

Law must catch up with growing popularity of informal sperm donation, say experts

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Legal experts are warning that a rise in 'informal family creation' is creating a lawless 'wild west' that puts vulnerable parents and children at risk.

A growing number of people are going online to start a family, seeking sperm donors or co-parents through popular social media groups and even mobile apps.

This is creating a legal and ethical minefield, according to law experts who've recently written a research paper for the Adelaide Law Review, which lays out a series of recommendations they say should be implemented as a matter of national priority.

Lead author, Deakin Law School Associate Professor Neera Bhatia said laws and regulation must keep pace to accurately reflect the dynamic and evolving nature of the family unit.

"The time is now for the law and [regulatory bodies](#) to pay closer attention to these trends," Associate Professor Bhatia said.

"Currently informal sperm donation is a kind of 'wild west'—a lawless state where nothing is governed or monitored."

Sperm donors reaching large number of people on social media apps

There are currently 16,000 members of the 'Sperm Donation Australia' Facebook group. And Australian-developed app 'Just a Baby' operates like Tinder, with a location driven swiping interface allowing people to meet potential egg or sperm donors, surrogates or those seeking to enter co-parenting agreements.

Both pathways circumvent the need to use regulated fertility clinics as well as the related costs, plus potentially burdensome administrative and medical processes.

Associate Professor Bhatia said the popularity of these emerging family creating platforms was likely a result of several factors, in part driven by a larger number of single women and same-sex couples wanting to start a family.

"Many groups struggle to access formal family creation services like assisted reproductive technology (ART) and in vitro fertilization (IVF). This could be because of financial, medical or geographic barriers," she said.

"For example, the Victorian Government's recent promise to make IVF free has some limiting conditions.

"The pandemic also resulted in a sharp drop in sperm donations, and a lack of diversity of donors available through regulated channels."

Unregulated sperm donation raises several serious ethical and legal issues

But Associate Professor Bhatia said the trend towards informal family creation raised [legal issues](#), including ambiguity around claims for child support or parental rights, as well as significant safety concerns.

"There is a lack of rigorous requirements or ability to screen donated sperm. The obvious consequence is that unsafe and unscreened sperm with potential transmissible disease or other genetic conditions might be used, putting the recipient and the potential child at risk," she said.

"There is also a level of uncertainty that the donated sperm belongs to the person professing to have made the donation. In a stark example from Japan, a woman has attempted to sue the [sperm donor](#) she found online for fraud claiming she suffered shame and distress after learning

that he had lied about his ethnicity, marital status, and place of university studies.

"People seeking informal sperm donors online might also be risking their personal safety. There have been cases where women have been pressured towards natural insemination ([sexual intercourse](#)) by potential donors once they meet despite initially agreeing to artificial insemination.

"While, conceiving a child and creating a family are important human experiences we do not believe they should come at the cost of any woman's health and safety."

Recommendations to reduce risks of informal sperm donation

- Greater public accessibility to assisted reproductive technology and availability of donor sperm and eggs.
- An easier importation process for donated sperm and eggs from overseas.
- Further removal of discriminatory language in legislation, so terminology is inclusive and accurately represents present day society and diverse families.
- Remove the requirement for [same-sex couples](#) to obtain a letter from a doctor stating they are unable to become pregnant to access ART.
- Consider a broader legal definition of 'parent' which encompasses co-parenting arrangements.
- Better education and awareness of informal avenues of family creation and the potential risks they impose.
- A register for informal sperm donors to record their details and ensure donor conceived children have the same access to information, whether their conception was facilitated by an informal or formal process.

Provided by Deakin University

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