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In May, the President of the High Court Family Division made a formal declaration that UK surrogacy law was incompatible with the human rights of single parents and their children.

This important fertility law case involved the British single father of a boy (Z) born through surrogacy and egg donation in the USA. The father, who had decided to start a family on his own, signed a formal surrogacy agreement with his surrogate in the USA, and this was ratified by a US court order shortly after Z's birth, confirming that he was the sole legal parent of his baby son. There was no dispute with the surrogate, and no question about whether he was a fit parent. The problems were purely legal, and they only arose when he brought Z home to the UK.

On this side of the Atlantic, UK law does not recognise surrogacy agreements and it ignores parentage orders made in international surrogacy cases. UK law therefore treated the surrogate as the child's mother, and the only person who could make decisions about Z's care in the UK. That was the case even though she was not the biological mother, not caring for the child and not a parent under her own system of law. And it left the father out in the cold, with no parental responsibility to enable him to manage his son's care in the UK.

The father applied for a parental order, which is the usual UK family court order which reassigns parentage to the intended parents after a child is born through surrogacy, and extinguishes the status and parental responsibility of the surrogate. The difficulty is that the law only allows couples to apply. It says that the applicants for a parental order must be a couple - married or unmarried, same-sex or opposite sex, but not single. The court ruled that it could not make a parental order because Z's father was a single parent. Z was therefore made a ward of court, so the court (delegating powers to the father) could make essential decisions about his care in the UK.

The father pursued his case, and asked the court to make a declaration that the law breached his human rights and needed to be changed. He said that the fact he could not obtain a parental order breached his and his child's right not to be discriminated against in an

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area of private family life. The Secretary State for Health, who was defending the application, ultimately decided not to oppose the father's case, conceding that UK law breached his human rights and consenting to the court making a declaration of incompatibility.

Declarations of incompatibility under the Human Rights Act are very rare - UK law is assumed to uphold the rights set out in the European Convention on Human Rights - and there have only been 20 previous cases where the court has made a final declaration. In all but one, this has resulted in Parliament changing the law. At the time of writing, the law has not yet been changed. Only Parliament can do that and, although declarations of incompatibility made by the court almost always prompt swift action, we do not yet know what will happen next. However, just yesterday the Government told the House of Lords that they had accepted the judgment and were considering how best to implement changes, so law reform looks inevitable.

This is good news for children. Although some of the headlines around the case have focused on whether single parents should be allowed to conceive through surrogacy, this is not what the case was about. The simple truth in our modern global world is that single parents can and do conceive through surrogacy. It is also perfectly legal. UK law does not discriminate against single parents accessing fertility treatment, and it allows single parents to adopt children. The issue in this case was whether parents who have children born through surrogacy should be recognised as the legal parents of their own children. The answer to that surely must be obvious.

Z's father was not the first single parent to conceive a child through surrogacy. We have worked with many, and to date nearly all have ended up living in legal limbo, caring for their children in the UK under the radar, without full legal recognition as parents. This may have significant long term consequences for their children, who can lack basic rights of status, inheritance and nationality, or end up subject to legal complications at times of crisis such as illness or bereavement. Z's father bravely decided to put his head above the parapet to fight for the rights of all such families and to highlight the problems with the law. His efforts will make an enormous difference to the many other families like his.

The UK has a proud tradition of taking a progressive approach to assisted reproduction and non-traditional families, and the current surrogacy laws are a glaring anomaly which fail to uphold our most fundamental values of safeguarding children's welfare. The law needs to change so that Z, and dozens of other children born through surrogacy to single parents, can be rescued from legal limbo.