

CALL FOR PAPERS

SURROGACY: SEXUAL AND REPRODUCTIVE JUSTICE PERSPECTIVES

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CONTEXT

The practice of gestational surrogacy,¹ whether compensated or not, is increasingly targeted for restriction and prohibition, and efforts to introduce international, transnational and national legal and other normative frameworks abound. These restrictive movements label compensated gestational surrogacy, or all forms of surrogacy, unnatural; against tradition, religion, and even economic and political stability; and an assault against the (heteronormative, traditionally viewed) family—focusing primarily on protection of children and women. They view surrogacy as the sale of children, human trafficking and/or the objectification and exploitation of women, and therefore demand its abolition. They are often dismissive of sexual and reproductive justice, gender equality and sexual rights perspectives. In addition, “genetic essentialism” is often raised as one of the critiques of gestational surrogacy, as children born from surrogacy need not share any genetic material with their intended parents.

While there is some understanding that access to infertility services forms part of sexual and reproductive health and rights (SRHR), the human rights dimensions of surrogacy have not been comprehensively examined by international human rights standards taking into account rights and responsibilities of all parties involved.

¹. Gestational surrogacy is an arrangement where a person carries a pregnancy with an agreement that they will give the offspring to the intended parent(s). Gametes can originate from the intended parent(s) and/or a third party (or parties). See Zegers-Hochschild, Fernando, et al. “The International Committee for Monitoring Assisted Reproductive Technology (ICMART) and the World Health Organization (WHO) Revised Glossary on ART Terminology, 2009.” *Human Reproduction* 24; 11 (2009): 2683-2687. Available at https://www.who.int/reproductivehealth/publications/infertility/art_terminology.pdf

Deciding whether or not to form a family, as well as deciding on the number and spacing of children are recognized sexual and reproductive rights, with strong connections to health and well-being. All human rights are grounded in equality and non-discrimination norms. Newer technologies to overcome infertility, specifically in vitro fertilization (IVF) and gestational surrogacy, have great egalitarian potential. They have opened possibilities for individuals and couples who, for biomedical or social reasons, were thwarted in their pursuit of family formation, with adoption often being an unavailable alternative. Yet establishing the limits of state authority and action with respect to sexual, reproductive and family matters is one of the most dynamic areas for contemporary human rights.

There is no one uniform legal, policy and normative approach to the regulation of gestational surrogacy and the technologies upon which it depends: IVF, especially gamete provision. A plethora of national norms establish different safety, protection, eligibility and other requirements regarding access to IVF and gestational surrogacy; there are many jurisdictions that provide no legal and policy guidance. This patchwork (or absence) of legal regimes and administrative requirements creates even more challenges for individuals and couples who, for whatever reason, seek third-party reproductive services outside of their own countries. Such transnational arrangements have given rise to heightened concerns about exploitation, especially when they do not go according to plan.

While the practice of gestational surrogacy does raise important questions related to coercion, exploitation, dignity, autonomy, family and privacy, labelling such practices as inherently exploitative obfuscates the complicated, grounded, lived experiences of those who seek and those who provide reproductive services. Precisely because the issue can be so heated, investigations into legal and policy conclusions may arise from findings based on human-rights-informed public health, social science, policy and legal research.

This SRHM themed issue aims to provide a platform for knowledge and evidence deriving from the study of laws, policies, and ethical and other standards, and empirical (qualitative, quantitative and mixed-method) studies from a range of disciplines. It seeks to provide space to share what is known, unknown and should be known about gestational surrogacy practices, whether compensated or not, and how it might bear the enjoyment and protection of the human rights and ethical mandates of concerned parties, especially from sexual and reproductive justice perspectives.

We invite authors from various disciplines comprising SRHR—attorneys and advocates with specializations in sexual and reproductive, women’s, children’s and LGBTI rights; historians; social scientists; public health researchers; anthropologists; philosophers; bio-ethicists; and high-risk obstetric, maternal, child and mental health specialists—to contribute their research. We hope that this issue will create a space for an open dialogue around the issue of surrogacy. Moreover, we believe that the knowledge published in this issue will contribute to concrete actions and

provide an evidence base from which human-rights-informed law, policy, regulation and norms can be produced.

SCOPE OF PAPERS

We welcome original research, analytical reviews—including implementation research, and policy and legal analyses—commentaries and critical perspectives. We also encourage the submission of rights- and evidence-based narratives from individuals with first-hand experiences, and rights- and evidence-based contributions from activists working in the field of SRHR. Papers discussing the following topics, in relation to sexual and reproductive rights, are of special interest:

1. Connections between surrogacy (and related practices) and SRHR: for example, deciding whether or not to form a family, deciding on the number and spacing of children, and egalitarian approaches to sexuality and reproduction with strong connections to health and well-being;
2. Good practices that take into consideration the rights and interests of all parties involved in surrogacy;
3. Legal, policy and normative approaches to the regulation, management and practice of gestational surrogacy and the technologies upon which it depends;
4. Approaches, regulations, policies and practices that recognize autonomy in sexual and reproductive decision-making, while engaging with the mitigation of potential harms that can be associated with these practices;
5. Challenges and solutions which acknowledge that surrogacy sits at the intersection of globalization, technology, labour, the market and gender (e.g. opportunities and limitations of transnational surrogacy, background rules and practices of the “market” that frame many of the gestational arrangements, multi-layered perspectives of advertising, etc.);
6. Empirical evidence that engages with a harm-and-benefits analysis addressing the sexual and reproductive health and human rights perspectives of surrogacy;
7. Examining opportunities, risks and protections in relation to various practices of and surrounding surrogacy that engage with terminology (e.g. meaning of words, criteria of classification: for example, altruistic and commercial, donor, motherhood, etc.).

SUBMISSIONS

Submissions will be accepted between 24 February, 2020 and May 15, 2020. Submit papers at: <http://www.edmgr.com/zrhm/default.aspx>

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at: <https://tandfonline.com/action/authorSubmission?journalCode=zrhm21&page=instructions>

Papers published in this themed issue will be free from article publishing charges. When submitting specifically to this themed issue, please state this clearly in the cover letter and quote waiver code: ZRHM-GS-2020. ****Submissions that do not this may be delayed in processing and fail to meet the deadline****