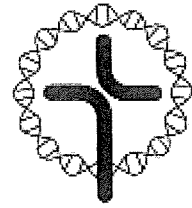


## THE INTERCHURCH BIOETHICS COUNCIL



30/5/2013

ACART: Import and Export of Gametes and Embryos:

Please find attached the response of the InterChurch Bioethics Council (ICBC) to your discussion document on the import and export of gametes and embryos.

The ICBC represents the Anglican, Methodist and Presbyterian Churches of Aotearoa, New Zealand. Its role is to respond to issues in biotechnology that are important to the church membership and to the community in general. ICBC members have between them considerable expertise and knowledge in science, ethics, theology, medicine and education, and relate to the tangata whenua through two of its members.

We are aware that at present, there are no regulations within the HART Act to regulate the import of gametes, but the Ministry of Health advises New Zealand fertility clinics that import/export of gametes and embryos should abide by the HART Act principles ie no commercial supply of gametes or embryos, and no sex selection of embryos/sperm. However, there is an ever increasing number of New Zealanders seeking gametes or ART leading to production of embryos outside New Zealand (in New Zealand, eggs are in low supply and IVF costs high), but wanting to bring the gametes and/or embryos back to New Zealand. Additionally, emigrating families may have stored embryos or gametes they may wish to bring with them. Regulation guidelines for this increased number of requests are required to ensure equitable, ethical and timely processing.

We believe there are several important ethical issues to be considered in answering these questions, including:

- the rights of a child born from IVF/ART procedures to be able to find out the identity of his/her biological parents
- prevention of the commodification of reproduction, especially in developing countries.
- the rights of the embryo formed by IVF – people of many faiths and cultures believe that embryos produced by IVF should be valued as potential human lives, and that every effort should be made to bring about opportunities for implantation of these embryos, and subsequent pregnancy.
- the importance especially to New Zealand Maori of their gametes or embryos (whakapapa) and to many others including Pacific people and many Pakeha.
- equity and ease of access to reproductive technologies within New Zealand

We would be happy to discuss further with you any of these issues.

Yours sincerely,

Rev Dr Graham O'Brien



# Feedback form

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Please provide your contact details below.

Name:	Rev Dr Graham O'Brien, Dr Joy McIntosh
If this feedback is on behalf of an organisation, please name the organisation:	New Zealand Interchurch Bioethics Council
Please provide a brief description of the organisation if applicable:	The ICBC represents the Anglican, Methodist and Presbyterian Churches of Aotearoa New Zealand. Its role is to respond to issues in biotechnology that are important to the church membership and to the community in general. ICBC members have between them considerable expertise and knowledge in science, ethics, theology, medicine and education, and relate to the tangata whenua through two of its members.
Address/email:	
Interest in this topic (eg, user of fertility services, health professional, researcher, member of the public):	ethical issues in ART, and fertility research

We will place all feedback on ACART's website, except where we are asked that feedback be withheld in full or part for reasons of confidentiality. We will remove contact information from all feedback.

☐ I **request** that my feedback be withheld in full or part from publication on ACART's website (if you wish a part to be withheld, please clearly indicate which part).

Please note that all feedback may be requested by any member of the public under the Official Information Act 1982 (the Act). If there is any part of your feedback that you consider should be properly withheld under the Act, please make this clear in your feedback, noting the reasons.

If information from your feedback is requested under the Act, the Ministry of Health (the Ministry) will release your feedback to the person who requested it. The Ministry will remove your name and/or contact details from the feedback if you check one or both of the following boxes. Where feedback is on behalf of an organisation, the Ministry will not remove the name of the organisation.

☐ I **do not** give permission for my name to be released to persons under the Official Information Act 1982.

☐ I **do not** give permission for my contact details to be released to persons under the Official Information Act 1982.

We will acknowledge all feedback.

# Questions about the issues discussed in the paper

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## Question 1: Altruistic donation v. commercial supply

Should it be possible to use commercially sourced gametes and embryos from other countries in New Zealand?

- |                          |   |  |
|--------------------------|---|--|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

We believe that gametes and embryos formed outside the philosophy of the HART Act, e.g. gametes and embryos that have been commercially supplied; those that have undergone selection for gender or other features for which selection is prohibited in New Zealand; or those that do not have identifying information, should not be allowed to be imported into New Zealand.

This question addresses primarily the issue of preventing commodification of reproduction. People in poverty in some other countries may be pressured into selling their reproductive capacity under adverse and exploitative conditions. While egg availability in NZ is reduced, we believe the lack of regulation around egg collection and treatment (sometimes leading to exploitation) of commercial donors in other countries, is ethically unacceptable to New Zealanders. As long as there is an option for New Zealanders to pay for gametes by importing them into New Zealand, the commercial market in other countries will be supported, and there will be less pressure to develop ART procedures in New Zealand under the HART standards. If New Zealand maintains its ethical standards, there is some pressure on other countries to comply. In this way, we have prioritised prohibition of importing commercially-obtained gametes and embryos above the rights of embryos as potential human life, and above the value of embryos derived from a combination of a whakapapa gamete with a commercially-obtained gamete.

In our opinion, New Zealanders and others undergoing IVF procedures overseas need to be well aware that gametes and embryos produced overseas from commercial or non-identifying sources will not be allowed into New Zealand upon New Zealanders' return or upon immigration of foreigners into NZ.

Would a higher level of donor expenses increase the supply of locally sourced gametes?

Yes ☒ No ☐

Please give reasons for your views.

Measures such as increasing the level of expenses repaid to egg donors would potentially increase the availability of eggs for ART in NZ, as superovulation methods for egg collection are time-consuming and invasive for the donor. However, this extra cost would most probably be passed onto the recipient, making IVF even more expensive. Therefore other measures, such as providing easier access to fertility and ART services, are also needed aiming to make NZ fertility services more available than transborder ART. Additionally, increased funding is needed for research to improve many aspects of existing technology e.g. optimising *in vitro* maturation of eggs and to find out determinants of egg competence so that ovarian stimulation can be replaced by less invasive and costly methods, and consequently healthier eggs with higher IVF success rates can be produced after single egg IVF. Extended embryo culture leading to increased blastocyst formation also reduces the numbers of embryos available for transfer & cryopreservation, thus limiting the numbers of 'spare embryos' but at the same time improving chances of success. These improvements would make IVF in the long run cheaper and therefore more accessible, and also decrease the numbers of embryos being stored and subsequently the need for ethical regulations around 'spare embryo' treatment.

## Question 2: Right of access to identifying information about donors v. no right of access to identifying information about donors

Should it be possible to use gametes and embryos in New Zealand where donor offspring do not have access as of right to identifying information about donors?

- |                          |   |  |
|--------------------------|---|--|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

NZ has stringent guidelines protecting the well-being of children born from ART procedures, and importing non-identified gametes and embryos would weaken this protection. For this reason, importing gametes and embryos without accompanying identifying information of all genetic donors/parents should be prohibited. Only gametes and embryos that have been altruistically donated and where identifying information is available should be allowed to be imported into New Zealand. This overrides the value of embryos as potential human lives, and the value of embryos derived from a whakapapa gamete together with a non-identified gamete. While each embryo does have the potential for life, we have a responsibility to make sure the child yet to be born is protected.

### Question 3: Family size limitations

Should it be possible to use donated gametes or embryos in import/export where the use may exceed New Zealand limits on the number of families assisted?

- |                          |   |  |
|--------------------------|---|--|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

If import or export of gametes and embryos were unlimited for family size, this may leave NZ children born from IVF vulnerable to having full-siblings in more than 1 family, or half-siblings in more than 10 families, in NZ and/or overseas. These families might not be identifiable.

Imported gametes and embryos, with identifying information and not commercially supplied should be regulated for family size, as currently happens in New Zealand. Export of gametes and embryos from NZ mostly could not be controlled in terms of ongoing use and recipient family size, and therefore would work against the philosophy of NZ whakapapa and the HART Act, unless the gametes/embryos were those of New Zealanders emigrating overseas.

## Question 4: Prohibitions on the use of sex selection

Should it be possible to use imported embryos subject to sex selection for reasons prohibited in New Zealand?

- |                          |   |  |
|--------------------------|---|--|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

Importing embryos subject to sex selection for reasons prohibited in New Zealand does not align to New Zealand's philosophy of children being valued for who they are regardless of gender. In NZ, unselected embryos should not be discriminated against for gender. Moreover, if sex selection of imported embryos was made legal in NZ, this may increase gender discrimination in some cultural groups by making sex selection more commonplace. If a family has a history of a serious genetic disorder that is sex-linked, then PGD is currently available for sex selection in NZ for these cases, for selection of embryos of the unaffected sex.



## Question 5: Scope of informed consent

Should explicit consent to export gametes and embryos to and from New Zealand:

- |                                      |   |  |
|--------------------------------------|---|--|
| • Be required in all circumstances?  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| • Not be required?                   | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • Be required in some circumstances? | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

What are those circumstances?

Please give reasons for your views.

Current HART and Consumer Rights legislation in NZ require that individuals make an informed choice and give consent for any further fertility treatment or research involving their gametes or embryos. We believe this informed consent is mandatory for further treatment or research involving gametes and embryos.

Consent for treatment of stored gametes and embryos in the case of death is obtained from donors at the time of gamete or embryo storage, and can be used upon the death of a donor, in order to address issues of NZ whakapapa.

New Zealand regulation prohibits research on viable embryos; however the import/export of non-viable embryos for research should also require donor consent. Regulations should ensure that the care of viable embryos is stringent, and that 'spare' viable embryos are not allowed to become non-viable due to treatment (except for time of storage) as a convenient means of disposal or for generating a supply for use in research.

## Question 6: Use of gametes and embryos overseas in procedures or research prohibited or precluded in New Zealand

Should people be able to export gametes and embryos for uses prohibited or precluded in New Zealand?

- |                          |   |  |
|--------------------------|---|--|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In no circumstances?   | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| • In some circumstances? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

Those treatments prohibited in NZ should also be prohibited for the use of exported gametes and embryos overseas.

However, for those treatments that are precluded because the treatments do not have current ethical guidelines in NZ, ethical consideration should be given by ECART bearing in mind the guidelines of the jurisdiction of the other country and the ethical stance of NZ. This would compensate for any delays in application of emerging technology in NZ, making it available to New Zealanders at international clinics while the methodology is being developed in NZ. For example, New Zealanders can currently store ovarian tissue before undergoing chemotherapy, and can have the ovarian tissue transplanted back after chemotherapy for IVF. However, NZ clinics cannot currently thaw this cryopreserved tissue in NZ for *in vitro* maturation (IVM) before IVF, as IVM technology is not yet available within NZ. Export of this ovarian tissue to another country which has the technology for IVM and then IVF would be ethical in this case, to enable the tissue donor access to their reproductive use of the tissue before the tissue storage expiry date or the patient's age precludes pregnancy.

## Question 7: Other areas where there may be a mismatch between New Zealand and overseas requirements

Are there other areas of potential mismatch that should be considered? Please describe.

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## Question 8: Ranking issues in importance

Please put in order the importance you give to each of the following issues in regard to import and export of gametes and embryos with 1 being the most important.

Altruistic donation	2
Right of donor offspring to access identifying information about donors	3
New Zealand requirements for family size limitations	6
Explicit informed consent to export to another country	7
New Zealand prohibitions on the use of sex selection [box]	5
Use of gametes and embryos overseas in procedures or research prohibited or precluded in New Zealand	8
Another issue or issues (please describe)	
Value of embryos from IVF as potential human beings, with effort being made to bring about opportunities for implantation of these embryos and subsequent pregnancy.	1
Consideration of the value of New Zealanders' gametes/embryos as whakapapa	4

## Question 9

Do you have any other comments or suggestions about the issues discussed in this background paper?

We believe that there are several important ethical issues to be considered in answering these questions, including:

- the rights of a child born from IVF/ART procedures to be able to find out the identity of his/her biological parents
- prevention of the commodification of reproduction, especially in developing countries.
- the rights of the embryo formed by IVF – people of many faiths and cultures believe that embryos produced by IVF should be valued as potential human lives, and that every effort should be made to bring about opportunities for implantation of these embryos, and subsequent pregnancy.
- the importance especially to New Zealand Maori of their gametes or embryos (whakapapa) and to many others including Pacific people and many Pakeha.
- equity and ease of access to reproductive technologies within New Zealand

Prioritisation of these issues is difficult, as each is highly important. The rights of an embryo as a potential human being must be protected, but also the rights of the born child and the rights of donors exploited for their reproductive capacity must also be compassionately guarded.