

**Child and Family scholars and practitioners  
offer their reflections to the *The Embryo  
Protection (Amendment) Bill*,  
Bill no 38 (2018)**

**By**

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## **Executive Summary**

This document highlights the reflections and concerns of child and family scholars and practitioners regarding *The Embryo Protection (Amendment) Bill*, Bill no 38 (2018). These reflections are substantiated by current research in the area.

### **1. Prevalence of Infertility- a research gap among Maltese families**

The fertility in Malta is below average when compared to other European countries. Research on the causes of infertility here in Malta needs to be considered as high priority on our research agenda.

### **2. Embryo freezing and their adoption**

Embryo freezing and the giving up of one's embryo to adoption are highly sensitive and complex issues that may further create distress in the couple going through the difficult journey of dealing with infertility and trying so hard to have a child. The couple's distress may be further aggravated by the fact that even if they do agree to give up their embryos for adoption, they have no guarantee that they will in fact **be** adopted.

Making embryos available for adoption is a complicated matter for the children themselves. These children need to come to terms with the fact that in their parents' complex journey to have their biological children, their parents decided to increase their probability of becoming fertile by consenting to having multiple embryos and then giving up those which are unused for adoption.

### **3. Gamete donation**

Anonymous gamete donation is not acceptable, as children have a right to know the identity of their biological parents. Keeping the children's biological parentage a secret may be detrimental to their wellbeing.

The existing studies regarding the quality of parenting and family functioning show higher levels of warmth and discipline when compared to other family forms reflecting the higher motivation of donor recipient parents to have children. However they were carried out with non-disclosing parents. Several studies highlight the struggle that dual parent families face when having to disclose the nature of their children's conception.

Less positive relationships were found between mothers and adolescents in egg donation families than in donor insemination families. More research is needed to explore the mother – adolescent relationship in egg donation families.

#### **4. Surrogacy**

Surrogacy is fraught with ethical concerns and merits serious legal considerations. One third of the mothers who were interviewed reported feeling upset after they gave the baby to the intended parent with one feeling severely upset. For intended parents the experience can be quite taxing. They may feel anxious, fearing that the surrogate mother may not relinquish the baby once the pregnancy is over. The relationship between the surrogate mother and the intended parents may play a crucial role in the wellbeing of the child.

The most important effects of surrogacy have to do with the child's sense of identity. Adolescents born through surrogacy did not differ in terms of their adjustment when compared to other family forms. The authors point out that one needs to keep in mind that the longitudinal study is the only study that is available worldwide. It has a small sample and although the research design is strong, it may have succeeded in recruiting well functioning families more easily. Replication possibly in other cultural contexts is recommended.

#### **5. Conclusions**

Throughout the various pieces of research, it transpires that every person involved in assisted reproductive technology that is included in the proposed amendments to the Human Embryo Act faces very complex and challenging life experiences.

More research is needed regarding the impact of assisted reproductive technology on the wellbeing of all the parties involved.

Finally, adoption and fostering should be encouraged and promoted. Too many of our children are still being placed in children's homes without any hope of them going back to their own parents. Moreover the WHO and the United Nations General Assembly of 2007 have recommended that children from 0 to 5 should not be placed in an institution and a process of deinstitutionalization needs to be accelerated.

## **Reflections to the proposed amendments to the Embryo Protection Act by Child and Family Scholars**

As child and family scholars and practitioners we would like to put forward our reflections in relation to the Bill entitled “An Act to amend the Embryo Protection Act”, Cap. 524. These issues concern the parents who find themselves in the midst of the IVF process and also the wellbeing of the embryo and the subsequent well being of the children born through assisted reproductive technology. Our reflections will be substantiated by research.

### **Prevalence of Infertility - a research gap among Maltese families**

1. According to the Embryo Protection Authority, 2013, it is estimated that 1 in 6 couples are infertile. In terms of European statistics, the fertility rate in Malta is below average when compared to other European countries (Eurostat, 2018). It is a known fact that the increase in a woman’s age reduces the chances of fertility, and with more women remaining for longer years in education and postponing pregnancy, the risks of infertility are greater (Balasch & Gratacos, 2012; Tanturri , 2014). It is therefore not surprising that the decline in fertility in Malta encourages more and more couples to seek out IVF as a means to achieving their goal of having a child/ren of their own and it is important that these couples are supported to have their biological children. At the same time, more research on fertility is needed, particularly research that looks at the causes of infertility in Malta.

### **Embryo Freezing and their Adoption**

2. We are particularly concerned that in the midst of the couple’s physical and psychological struggles to have their biological children, they will feel compelled to sign a contract showing their agreement to embryo freezing as well as to the adoption of their embryos, in order for them to have the treatment that on a medical level is being claimed as giving the couple an increased probability of having a child. Embryo freezing and the giving up of one’s embryo to adoption are highly sensitive and complex issues that may further create distress in the couple going through the difficult journey of dealing with infertility and trying so hard to have a child. The couple’s distress may be further aggravated by the fact that even if they do agree to give up their embryos for adoption, they have no guarantee that they will in fact **be** adopted. Oocyte vitrification may be one way of bypassing delicate and emotionally taxing decisions with serious implications for the child and the parents.

3. Furthermore, making embryos available for adoption is a complicated matter for the children themselves. These children need to come to terms with the fact that in their parents’ complex journey to have their biological children, their parents decided to increase their probability of becoming fertile by consenting to having multiple embryos and then giving up those which are unused for adoption. We do not know of any research which explores the children’s perspective in this regard but we question how such a story might affect the child’s sense of identity.

## **Gamete donation**

4. Anonymous gamete donation is not acceptable, as children have a right to know the identity of their biological parents. Most of the knowledge on the repercussions of not knowing is derived from research on adoption where children who are not told about their biological parents may develop emotional, behavioural and identity problems (Brodzinsky, 2006; Grotevant, 1997; Grotevant, Perry and McRoy, 2005 and Triseliotis, 1973, 1984, 2000). The family therapy literature also points to the negative effects secrecy may generate. Papp (1993) and DePaulo (1992) suggest that children can sense when a secret is kept from them. Moreover, children could well discover their biological parentage by accident or during adverse circumstances and this could be detrimental to their wellbeing. Children should be given developmentally appropriate information and they are to be made to feel free to discuss issues related to adoption as they arise. It would seem fair to extend these concerns to cases of anonymous gamete donation.

5. Furthermore, in line with legislation concerning adopted children, there is now a law on donor conception in many countries including Sweden, Norway, the Netherlands, Switzerland, New Zealand, Australia, the UK and the State of Washington, whereby those conceived using donated gametes have the right to obtain the identity of their donor at the age of 18. This in itself may not always lead to a positive outcome particularly when the two parties do not agree on the extent and frequency of the contact (Freeman 2015).

6. Besides meeting birth parents, adopted children are consistently happy to meet their siblings (Humphrey and Humphrey 1989). Similar findings have been reported for children born through gamete donation though the research focuses solely on children born through sperm donation (Freeman, Bourne, Jadvá & Smith, 2014). Some are happier to be close to siblings than to donor parents (Jadvá, Freeman, Kramer & Golombok, 2010).

7. In spite of the differences between adopted children and those conceived by gamete donation (in the latter scenario, the children would not have been abandoned by their biological parents and only the sperm or ovum would be donated), the absence of a genetic connection creates similarities between these two family forms (Cahn, 2009; Crawshaw, 2002, Feast 2003). Research on gamete donation highlights the struggle that parents face when having to disclose the nature of their children's conception (Golombok 2015). In this regard, lesbian and single parents are more likely to tell their children (Freeman, Jadvá, Kramer et al, 2009). In the case of dual parent families, a large Swedish study where 90 percent of parents were in favour of telling the children revealed that only 16% had started to disclose in a developmentally appropriate way when the children were 4 years of age (Isaksson, Sydsjö, Skoog Svanberg et al 2012). As already explained in point 4, not telling the children may have serious consequences.

8. From research carried out with families who disclose by age 7, children continue to have little understanding of egg or sperm donation and the process becomes clearer by the age of 10 (Blake, Casey, Jadvá & Golombok, 2013). When told later, the effect on children is different and they are more likely to be upset, angry and confused. Also children tended not to discuss with family and friends and reported feeling embarrassed to do so (Blake et al., 2013).

9. The studies that were carried out with adolescents born from gamete donation are rather scant. In the study by Schieb, Riordan and Rubin (2005), 29 households were interviewed. Most youths (75.9%) reported always knowing and were somewhat to very comfortable with their conception origins. All but one felt that knowing had a neutral to positive impact on their relationship with their birth mother.

10. Later studies eg. Slutsky et al., (2016) who looked only into lesbian and solo mother families, show that the parent-child relationship has a lot of influence on how adolescents appraise their donor conception within the context of their growing sense of identity. The authors state that the findings need to be interpreted with caution. They only interviewed 19 adolescents and their parents had registered in the donor sibling registry, indicating a greater readiness to search for donor siblings and possibly a willingness to embrace the topic of their donor conception. Children of parents who had not demonstrated such willingness to embrace the topic of donor conception might have a different experience.

11. Golombok et al (2017b) conducted a longitudinal study that looked at adolescents' adjustment at age 14 and at their relationship with their parents. The study revealed that at age 14, children formed through egg donation (27 families), those born following donor insemination (32 families), those born through surrogacy (28 families) and those born in natural conception families (54 families) did not differ among family types, in terms of their adjustment, psychological wellbeing and self esteem. However less positive relationships were found between mothers and adolescents in egg donation families than in donor insemination families. The authors suggest that the association is linked to the absence of a genetic link between mothers and their children. More research is needed to explore the mother - adolescent relationship in egg donation families.

12. The quality of parenting for children conceived through gamete donation derives mainly from families who had not disclosed the method of conception to their children. Research among families with children aged 4 to 8 years who are conceived by gamete donation is similar to those of IVF families and superior to that of biological families (Golombok, Brewaeys, Cook et al., 1996, Golombok, Cook, Bish, & Murray, 1995; Golombok et al., 1996). A study about family functioning for children from 5 to 13 years conceived through gamete donation showed that these families no longer functioned at a superior level to that in biological families; nevertheless their relationship was characterised by high levels of warmth (Golombok, Brewaeys, Giavazzi et al 2002; Golombok, MacCallum, Goodman et al 2002; ). In a follow up study when the children were

18 years old, higher levels of warmth and discipline were found in donor families when compared to IVF families (Owen and Golombok 2009). In spite of the fact that the parents had not disclosed the method of conception to their children in all of the above mentioned studies these findings may be a reflection of the higher motivation of donor recipient parents to have children.

## **Surrogacy**

13. Surrogacy is fraught with ethical concerns and merits serious legal considerations. Even feminists are divided about it, with some arguing that surrogacy exploits women and others insisting that women should have autonomy over their reproductive lives. It is banned in many countries such as Norway, Germany, France and Sweden. In some others such as the UK, commercial surrogacy is banned. However, surrogate mothers still claim for expenses that are inordinately high and the baby still belongs to the surrogate mother prior to a legal deed being issued through the court (Golombok, 2015).

14. A UK study on the effects of surrogacy was carried out with 34 surrogate mothers who had given birth to a surrogate child. More than 70% of those who were originally invited agreed to be interviewed. One third (32%) of the mothers who were interviewed reported feeling upset after they gave the baby to the intended parent with one feeling severely upset. Six percent (2) of these surrogate mothers reported experiencing psychological difficulties a year later (Jadva, Murray, Lycett, MacCallum & Golombok, 2003).

15. For intended parents the experience can be quite taxing. They may feel anxious, fearing that the surrogate mother may not relinquish the baby once the pregnancy is over. Due to her dependency on the surrogate mother, the intended mother may also feel depressed because of her inability to give birth.

16. The relationship between the surrogate mother and the intended parents may play a crucial role in the wellbeing of the child. Golombok (2015) argues that better outcomes are expected when the surrogate mother is a close friend or a sibling. However, relatives and close friends may also interfere with or undermine the intended mother.

17. The only existing study that delved into the relationship between the surrogate and the intended mother is the UK longitudinal study of Assisted Reproduction Families (MacCallum, Lycett, Murray, Jadva & Golombok, 2003; Jadva, Blake, Casey & Golombok, 2012). Results show that almost all of the intended parents had visited the surrogate mother following birth. Frequency diminished especially when the parents did not have a relationship with the surrogate mother. Ten years later only 60% of intended parents and children were still in contact.

18. The most important effects of surrogacy have to do with the child's sense of identity and with how a child would feel if she/he has been relinquished by the surrogate mother who was also his/her genetic mother and may have received large amounts of money to carry the baby. A longitudinal study that looked into



how children feel about surrogacy when they were seven and then ten years old (MacCallum et al., 2003, Jadva et al., 2012) revealed that most of them understood how this happened and the majority were neutral or indifferent about it. It is to be noted that not all parents had disclosed all the information to their children. By the age of 7, the majority of parents had explained the way they had been conceived but those who were born through the surrogate mother's egg had not spoken about it to the children and this was still the case by the time the children were 10 years of age (Readings, Blake, Casey, Jadva & Golombok, 2011).

19. In terms of parent-rated behavioural problems no significant difference was recorded between children aged 5 to 9 years born through surrogacy and children born through IVF, gamete donation or embryo donation (Shelton et al 2009). However the authors point out that this study's findings are limited because they did not ask parents whether their children were aware of the nature of their conception.

20. The longitudinal study of children born through assisted reproduction reports that at age 1, parents of children born through surrogacy enjoyed better psychological wellbeing and adaptation to parenthood than other families (Golombok, Murray, Javda, MacCallum, Lycett, 2004). They were warmer and showed better attachment behaviour and enjoyed being parents more than natural conception parents. Although they were overinvolved with their babies, this did not reach dysfunctional levels. More positive interaction and warmth were also found when the children were age two and three (Golombok et al., 2006a; Golombok et al., 2006b). This was no longer the case when the children were 7 years of age (Golombok et al., 2011). According to their mothers, they were reported to have higher levels of adjustment than those born by gamete donation. Reports by the teacher did not concur. Moreover, these differences then disappeared by age 10. This is similar to what happens in studies of internationally adopted children. Golombok (2015) however points out that the sample sizes are small and although the research design is strong, it may have succeeded in recruiting well functioning families more easily. Some of the original families were also lost on the way.

21. As for adolescents, as cited further above (point no 11 Golombok et al (2017b)), the findings of the longitudinal study of families formed through egg donation (27 families), donor insemination (32 families), surrogacy (28 families with 35.7% of the intended mothers using their own eggs), and those born from natural conception families (54 families) showed that the adolescents did not differ in the different family forms in terms of their level of adjustment, psychological wellbeing and self esteem. The authors state that a possible explanation for this finding lies in the mothers' high motivation to have children. There was however an unexpected finding – in that there were more positive relationships in the surrogacy families compared with the gamete donation families. According to the authors, these findings can be explained because parents who resort to surrogacy are highly committed to becoming parents and a majority of these couples maintain contact with the surrogate as the child grows up (Jadva, Blake, Casey & Golombok, 2012).

One of the limitations to the above finding is that the longitudinal study is the only study worldwide and replication possibly in other cultural contexts is recommended (Golombok, Ilioi, Blake, Roman & Jadvá 2017).

22. Children aged 3 to 9 years born through surrogacy and brought up by gay fathers showed high levels of adjustment when compared to a comparison group of children of lesbian mother families created through donor insemination families (Golombok et al., 2017a). No studies have been carried out so far regarding adolescent children. The other study by Baiocco et al., (2015) in Italy on children aged 4 which was based on a questionnaire regarding children born through surrogacy in gay father families and lesbian mother families born through donor insemination and comparing them to heterosexual parent families with naturally conceived children may not be conclusive because at age 4 children would not have developed a good understanding of having been born into a different family (Brodzinsky 2011).

## **Conclusions**

As explained above, research on the causes of infertility in Malta needs to be considered as high priority on our research agenda.

As indicated throughout, every person involved in assisted reproductive technology faces very complex and challenging life experiences.

Regardless of family form, research is unequivocal about the importance of telling the children who their biological parents are and allowing them the right to get to know them. This is a complex journey for the child who may feel rejected by their biological parent/s once they get to know them, as explained further above.

The parents too may feel ill at ease, at a loss and anxious disclosing who the biological parents are because they may fear the reaction they might get from their children once they disclose. From the research, it transpires that these parents would need a lot of psychological support to be able to manage this unique experience.

The views of children born from embryo adoption have not been sufficiently explored and leave us with a number of question marks regarding its impact on the child's identity.

With regards to gamete donation, the research around the impact on adolescent wellbeing is still scarce. We also need to know more about the impact of egg donation as opposed to sperm insemination. The impact of possible rejection by the biological parent/s also needs to be further researched.

Over all it transpires that the research especially in the area of surrogacy is also very scant. The longitudinal study by Golombok et al 2017 is the only study

worldwide that researches the wellbeing of adolescents born through surrogacy. As already highlighted above, the other studies have small sample sizes and may have succeeded in recruiting well functioning families more easily. Replication possibly in other cultural contexts is recommended (Golombok 2015; Golombok, Ilioi, Blake, Roman & Jadvá 2017).

Finally, adoption and fostering should be encouraged and promoted. Too many of our children are still being placed in children's homes without any hope of them going back to their own parents. Research demonstrates that these children would benefit much more if they were placed in a home with foster carers or adopted (Abela, Abdilla. Abela, Camilleri, Mercieca & Mercieca 2012). Moreover the WHO and the United Nations General Assembly of 2007 have recommended that children from 0 to 5 should not be placed in an institution and a process of deinstitutionalization needs to be accelerated. As Dixon and Misca (2004) argue, depriving these young children from being parented and the damage that this causes to the infant is equivalent to violence to a young child. More focus and resources are therefore needed to help and support these children, by getting them out of an institutional set up and by providing them with a home.

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