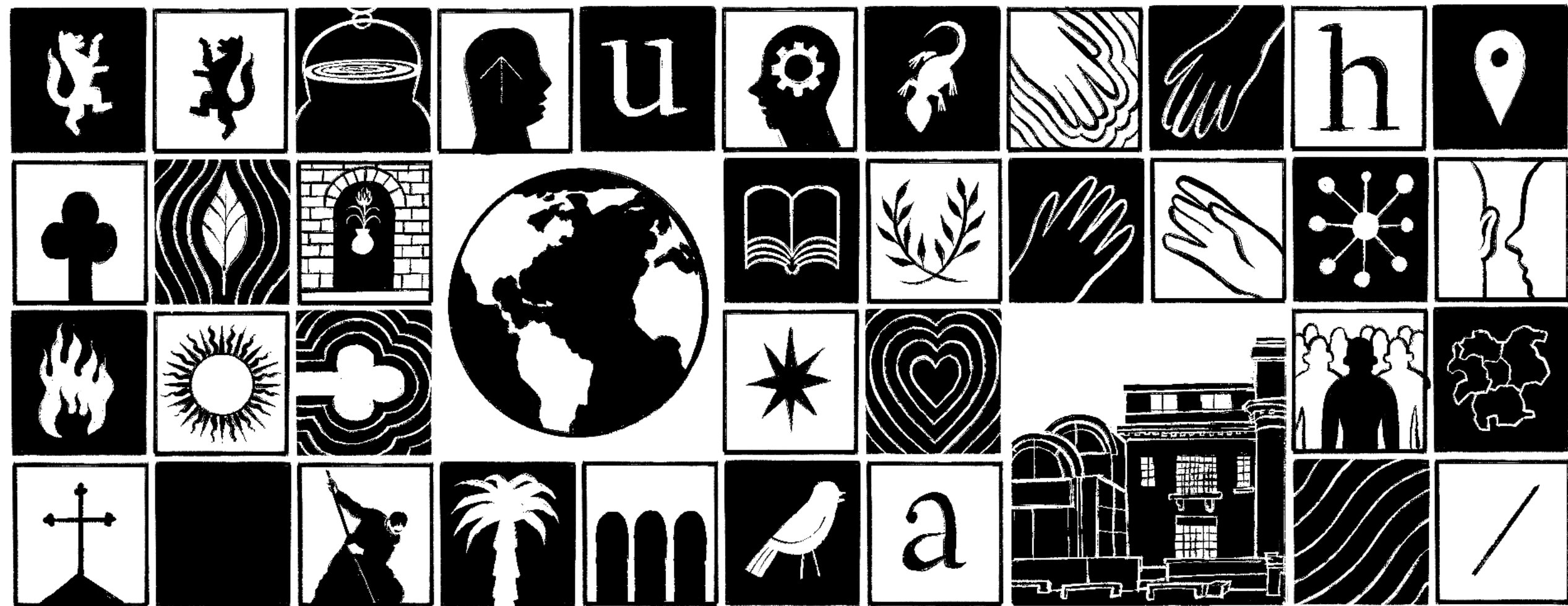




Revisión crítica “Proyecto de ley que modifica diversas normas en materia de familia, con el propósito de prohibir toda forma de utilización de la mujer como vientre de alquiler” (Boletín 17337-07)

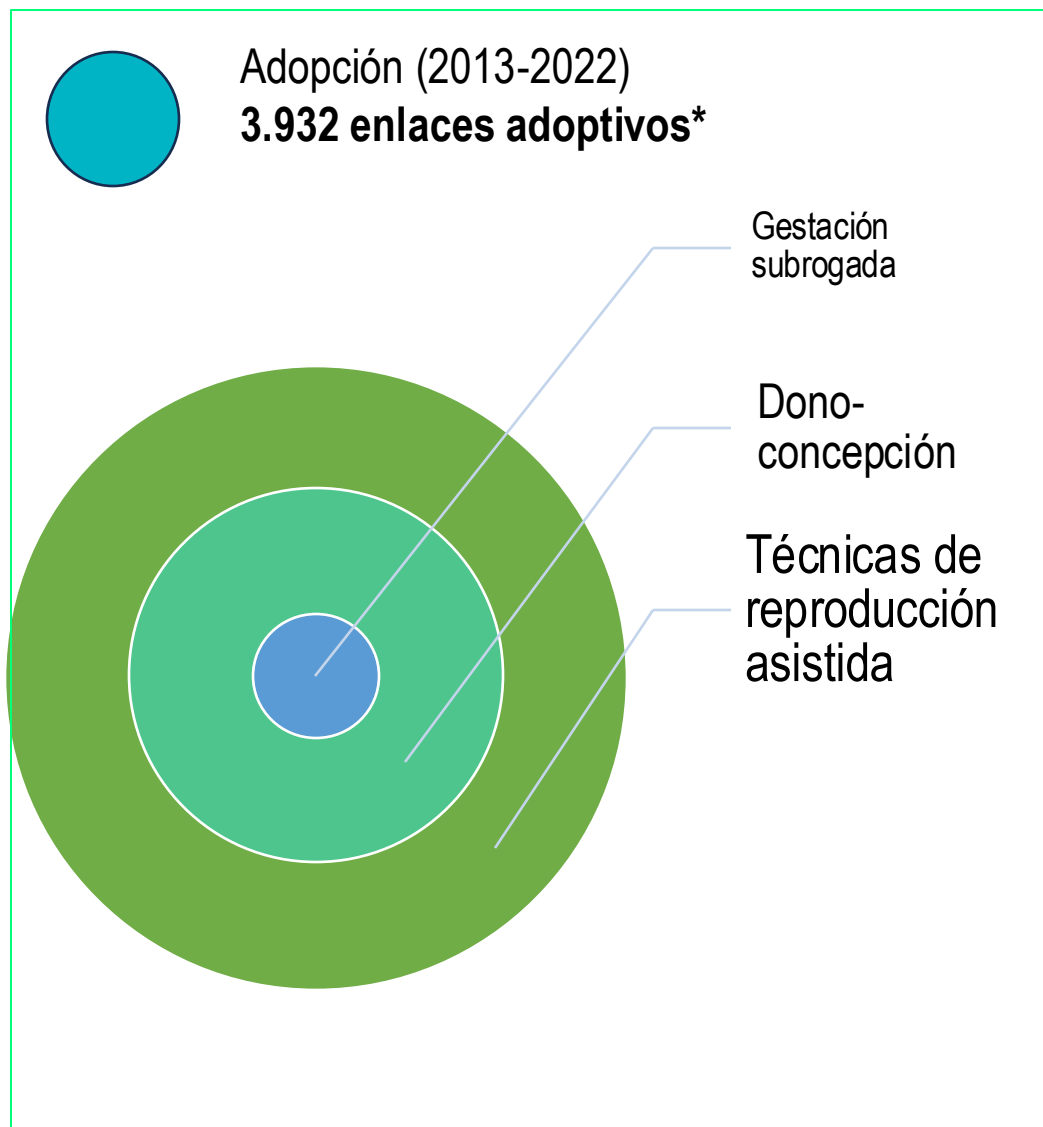


“DANAE”, GUSTAV KLIMT, 1907

Javiera Navarro-Marshall

Doctora en psicología del desarrollo, psicóloga infanto-juvenil
especialista en vínculos tempranos

Contexto y conceptos



* Anuario Mejor Niñez, 2024

Estimaciones nacionales

FAMILIAS POR TÉCNICAS DE REPRODUCCIÓN ASISTIDA (TRA)

- 2% de todos los nacimientos serán por TRA futuro cercano
- **+/- 22.000 nacimientos** TRA en Chile hasta 2022
(Dr. Zegers, 2 junio 2025, Senado de la República)

FAMILIAS DONO-CONCEBIDAS (DC)

- 20% del universo TRA es ovodonación
- 86% de la donación de gametos es ovodonación
- **+/- 4.500 nacimientos** DC en Chile hasta 2022

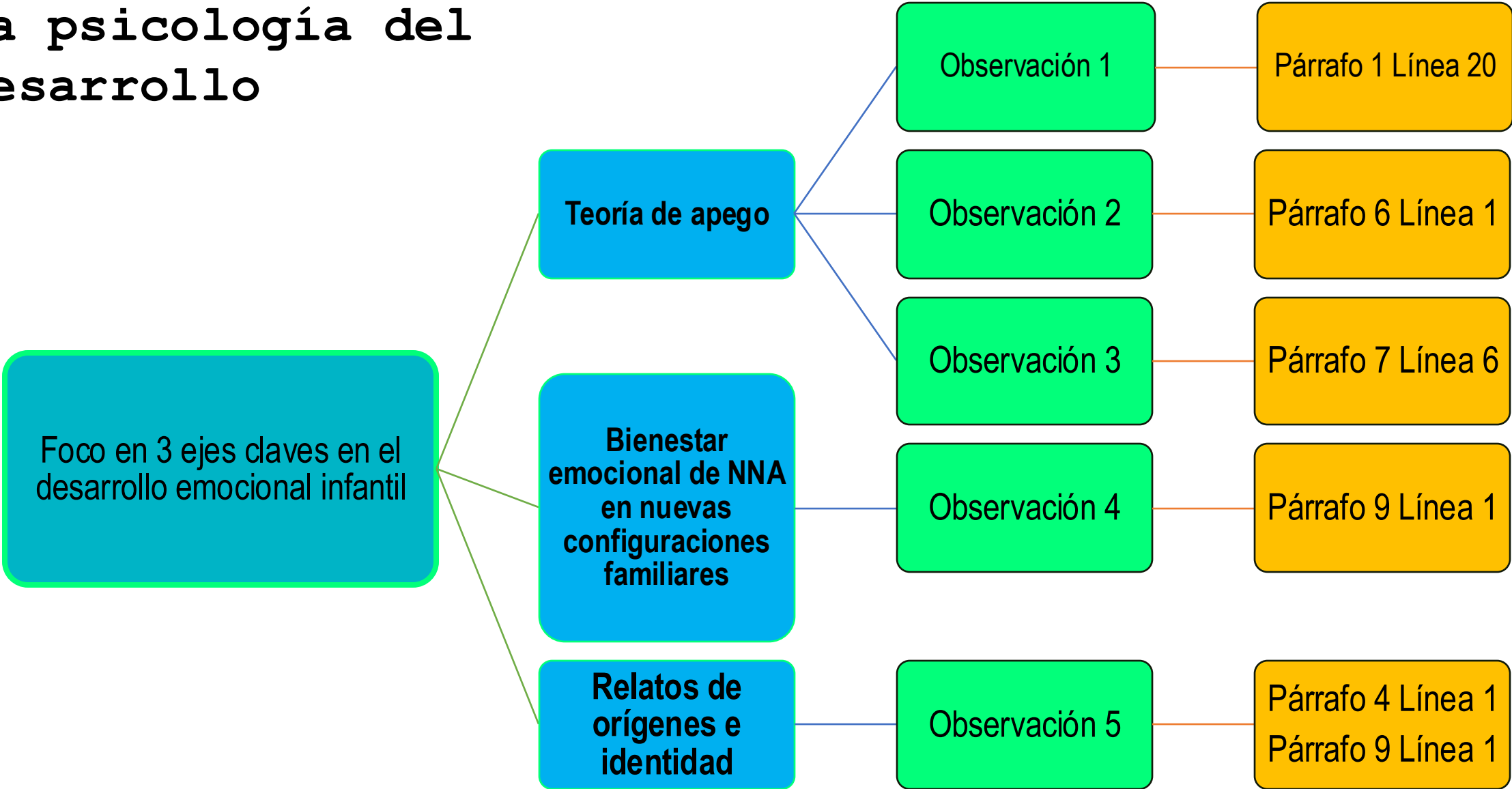
FAMILIAS POR GESTACIÓN SUBROGADA (GS)

- Nuevas Familias (**23 niños/as, 24 familias**)

DIVERSAS ESTRUCTURAS, MULTIPLICIDAD DE PROCESOS

¿Qué tienen en común?

5 observaciones a los fundamentos del PdL desde la psicología del desarrollo



1

FUNDAMENTOS DEL PROYECTO: **VIENTRE DE ALQUILER, UN FLAGELO A LOS MIEMBROS DE LA FAMILIA**

Párrafo 1
Línea 20

Por esto se habla de que la **filiación** con los padres intencionales **no es biológica**. Ocurre que los padres intencionales **intentan** vínculos de filiación por contrato.

TEORÍA DE APEGO

- La **filiación** no está determinada por la biología (posesión notoria)
- La **filiación** es un concepto jurídico (Código Civil Art. 179, 182, 200)
- Vínculo emocional es un concepto psicológico
- Vínculo emocional y apego **NO SON SINÓNIMOS**
- **¿Qué es el apego?**

2

TEORÍA DE APEGO

FUNDAMENTOS DEL PROYECTO: EL **VIENTRE DE ALQUILER**, UN **FLAGELO** A LOS MIEMBROS DE **LA FAMILIA**

Párrafo 6
Línea 1

Además, la maternidad subrogada **rompe los lazos, provocados de manera natural**, entre la mujer gestante y el niño o niña. Al respecto, es posible señalar que el **apego materno “se produce desde la gestación**, y el recién nacido es **separado de su madre** para ser entregado al contratante”. “A la **urdimbre** afectiva del hijo no es ajena la voz, el sabor y olor del cuerpo de la madre. Su cerebro configura y desarrolla los sistemas auditivo, gustativo y olfativo en la segunda etapa de su vida uterina. Durante el embarazo tienen **lugar una serie de cambios psíquicos en la mujer gestante**. La relación psicológica que mantiene con el hijo contribuye a la construcción de la futura personalidad de éste, dado que se establece entre ambos lo que se denomina **espacio psíquico de la gestación”**

- Confusión entre “natural” y “biológico” (Hrdy, 2000)
- ¿Hay apego durante la gestación? Las capacidades sociales de los bebés **son precursores del apego** (Brazelton & Cramer, 1994)
- Cambios psíquicos de la mujer gestante:
 - **Preocupación maternal primaria** (Winnicott, 1956)
 - **Constelación materna** (Stern, 1995)
 - ¿”Espacio psíquico de la gestación”? No es concepto psicológico de uso común

FUNDAMENTOS PROYECTO: EL **VIENTRE DE ALQUILER**, UN **FLAGELO** A LOS MIEMBROS DE LA FAMILIA

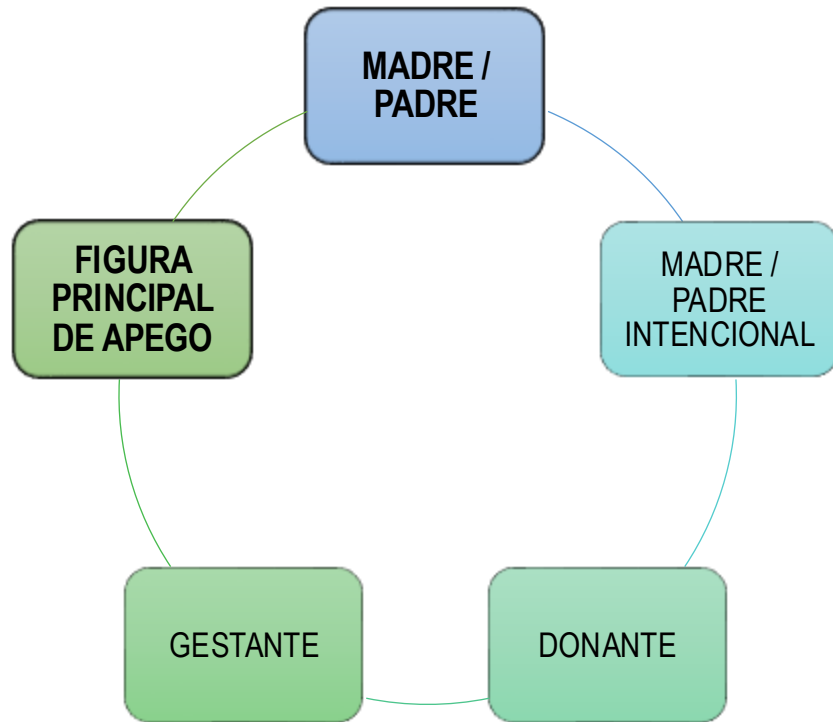
Párrafo 7
Línea 6

La gestación y el alumbramiento producen **vínculos profundos** entre ambos y el apego y la comunicación de nutrientes entre la madre y el hijo son **hechos naturales** que dejan una **huella indeleble** en los dos”.

TEORÍA DE APEGO

- El **apego** es **instintivo del bebé a su figura de cuidado y no viceversa** (Bowlby, 1998, Marrone, 2020, Fonagy, 2010)
- El apego seguro se genera por la **sensibilidad parental** (Ainsworth, 1970)
- La relevancia de la teoría de apego es que sus **estudios longitudinales** nos proveen la mejor evidencia posible a la fecha para **predecir salud mental** en la adultez (Fearon et al., 2010; Groh et al., 2012; Sroufe et al., 1999)

¿Cómo definimos madre?

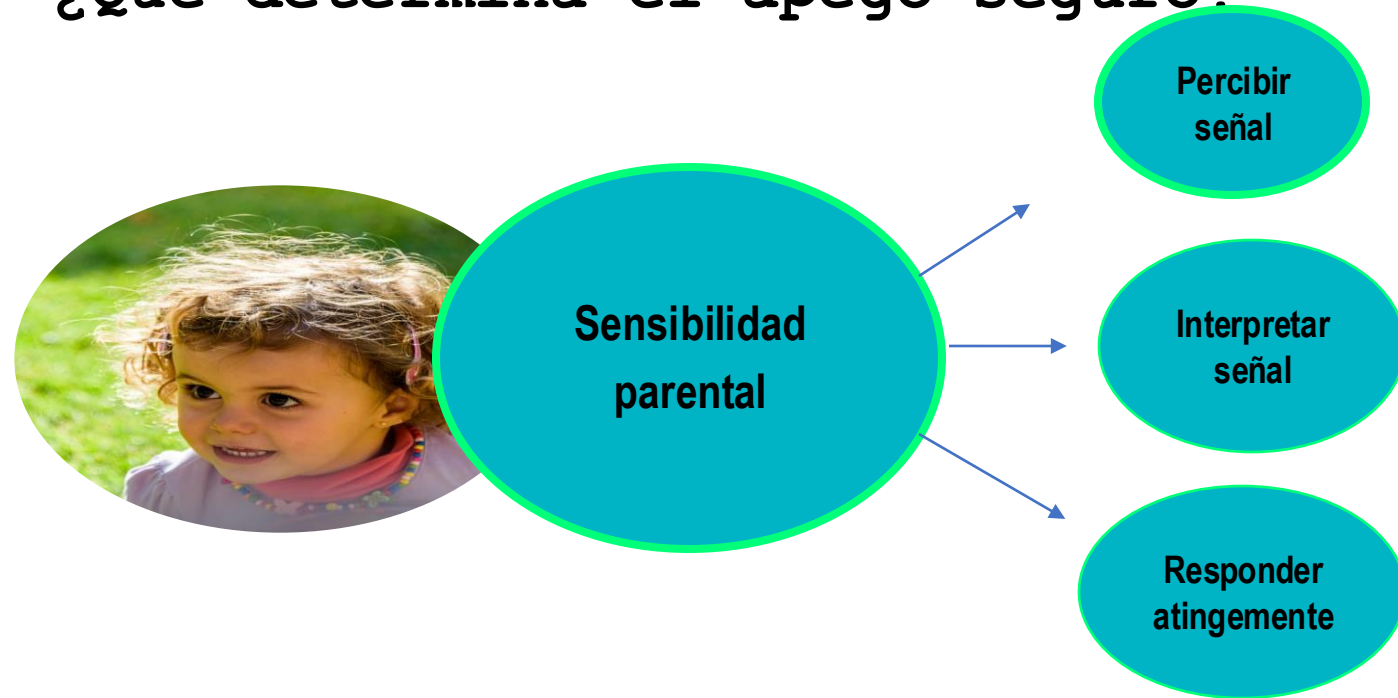


¿Qué dicen los niños/as?

"Quién te cuida"

Wade et al., 2023; 2024

¿Qué determina el apego seguro?



Bowlby, 1998; Ainsworth, 1970; Sroufe, 1990;
Marrone, 2020; Fonagy, 2010

4

BIENESTAR EMOCIONAL DE NIÑOS Y NIÑAS EN NUEVAS CONFIGURACIONES FAMILIARES

FUNDAMENTOS PROYECTO DE LEY FUNDAMENTOS DEL PROYECTO: EL **VIENTRE DE ALQUILER**, UN **FLAGELO** A LOS MIEMBROS DE LA FAMILIA

Párrafo 9
Línea 1

Además, la maternidad subrogada atenta **contra el interés superior del niño o niña** (artículo 222 del Código Civil, artículo 7 de la ley 21.430 sobre Garantías y Protección Integral de los Derechos de la Niñez y la Adolescencia, y artículo 3 de la Convención sobre los Derechos del Niño) y, en particular, **contra el derecho del niño o niña a conocer su origen biológico** (artículo 26 de la ley 21.430 sobre Garantías y Protección Integral de los Derechos de la Niñez y Adolescencia), pues dificulta (en el mejor de los casos, pues en otros impide) la posibilidad de que el niño o la niña conozcan a las personas que aportaron material genético esencial para su existencia.

- Interés superior de niño o niña (Convención de Derechos, UN) versus bienestar emocional infantil

Mejor evidencia empírica disponible a la

Gay father surrogacy families: relationships with surrogates and egg donors and parental disclosure of children's origins

Lury Blake, Ph.D.,^a Nicola Carone, M.Sc.,^b Jenna Slutsky, Ph.D.,^c Elizabeth Raffanelli, M.P.H.,^d Anke A. Ehrhardt, Ph.D.,^e and Susan Golombok, Ph.D.^a
^a Centre for Family Research, University of Cambridge, Cambridge, United Kingdom; ^b Department of Developmental and Social Psychology, Sapienza University of Rome, Rome, Italy; and ^c Division of Gender, Sexuality, and Health, New York Psychiatric Institute, Columbia University, New York, New York

Objective: To study the nature and quality of relationships between gay father families and their surrogates and egg donors and parental disclosure of children's origins.
Design: Cross-sectional study.
Setting: Family homes.
Participants: Parents in 40 gay father families with 3-9-year-old children born through surrogacy.
Intervention(s): Administration of a semistructured interview.
Main Outcome Measure(s): Relationships between parents, children, surrogates, and egg donors and parental disclosure of children's origins were examined using a semistructured interview.
Results: The majority of fathers were content with the level of contact they had with the surrogate, with those who were discontent wanting more contact. Fathers were more likely to maintain relationships with surrogates than egg donors, and almost all families had started the process of talking to their children about their origins, with the level of detail and children's understanding increasing with the age of the child.
Conclusion(s): In gay father surrogacy families with young children, relationships between parents, children, surrogates, and egg donors are generally positive. (Fertil Steril® 2016;106:1263-9. Copyright © 2016 The Author. Published by Elsevier Inc. on behalf of the American Society for Reproductive Medicine. This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>)).
Key Words: Children, disclosure, egg donor, gay father, surrogacy.
Discuss: You can discuss this article with its authors and with other ASRM members at <https://www.fertstertoday.com/users/16110-fertility-and-sterility/posts/11529-gay-father-surrogacy-families-relationships-with-surrogates-and-egg-donors-and-parental-disclosure-of-children-s-origins>

742 RBMO VOLUME 41 ISSUE 4 2020

RBMO

MINI-REVIEW

The psychological wellbeing of ART children: what have we learned from 40 years of research?

BIOGRAPHY
Susan Golombok is Professor of Family Research and Director of the Centre for Family Research at the University of Cambridge, UK. She has pioneered research on new family forms. In addition to academic papers, she has authored seven books, most recently *We Are Family: what really matters for parents and children*.
Susan Golombok*

ABSTRACT
Our understanding of what makes a family has changed dramatically in recent decades due to advances in reproductive technologies accompanied by changing social attitudes. But what has the impact been on children? This article presents a summary of research on parent-child relationships and the psychological adjustment of children in families created by assisted reproduction. The findings show that families with lesbian mothers, gay fathers, and single mothers by choice, and families created by donor conception and surrogacy, are just as likely to flourish as traditional families, and sometimes more so, although the children from these families will sometimes face prejudiced attitudes from others. It is concluded that the quality of family relationships and the wider social environment matter more for children's psychological wellbeing than the number, gender, sexual orientation, or biological relatedness of their parents.

Human Reproduction, Vol.27, No.10 pp. 3008-3014, 2012
Advanced Access publication on July 18, 2012 doi:10.1093/humrep/des273

human reproduction ORIGINAL ARTICLE **Psychology and counselling**

Surrogacy families 10 years on: relationship with the surrogate, decisions over disclosure and children's understanding of their surrogacy origins

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Submitted on December 1, 2011; resubmitted on June 12, 2012; accepted on June 20, 2012

BACKGROUND: This study aimed to prospectively examine families created using surrogacy over a 10-year period in the UK with respect to intending parents' and children's relationship with the surrogate mother; parents' decisions over disclosure and children's understanding of the nature of their conception.
METHODS: Semi-structured interviews were administered by trained researchers to intending mothers, intending fathers and children on four occasions over a 10-year period. **Surrogacy families** (19 with a genetic surrogate mother) participated when the child was 1-year old and by age 10 years, 33 families remained in the study. Data were collected on the frequency of contact with the surrogate mother; relationship with the surrogate; disclosure of surrogacy to the child and the child's understanding of their surrogacy birth.
RESULTS: Frequency of contact between surrogacy families and their surrogate mother decreased over time, particularly for families whose surrogate was a previously unknown genetic carrier ($P < 0.001$) [i.e. where they had met through a third party and the surrogate mother's egg was used to conceive the child]. Most families reported harmonious relationships with their surrogate mother. At age 10 years, 19 (50%) children who had been informed of the nature of their conception had a good understanding of this and 13 of the 14 children who were in contact with their surrogate reported that they liked her.
CONCLUSIONS: Surrogacy families maintained good relationships with the surrogate mother over time. Children felt positive about their surrogate mother and their surrogacy birth. The sample size of this study was small and further, larger investigations are needed before firm conclusions can be drawn.
Key words: genetic surrogacy / gestational surrogacy / disclosure / surrogate

Families Created Through Surrogacy: Mother-Child Relationships and Children's Psychological Adjustment at Age 7

Susan Golombok, Jennifer Readings, Lucy Blake, Polly Casey, Alex Marks, and Vasanti Jadva
University of Cambridge

Each year, an increasing number of children are born through surrogacy and thus lack a genetic and/or gestational link with their mother. **This study examined the impact of surrogacy on mother-child relationships and children's psychological adjustment.** Assessments of maternal positivity, maternal negativity, mother-child interaction, and child adjustment were administered to 32 surrogacy, 32 egg donation, and 54 natural conception families with a 7-year-old child. **No differences were found for maternal negativity, maternal positivity, or child adjustment, although the surrogacy and egg donation families showed less positive mother-child interaction than the natural conception families. The findings suggest that both surrogacy and egg donation families function well in the early school years.**

Keywords: surrogacy, egg donation, parent-child relationship, psychological adjustment

Each year an increasing number of children are born who lack times, there has been a rise in this route to parenthood in recent

Human Reproduction, Vol.38, No.5, pp. 908-916, 2023
Advance Access Publication on March 15, 2023 <https://doi.org/10.1093/humrep/dead048>

human reproduction ORIGINAL ARTICLE **Psychology and counselling**

'I know it's not normal but it's normal to me, and that's all that matters': experiences of young adults conceived through egg donation, sperm donation, and surrogacy

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Submitted on July 15, 2022; resubmitted on February 10, 2023; editorial decision on February 24, 2023

Human Reproduction, Vol.33, No.6 pp. 1099-1106, 2018
Advanced Access publication on April 12, 2018 doi:10.1093/humrep/dey088

human reproduction ORIGINAL ARTICLE **Psychology and counselling**

The perspectives of adolescents conceived using surrogacy, egg or sperm donation

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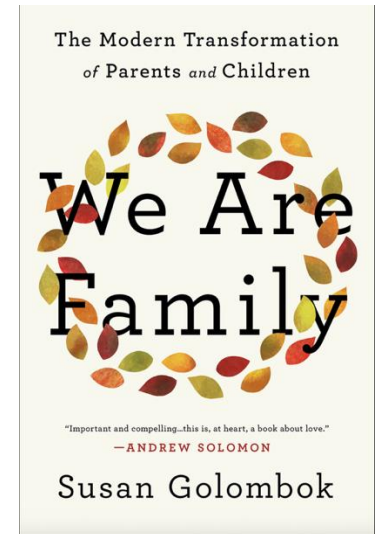
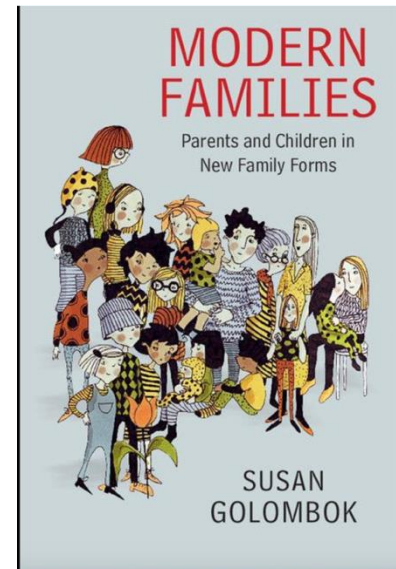
Submitted on October 25, 2017; resubmitted on February 20, 2018; accepted on March 28, 2018

STUDY QUESTION: What are the perspectives of adolescents conceived using surrogacy, egg or sperm donation regarding their conception and the third party involved?
SUMMARY ANSWER: The majority of adolescents described feeling indifferent about their conception, and yet simultaneously reported an interest in the third party involved, or were in contact with them.

Mejor evidencia empírica disponible a la fecha

- El desarrollo infantil **no depende** de la estructura familiar.
- La **calidad de la relación parental** es más relevante que el **vínculo genético**
- Existe un **alto nivel de motivación y sensibilidad parental** en madres/padres que han usado la **ovodonación y/o subrogación**.
- Las **familias no tradicionales son altamente funcionales** y protectoras
- Hablar tempranamente sobre el **origen** favorece la **identidad** y el bienestar emocional.

¿Por qué es la mejor evidencia disponible?



RELATOS DE ORÍGENES E IDENTIDAD

FUNDAMENTOS PROYECTO DE LEY FUNDAMENTOS DEL PROYECTO: EL **VIENTRE DE ALQUILER**, UN **FLAGELO** A LOS MIEMBROS DE LA FAMILIA

Párrafo 4 Línea 1

Al respecto, se puede sostener que esta práctica podría producir “**confusión de paternidad y de maternidad**”, con la consiguiente ofensa a la **identidad personal del hijo**.

FUNDAMENTOS PROYECTO DE LEY FUNDAMENTOS DEL PROYECTO: EL **VIENTRE DE ALQUILER**, UN **FLAGELO** A LOS MIEMBROS DE LA FAMILIA

Párrafo 9
Línea 1

y, en particular, **contra el derecho del niño o niña a conocer su origen biológico** (artículo 26 de la ley 21.430 sobre Garantías y Protección Integral de los Derechos de la Niñez y Adolescencia), pues **dificulta** (en el mejor de los casos, pues en otros **impide**) la posibilidad de que el niño o la niña conozcan a las personas que aportaron **material genético** esencial para su existencia.

Mi investigación

- Pasar del contar o no contar, al **cómo contar** (reminiscencias elaborativas)
- Para eso decidí escuchar estas conversaciones (metodología y participantes)
- Las familias dono-concebidas **son discurso-dependientes**, deben construir activamente su relato familiar.
- El **modo** en que se conversa sobre el origen importa tanto como el **contenido**, ya que impacta el desarrollo emocional, narrativo y de identidad de niños y niñas.
- Es clave formar a profesionales (psicólogos, consejeros en fertilidad) en herramientas dialógicas y basadas en la evidencia para acompañar a estas familias.



Human Reproduction, 2025, 40(3), 405–409
<https://doi.org/10.1093/humrep/deaf004>
Advance Access Publication Date: January 20, 2025
Opinion

Beyond the disclosure debate in donor-conception: how do we help families to discuss origin stories with their children?

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ABSTRACT

Families have been subject to enormous transformations with the emergence of artificial reproductive technology and the appearance of donor-conceived children. These new families are challenged to disclose origins with their children and parents feel concern that conception stories might have an emotional impact on their children. Fertility counsellors still feel ill-equipped on what to recommend to parents because developmental psychology has not designed systematic evidence-based guidelines to address a three-dimensional matter: 'what', 'when', and 'how' to discuss conception stories. The argument developed herein is that professionals working with families in fertility clinics, could benefit from understanding these new family conversational processes of origin storytelling from these three perspectives, not only on 'what' and 'when' but also on the less elaborated 'how' to talk about it. For this purpose, understanding elaborative reminiscing as a specific way of talking about the past that helps children to build autobiographical memories and develop their identity might be key.

Keywords: donor-conceived families / family conversational processes / origin stories / elaborative reminiscing / autobiographical memories / identity development / fertility counsellors

Infant and Child Development

WILEY

EXPLORATORY REPORT

Talking About Donor-Conception: Parents' and Children's Experiences of Origin Storytelling

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Received: 31 October 2024 | Revised: 28 April 2025 | Accepted: 30 April 2025

Funding: This work was supported by the Agencia Nacional de Investigación y Desarrollo (21190581).

Keywords: Chile | conception stories | donor conception | donor-conceived families | families' experiences of talking | origin stories | origin storytelling

ABSTRACT

New family structures are emerging with the inception of artificial reproductive technology (ART), and one of these new formations is donor-conceived families. These families challenge the traditional definition of family but also face challenges in disclosing origins to their children. Developmental psychology has scarce evidence about how these conversations unfold and how families feel about these instances of origin storytelling. Therefore, this research explored how families with donor-conceived children experience sharing conception stories. This was achieved with a qualitative descriptive approach with 45 participants belonging to 17 donor-conceived families (heteroparental, monoparental and homoparental): 22 mothers, four fathers, 11 daughters and eight sons, aged between 3 and 8, all living in Chile and self-identified as Latino. Families were asked to record their conversations and later reflect on them. This paper examines families' subjective experiences of origin storytelling, showing that while parents and children have multilayered feelings about these stories, they view the experience positively overall. Conception stories are a multilayered process that is ongoing throughout a child's development. These results feature the voices of the first generation of children in Chile growing up in donor-conceived families, thus illuminating an under-examined yet growing population across the world.

Downloaded from <https://academic.oup.com/humrep/article/40/3/405/4581244>

Recomendaciones

Otras leyes congreso que vale la pena considerar:

- Proyecto de Provoste y de Rincón Boletín N° 12.106-07
- Proyecto sobre Reproducción Médicamente Asistida - Dr. Zegers (Presentada a Comisión de la Mujer al Senado de la República con fecha 2 de junio 2025)

Promover investigación:

Promover investigación longitudinal sobre desarrollo infantil en nuevas configuraciones familiares en Chile, que permita poder entender estos procesos y apoyar el desarrollo de estas nuevas configuraciones familiares.



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Muchas gracias.



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