

# Response to George Parker

LIEZL VAN ZYL and RUTH WALKER, UNIVERSITY OF WAIKATO

George Parker quite rightly claims that the focus of the debate about ARTs needs to be on women's health, rather than on abstract philosophical questions regarding for instance the personhood of embryos, as this is a central moral concern that is not always taken as seriously as it should be when it comes to surrogate motherhood and egg donation. We also think reproductive justice is a helpful framework for evaluating current practices in these matters. In particular, we share Parker's concerns about the import of gametes from less regulated

jurisdictions. The risk that the gametes have been gained in coercive or exploitative situations is a real one. The right of any child born of donated gametes to know his or her genetic origins also precludes sourcing anonymous gametes. Willing, registered donors are required regardless of whether gametes are imported or donated locally. It may be possible to extend the range of potential donors beyond New Zealand borders if a similarly regulated system was willing to export gametes.

However, on the matter of payment and exploitation we differ from Parker with respect to both gametes and surrogacy. We have argued elsewhere that altruistic surrogacy is also exploitative and risks commodification of the woman and the baby (Van Zyl & Walker, 2013). Whether or not surrogacy amounts to commodification of babies depends on what is being donated or given: the baby or the committed service of the woman who carries it. If the baby is the gift, then commodification occurs whether she is paid or not. If it is her time and service that she is giving, then commodification is avoided whether she is paid or not. Similarly, in egg donation the worry is that if she is paid it will be for the eggs. However, in each case the women involved undergo significantly risky and unpleasant procedures over an extended period of time. If we paid them for time and service then we would avoid commodification. There are good reasons for thinking that the women should be paid.

A surrogate mother gives a large amount of time to the project, and egg donation also requires more than popping into the clinic to have the eggs harvested. In altruistic surrogacy and donation these women receive no compensation for the risks they run or the time they spend. Taking Stephen Wilkinson's (2003) view of exploitation – the unjust distribution of harms and benefits without valid consent – we argue that altruistic surrogacy and egg donation are exploitative. It is often argued that women do give consent to be donors or surrogates and so are not being exploited. However, we argue that it is questionable whether this consent is valid. If these women strongly desire to help people whose infertility prevents them forming a family they have to consent to an altruistic arrangement or not donate at all. It may be a technically valid consent in that they understand the risks and are fully informed, but it is not an entirely free consent given the conditions of participation. The unjust distribution is very clear: all the harms accrue to the donor and all the benefits to the recipient. The only way to redress the balance is to compensate the donors.

It is important to understand that compensation for surrogates and egg donors does not equate to a market in wombs and eggs as so many commentators fear. A robust regulatory framework would control the fees and the way the services are delivered in order to protect women's rights and health.