targeted	Unspecified	Unspecified