

THE ‘EGGSPLOITATION’ OF SURROGACY

Policy Statement

2024

Did you know that the [4th most watched](#) NZ On Air funded TV programme is “David Lomas Investigates” – a series that reunites families and discovers lost family heritage.



It is so popular because it taps into our deep human longing and need to know who we belong to and where we come from - our whakapapa or our genealogy.

The reason this is relevant is that there are continued moves to change the laws around the area of surrogacy – **a process that by its very intention separates a child from its biological parents.**

BACKGROUND

In 2022, the Law Commission released a review of surrogacy laws in New Zealand. The Law Commission argued that;

“Surrogacy is a legitimate form of family building that requires a specific legal framework to promote and protect the rights and interests of surrogate-born children, surrogates and intended parents.” (our emphasis added)

At the same time, there was a private members bill by then-Labour MP Tamati Coffey which was ultimately shelved by the Select Committee.

A NEW GOVERNMENT BILL

The new bill is titled “[Improving Arrangements for Surrogacy Bill](#)”.

Note the title - “**Improving**”. That really sums up the ultimate goal.

It’s about increasing access and making it easier for adults.

Here's the question that nobody is asking:

Should we be making surrogacy and sperm / egg donation “easier”?

FAMILY FIRST MEDIA RELEASE

Call For Surrogacy Bill To Be Withdrawn & Reconsidered

Media Releases, News & Stories / August 10, 2022

MEDIA RELEASE – 10 August 2022

Family First NZ is calling for the [Improving Arrangements for Surrogacy Bill](#) currently being considered by the Health Select Committee to be withdrawn, and for the Government to produce a bill that represents and deals with the issues raised by the [Law Commission](#), and then to resubmit it and allow public submissions to a select committee.

Family First made an oral submission to the Select Committee today and the call is based on

DEFINITIONS

What do we mean by Surrogacy?

Surrogacy is an arrangement where a woman (the surrogate) agrees to become pregnant and carries and delivers a child on behalf of another person or people who intend to raise the child from birth (the intending parent(s)).

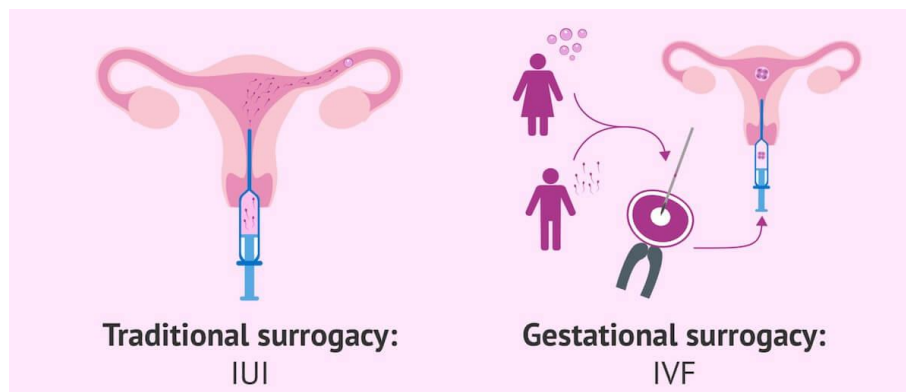
Te Kōpū Whāngai: He Arotake. Review of Surrogacy
[Law Commission Issues Paper 47](#) (July 2021)

There are two types of surrogacy:

In **traditional surrogacy**, the surrogate mother's egg is used, making her the genetic mother. Pregnancy is usually achieved by artificial insemination using the sperm of an 'intended' parent or a donor – and the donor may have no desire to be an active parent of the child.

In **gestational surrogacy** the surrogate does not use her own egg in conception. Instead, an embryo is created using an ovum and sperm from the 'intended' parents or donors. The embryo is then implanted in the surrogate. So the surrogate is not the genetic mother.

Surrogates are also sometimes called *gestational carriers*.



WE UNDERSTAND THE DESIRE

It's important to say from the outset – **we all completely sympathise with couples who cannot have children.**

We fully understand why some consider going down the track of surrogacy in order to have children.

CHILDREN ALSO HAVE RIGHTS

However, the discussion around surrogacy tends to be focussed only on the adults' rights and needs – and ignores the rights and needs of the child.

Children have a right to life, to their mothers and fathers, and to be born free, not bought and sold (even non-commercially).

Surrogacy violates all three children's rights. **Surrogacy routinely severs a child's relationship with his or her genetic mother and/or father through the use of sperm and egg "donation."**

It is ironic that the Explanatory Note to the [new Government bill](#) refers to the United Nations Convention on the Rights of the Child (UNCROC), which [includes](#)

“a child’s right from birth to know their parents and to be cared for by them.”
(Article 7.1)

But surrogacy and sperm & egg donation can go against that exact right.

What is it like to find out that your true biological father’s only involvement in your life was the donation of his sperm? How do you deal with the feeling of loss and rejection from your biological mother who is labelled as your ‘surrogate’ or ‘gestational carrier’? Is it normal that when you see someone who resembles you, you wonder if they are related?

Can you be blamed for feeling disturbed that some money may have been involved in your conception? What if the biological parent or parents don’t want any contact?

The identity of some donors can remain **anonymous**, or **they may refuse contact** – irrespective of what the child may want, and irrespective of what the lawmakers may *hope* will happen.

Children have a deep longing to know who they belong to, where they come from, and who they look like.

But the process leads to the [commodification](#) of children. There is this notion of “*renting a womb*”.

As child advocate and expert Jennifer Lahl – Founder of [The Center for Bioethics and Culture](#) says:

“Women are not easy bake ovens and our children are not cupcakes.”

In fact, a recent commentary from academics at Canterbury University debated who are the legal parents – the biological parents or the ‘intending parents’ who want the child – and these academics [argued](#) that:

“While a simple approach might be to designate the intended parents as the legal parents, it is crucial the surrogate has the right to make all medical decisions during the pregnancy, including abortion if necessary.”

That does not sound like the child’s rights are the focus.

THE HARM TO SURROGATE MOTHERS

Surrogacy, even when done altruistically – that is, without payment - can objectify children and surrogate mothers and creates lifelong emotional issues for both.

The research shows that surrogate mothers can be at increased risk for emotional trauma and psychological burden.

Deep bonds are formed between mother and child during pregnancy and the inability of some surrogate mothers to relinquish their babies has resulted in excruciating levels of anguish for the surrogate and in high-profile lawsuits.

Oxytocin's hormonal bond, firmly established between the mother and her preborn child during gestation, is meant to be reinforced after birth by mother-to-baby physical interactions — skin-to-skin contact, eye gazing, and breast-feeding. This oxytocin link not only facilitates key physiological processes in the baby's development, but also helps with a mother's postpartum recovery. It promotes bonding patterns between the mother and child, and *creates desire for further contact.*



Maternal separation, a feature of surrogacy, is a [major physiological stressor for the infant](#) and even brief maternal deprivation can [permanently alter the structure of the infant's brain](#). Many adoptees argue that their "[primal wound](#)" of maternal loss manifested as depression, abandonment/loss issues, and emotional problems throughout their lives. It hindered their attachment, bonding, psychological health, [self-esteem](#), and [future relationships](#).

Australian commentator Miranda Devine says:

"[T]o have carried a baby in your womb, shared a blood supply, felt its little feet kick against your abdomen, heard its little heartbeat, sensed it growing bigger and stronger, while it changes your metabolism, and the way you sleep, breathe and eat, and then to have given birth to a living, breathing human child you have been longing to cuddle is not a trivial act. So to have it described in such clinical, remote terms is insensitive and thoughtless, to say the least. It is so much more than being 'born through a gestational carrier', as if the woman was some sort of ceremonial archway through which the child was magically conveyed."

A powerful [documentary](#) called "Breeders: A Subclass of Women?" contains very moving stories of four surrogate mothers, revealing a more troubling side to what is becoming a big industry in many countries.

One of these surrogates is Angelia Robinson who agreed to carry twins for her brother and his male partner. She now [says](#):

"I think all surrogacy should be banned... Everything is focused on the people that can't have children. Nothing is focused on the children themselves or the breeding class of women we're creating." (our emphasis added)

ENDANGERING WOMEN'S HEALTH

Surrogacy can also endanger women's health and lives. There are various health complications with any pregnancy, but there are many additional surrogacy-specific health risks.

Even Fertility Associates NZ [acknowledges](#) that "*there is the possibility that your surrogacy pregnancy could be more difficult or have medical complications you haven't had before.*"

According to the [Centre for Bioethics and Culture Network](#),

- *Multiple studies have found "increased in multiple births, NICU admission, and length of stay with hospital charges several multiples beyond that of a term infant conceived naturally and provided care in our nursery" for surrogate pregnancies.*
- *Studies show that women pregnant with donor eggs, very common in surrogate pregnancies (the definition of gestational surrogacy), have a more than three-fold risk of developing pregnancy induced hypertension and pre-eclampsia.*

- *Lupron use in preparing a gestational surrogate to receive transferred embryos has been documented to put a woman at risk for increased intracranial pressure.*

EXPLOITATION

We already know that commercial surrogacy can be exploitative because the contracting parties are not always free and equal.

Surrogacy can involve treating women and children as objects of commerce or trade. International experience shows that the women most at risk of being exploited in this industry are poor and vulnerable women, especially women in poor areas around the world who oftentimes agree as a result of financial incentives.

The Government bill [allows for](#) “*actual and reasonable expenses*” (but these are **not defined**), and also includes the costs of counselling, travel, and reimbursement for lost wages or salary. This does not give confidence that there will not be financial coercion, including that there are **no limits** set for what can be deemed ‘reasonable costs’.

Legal liabilities may develop due to the unknown outcome of a host of factors, including incurring unforeseen medical costs due to complications, payment issues, or coercion to abort one or more of the children, custody battles, and abandonment of children by sponsors mid-gestation.

For example – “[Kiwi 'triplings' trapped after red-tape nightmare in Mexico](#)”

PICKING AND CHOOSING

Surrogacy and IVF also opens the door to sex-selection and the prospective designing of children. In NZ, [you can choose a donor](#) based on information around age of donor, ethnicity, physical features, eye colour, height, weight, education, and personality.

And there’s been some disturbing examples of this ‘picking and choosing’ overseas.

For example:

- [a surrogate mother being ordered to abort a baby](#) in the USA after the surrogate learnt she was having triplets. Ironically the surrogate mother said “They are human beings. I bonded with these kids. This is just not right.”
- The [Melbourne couple who aborted twin boys](#), conceived though IVF, because they already have three sons and wanted a daughter instead.

What happens when it all goes wrong? Who is responsible for surrogate children born with severe disabilities?

IN MY OWN WORDS



I wanted to be a mum

“Meeting the person that was generous enough to give me the opportunity to be a mum was an enormous honour.”

IT HAS BEEN an emotional journey to get this far. I had decided sometime ago that I wanted to be a mum, this was despite not having a partner, so set about exploring the options. The process was clinical. I met the specialist, underwent some tests, met with a counsellor and put my name down on the waiting list, hoping that at some stage in the future my name would come up and I would move to the next stage in the process.

My time came some six months ago, and I was asked to go into the clinic and decide on the donor. It was another surreal experience, where **I was put in a room with four profiles of donors. The listing includes details such as age at the time of donation, height, weight, eye colour etc along with some other facts like education, relationship status etc. From these profiles I had to pick my “match”.** To me, it was somewhat easy as I wanted someone who was interested in being part of any potential child’s life – that gave me two options, and then following another

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Remember the [2015 Australian case of baby Gammy](#), born to a Thai surrogate mother and abandoned by his Australian parents after they discovered the twin boy had Down syndrome. They took the healthy twin sister. But it was later reported that the surrogate mother had "*fallen in love with the twins she was carrying and decided she was going to keep the boy*".

What happens when the surrogate mother has multiple births? Who's the parent then?

It's very complicated, isn't it. This in itself is telling, especially when you contrast it to a mother and father, creating life, and welcoming their newborn.

A proposed law can try and tidy this all up – but we're dealing with biology, conception, gestation, and the biological rights of children.

RIGHTS OF THE CHILD

The majority of children conceived via third-party reproduction want to know the essential parts of their own heritage. A number of donor-conceived children are starting to speak up – [even here in New Zealand](#).

A wealthy Australian sperm donor who has more than 24 children [pleaded to keep his identity secret](#) because he feared his offspring would want to contact him and establish relationships.

And the whole industry is [very difficult to regulate](#). In fact, virtually impossible. DIY donor babies are a growing phenomenon.

In 2020, the Commission on Parenthood's Future released a [report](#) "*We Are Donor Conceived Survey Report*".

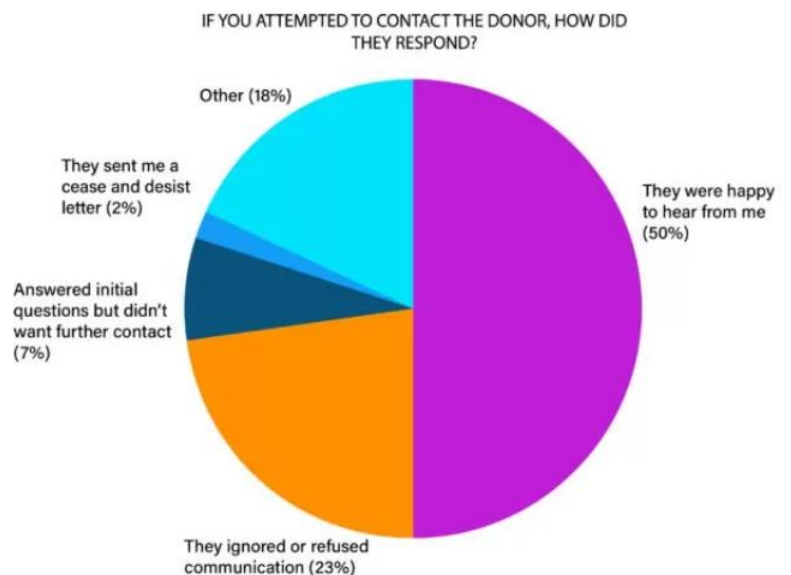
Most of the participants were between 20 and 40 years old. They were asked to reflect on what it was like to learn they are donor conceived. The top five most frequently selected words were **shocked, confused, curious, numb, and sad**.

71% agreed with the statement "*the method of my conception sometimes causes me to feel distressed, angry, or sad*".

88% of respondents believe it is a basic human right to know the identity of both biological parents.

That's because they naturally want to reach out to them.

Sadly, when they did reach out, approximately one-quarter (23%) said the donor ignored their attempts to communicate or refused to communicate. Five respondents indicated they received a cease-and-desist letter from the donor.

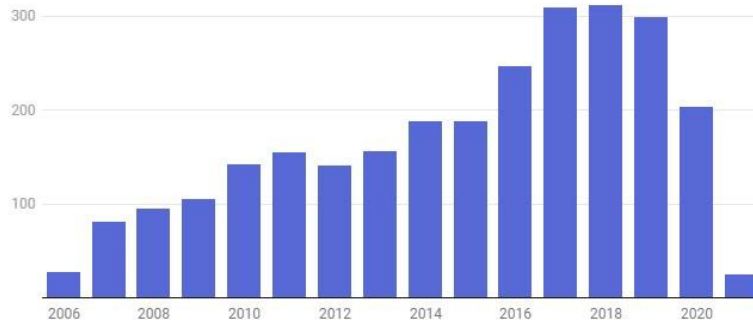


SPERM & EGG DONORS

The [number of people conceived using a donor](#) in New Zealand has been increasing year on year, with a slight drop in 2020 (likely due to COVID, lockdowns etc). In fact, the Department of Internal Affairs recently “celebrated” the [notification of the 3000th birth of a donor-conceived child](#).

Making babies

Number of people conceived using a donor per year



Note: Figures for 2020 and 2021 are still coming in from fertility clinics.

The [documentary](#) *Anonymous Father's Day* (2013) explores the stories of women and men who are the children of sperm donors. We should listen to their concerns. How does it impact their self-perception, the choices they make, and their view of life and the world?

In New Zealand, a donor *could* be a ‘father’ to [up to seven families](#).

5 FAQs for sperm donors

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How many people can I donate to?

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Fertility Associates has a maximum limit of 7 recipients who can have children using your donated sperm. You can choose a lower limit with a minimum of 2 as a clinic donor.

A sperm donor [has to provide identifying information](#), but despite the greatest intentions of the lawmakers, **there’s no mandate that a donor is to be involved - or will want to be involved - in the child’s life**. It may still effectively be ‘unknown’, except for the disclosure of their name and some of their genetic origin.

5 FAQs for sperm donors

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What does it mean to be an identifiable donor?

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Under the HART Act, all men donating sperm after 22 August 2005 are required to be identifiable. After the age of 18 years, a child may ask the clinic or the Registrar-General of Births, Deaths, and Marriages for the identity of the donor and this information will normally be given.

The child may ask for the identity of other children conceived using the same donor. There are provisions for children getting information from the age of 16 years and for parents to obtain information about the donor, too.

A donor may ask for the identity of all persons born as a result of his donation. If the parents of a child who is under 18 years of age consent to this, the information will be given. If the person is over 18 they have the right to consent or not.

An egg donor [can maintain anonymity](#) – meaning that a child may never know who their biological mother is.

2 FAQs for egg donors

Can I donate confidentially?

All our files are confidential and no information will be released without your consent. You will have the opportunity to review the recipient couple's profile and possibly meet them if both parties agree.

Most couples plan to tell their child of his or her origins so we ask each donor to complete a questionnaire, which contains non-identifying information such as your interests and how you would describe yourself. This is passed on to the couple if they request it or to the child if he or she requests it.

Will I be contacted by future offspring?

All donors are asked to be identifiable to children born from the use of their eggs. This means that you would be willing to be contacted by the clinic to disclose further information or to consider disclosing your identity. The request for contact may be from either the children born or their parents.

The practice of egg donation is governed by the Human Assisted Reproductive Technology (HART) Act 2004. An important principle of the Act is that offspring conceived through the use of donor sperm or donor eggs should be made aware by their parents of their genetic origins, and be able to secure information about the donor and his or her identity.

BANS AROUND THE WORLD

In December 2015, the **European Parliament** [condemned](#) surrogacy stating that it;

“undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity”

...and considers that this should practice *“be prohibited”* (Resolution of the European Parliament, of 17 December 2015 on the annual report on human rights and democracy in the world 2014 and the European Union's policy on the matter).

Many countries have [banned](#) surrogacy – Denmark, France, Germany, Ireland, Italy, Spain, Portugal, Bulgaria, Cambodia & Nepal.

Other countries such as Britain, Sweden, Norway, Austria, the Netherlands and Switzerland have banned anonymous sperm and egg donation.

But these laws are easy to get around.

CONCLUSION

In all of this discussion, and although the media largely ignores the issue when talking about it, **the rights of the child should remain paramount.**

Biology matters – especially to the child. Connection, whakapapa, and genealogy matter.

This is not a ‘sexuality’ issue.

This is a biological issue. In the world of surrogacy, biology discriminates.

Biology discriminates in that it takes a mum and a dad (a biological male and female) to create a child.

And children have a deep desire to know their mum and dad.

We should take all steps we can as a society to meet this fundamental need of every child.

We should speak up for the rights of children.

To read more on this important issue (and view our YouTube interviews & overviews), visit

[SurrogacyLaws.nz](https://www.surrogacylaws.nz)