Committee: World Health Assembly (WHA)

Issue: Devising measures to mitigate maternal health infringements and illicit medical practices in the surrogacy market

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Introduction

Since the birth of Louise Brown, the first child born as a result of IVF, the advances in the world of assisted reproduction have been fleeting. The number of children conceived by assisted reproduction technologies (ART) has reached 5 million, as calculated by the International Committee for Monitoring Assisted Reproduction Technologies (ICMART) and presented in the European Society of Human Reproduction and Embryology (ESHRE). With that said, it is quite evident, therefore, that the impact of assisted reproduction has been colossal.

In the past, as manifested in a paper written by LeRoy Walters on the ethical consideration of "test-tube babies," many people voiced their skepticism as technology began to blossom. Walters stated that between 1979 and 1985, at least 15 public and private committees and commissions issued public statements on the ethics of IVF. Concerns on welfare for both parent and child were particularly pertinent and controversial during the late 80s and 90s. Other general public concerns include the ethical quandary in embryos being screened for inherited diseases.

The main feature of IVF that has changed the Assisted Reproductive Technology (ART) industry in its entirety is gestational surrogacy. This is when "a woman carries and delivers a child with whom she has no genetic relation." With in vitro fertilization (IVF), An egg and sperm are fertilized outside of the womb, and the resulting embryo is transferred to the gestational carrier. The gestation carrier carries the baby to term on behalf of the intended parents. This imposes utterly foreign reconsiderations of social norms: Who is considered a parent? What frameworks should be implemented? How can medical facilities safely coordinate this transaction? Can human lives be handled as a product? How can couples ensure adequate financial compensation for surrogate mothers? What are the expected consequences? These are all tremendously relevant questions to consider. However, the answers may vary: the objective reality of surrogacy arrangements in the status quo is medically, emotionally, financially, and legally complex.

Approaching a more modern outlook, while there is certainly broad opposition to IVF from many different quarters, there is also strong support from others. Feminists advocate IVF for its ability to give single mothers a chance to get pregnant and have children, and same-sex couple support groups also support IVF as it allows same-sex couples the opportunity to have children and a family of their own. Aside from infertile, same-sex, and single-set couples - IVF positively impacts the future of patients with blocked tubes, older age, low ovarian reserve, PCOS, endometriosis, etc. The most notable example in the recent normalization of assisted reproduction is various incidences of celebrities publicizing their experience. The abstruse nature of ART truly is the epitome of a modern medical reality that calls upon immediate action for the future.

Definition of Key Terms

Surrogate Mother: The carrier of the child through processes regarding artificial fertilization

Intended Parent: A person or people who are the "legal parents" of the child and initiated the surrogacy arrangement

Traditional Surrogacy: The intended mother uses her own eggs and is inseminated with either the intended father's sperm or donor sperm. In this case, the surrogate mother is related to the child genetically and doubles as the egg donor as well as the biological mother of the baby she is carrying. The embryos are created using sperm from the intended father or a donor in a process called intrauterine insemination (IUI).

Gestational Surrogacy: An embryo created through the process of in vitro fertilization (IVF) is transferred into the uterus of the surrogate by a simple procedure. The surrogate is not genetically related to the child, and a surrogacy arrangement is agreed upon and signed between the surrogate mother and the intended parents, which establishes parentage. During this process of surrogacy, the egg and sperm used to create the embryo most likely came from the intended parents or may have been donated from either sperm or egg donors.

Altruistic Surrogacy: An arrangement in which a woman volunteers to carry a pregnancy to term without receiving any compensation. This can be initiated solely with the informed consent of both parties, who are each participating in acts of service to one another.

Commercial Surrogacy: Otherwise known as for-profit surrogacy, commercial surrogacy is any arrangement in which the woman is compensated for her services beyond reimbursement for her medical expenses. It can be altruistic, traditional, or gestational.

Fertility tourism: Fertility tourism is the practice of traveling to another country or jurisdiction for fertility treatment and may be regarded as a form of medical tourism. It is most likely that reproductive tourism refers to intended parents traveling borders from one institution, jurisdiction, or country where treatment is not available.

ART (Assisted Reproductive Technology) or MAP (Medically Assisted Pregnancy): All treatments that involve surgically extracting eggs from a woman's ovaries and combing the eggs with sperm to assist in the process of producing an embryo

IVF (In Vitro Fertilization): In IVF, a human egg is fertilized with sperm in a laboratory and then implanted into a uterus (biological or not). If the fertilized embryo successfully implants in the uterus, this will result in pregnancy.

Donor-oocyte and Self-oocyte: Oocyte donation from a fertile woman and fertilization of the donor eggs in vitro with the recipient's male partner's sperm. The recipient of the embryo transfer will determine whether it is a donor or self oocyte.

History

History of WHA

The World Health Assembly is the world's highest health policy-setting body and comprises health ministers from member states. WHA is the main decision-making body of WHO and comprises 194 Member States. Delegates from all Member States come together to agree on the Organization's priorities and policies on a yearly basis. At the Health Assembly, country delegates make decisions on health goals and strategies

that will guide their own public health work and the work of the WHO Secretariat to move the world towards better health and well-being for all. The Health Assembly also serves as a forum for reporting on the implementation of the areas of work set to determine what has been achieved and decide on strategies for addressing the gaps.

The original membership of the WHA, at the first assembly held in 1948, numbered 55 member states. The WHA currently has 194 member states (all UN members without Liechtenstein, plus the Cook Islands and Niue). Also, WHA includes two associate members, Puerto Rico and Tokelau. In addition, seven agencies have observer status at the WHA – the Vatican, the Palestinian Authority, the Sovereign Military Order of Malta, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, the South Centre organization, and the Inter-Parliamentary Union.

History of IVF

Scientific innovation

The advent of IVF, otherwise known as in vitro fertilization, has brought about serious innovation to the scientific community. The history of IVF goes back more than half a century; the first successful IVF pregnancy and live birth occurred in 1978. IVF is now successful in nearly 50% of cases with female patients under thirty-five, comparatively much more successful as opposed to the original yield of single-digit success rates. Thus, it is not an exaggeration that, since its clinical introduction in 1978, in vitro fertilization (IVF) has redefined the very definition of human reproduction.

1923 – Medical researchers identify the female fertility hormone estrogen
1929 – Medical researchers identify the female fertility hormone progesterone
1943 – Hormone supplements are developed for fertility
1950s – IVF testing on mice and rabbits
1960s – Drugs to boost fertility are developed
1968 – Researchers first retrieved and fertilized human eggs
1969 – Medical researchers fertilized the first human egg cell

- A brief timeline of IVF - (Source: Pacific Fertility Center Los Angeles)

History of Surrogacy

Biblical times	One of the oldest recorded examples of traditional surrogacy is in Genesis, the Bible's first book. In this instance, Abraham's barren wife Sarah offers her servant Hagar to Abraham so that Sarah might bear a son on her behalf. Biologically speaking, Sarah is Ishmael's mother by title alone.
1975	The birth of the world's first "test-tube baby," Louise Brown, on 25 July 1978 in Oldham, northwest England, has come to represent the origin story of technologically assisted human reproduction.
1976	The first legal surrogacy agreement in the history of surrogacy was brokered by lawyer Noel Keane. The process was based on traditional surrogacy, and the surrogate did not receive any compensation for the pregnancy. Keane used this experience to establish the Infertility Center, which would arrange hundreds of future surrogate pregnancies and play a key role in the history of surrogacy in the United States, as well as legal measures globally.
1990	The first compensated surrogacy agreement was arranged between a traditional surrogate and the intended parents. Elizabeth Kane (a pseudonym) received $10,000 to carry a baby for another couple. Kane's pregnancy paved the way for commercial surrogacy. She stated after the birth that she regretted the surrogacy process - marking the emotional journey in a book called "Birth Mother."
1985	Controversies on the "baby 'M' case" became a topic for extreme media spotlight. Due to multiple clashes between genetic and legal frameworks (or lack thereof), the biological surrogate started a lengthy custody battle in 1986. The results of the custody case played a key role in the development of some of the stricter surrogacy laws in the U.S.
2004 - 2008	Almost 5,000 children were born via surrogacy in the United States.
2014	An Australian couple abandoned their baby with their Thai surrogate mother after discovering the child had Down syndrome whilst taking home his healthy twin. The case has cast an unfavorable light on the largely unregulated business of commercial

	surrogacy.
Present day	According to CDC's National ART Surveillance System, 2,071,984 assisted reproductive technology (ART) cycles were performed during 1999–2013. The surrogacy market was valued at more than USD 14 billion in 2022 and is anticipated to depict over 24.5% Compound Annual Growth Rate (CAGR) from 2023 to 2032.

Key Issues

A rapid incline of surrogate mothers in the past few decades has led to public discussion about possible consequences regarding surrogacy, such as but not limited to - ethical confusion, medical maltreatment, economic exploitation, and psychological damage to the surrogate mother.

Ethical considerations

The field of conception and fertility treatments is rife with controversy and debate from ethical, religious, and legal quarters. This is best reflected by the myriad of different national policies towards treatments like IVF and surrogacy across the world, with some countries going so far as to expressly forbid its practice within their borders (refer to 'important country stances')

With the development of gestational surrogacy (in which case the surrogate does not provide the eggs), commercial surrogacy has become a business aimed at profit. Surrogacy works differently depending on the country. In some US states, such as California, Florida, and Texas, surrogacy is legal. With strict legal guidelines - relationships with commissioning parents in such areas are strictly surveilled, with surrogates being adequately compensated anywhere from $25,000 to $40,000.

In contrast, commercial surrogacy in India has been legal since 2002 and has become a great economic success. The industry is estimated to be worth more than $2.3 billion per year. Within a week of signing up, the surrogate mothers go through the initial IVF procedures. Usually, surrogates come from underprivileged backgrounds and live during the pregnancy in hostels near the clinics. Clients usually pay an estimated medium of $50,000, but surrogate mothers' average pay consists of a mere $3,000. Concerns about the monetization of poor women have caused societal turmoil and are a topic for passionate discussion among citizens.

Medical problems

Heightened risk of health during pregnancy

There is woefully inadequate required screening - physical or psychological - of surrogate mothers in the status quo. In the USA, 85% of surrogacy pregnancies involve the transfer of multiple embryos, dramatically increasing risks to surrogate mothers' health. The most significant problem that may arise is that medical and associated risk information is either diluted or completely withheld from the surrogate mother. Many of the surrogate mothers lack the proper education and maturity to understand the risks of MAPs (Medically Assisted Pregnancy), making this process highly unethical.

The increasing rise in multi-birth rates in the United States resulting from the increase in surrogacy pregnancies was recognized as a "cause for concern" in a recent report entitled "Gestational Surrogacy: A Call for Safer Practice" appearing in the Fertility Sterility Journal. The obstetric gynecologists authoring the article state that single-embryo transfers are performed in only 15% of all surrogacy transfers and that two-embryo transfers are much more common in surrogacy arrangements, "leading directly to the multiple gestation and preterm risks" documented in this same report. When multiple embryos were transferred in surrogacy arrangements, "the risk of premature delivery was many times higher for multiples than for singletons," and "it is a well-documented fact that multiple-gestation pregnancies are associated with a significantly higher risk of hyperemesis, gestational hypertension, gestational diabetes, anemia, preterm labor, hemorrhage, cesarean delivery, and cesarean hysterectomy than singleton pregnancies."

Other risks to consider:

- Egg-donor pregnancies, as compared to both 'spontaneous' pregnancies and standard IVF pregnancies, are at higher risk of bleeding complications: preterm labor, preeclampsia, protracted labor requiring Cesarean section delivery, and post-partum hemorrhaging.
- There is a 3-fold increased incidence of hypertension complications in egg donor pregnancies compared with standard IVF pregnancies.
- Women with IVF pregnancies who used donors' eggs had the highest rates of hypertension/high blood pressure for the whole duration of the pregnancy (both pregestational and gestational hypertension).
- Women with IVF pregnancies that used donors' eggs were more likely to require an unplanned hysterectomy.
- Women with IVF pregnancies that used donors' eggs had the highest rates of admission to the hospital's general intensive care unit, and children conceived by IVF from donors' eggs had the highest rates of admission to the newborn intensive care unit.

Inadequate fertility facilities in developing nations

In a report surrounding obstetric outcomes of donor-oocyte and self-oocyte In vitro Fertilization, the following conclusion was reached: "Egg donation should be treated as an independent risk factor for hypertensive disorder in pregnancy. Women should be informed of the risks, and egg-donor pregnancies should be managed in high‐risk obstetric clinics." This goes without saying that licensed medical supervisors need to be clearly aware of the increased pregnancy risks during surrogates' distinct pregnancy journey. Each of these risks should be clearly mitigated appropriately during the pregnancy, delivery, and puerperium period.

Currently, countries such as Thailand, which have simply outlawed surrogacy, often lack regulatory frameworks to control practices. This means that commercial surrogacy often becomes an underground black-market practice - further cultivating land for medical negligence of maternal health. According to a report titled, 'Infant Trafficking and Baby Factories: A New Tale of Child Abuse in Nigeria' by Olusesan Ayodeji Makinde from Viable Knowledge Masters (VKM) – a health and development consulting company in Nigeria – surrogacy' baby factories' are new systematic abuse structures that are promoting infant trafficking, neo-slavery and the exploitation of young women with unwanted pregnancies.

Deficient psychological assistance

Though ART was first successfully implemented in the 80s, it is still considered a new branch of science that requires a thorough evaluation, policy-making, and deep insight from a myriad of scientific fields to take part in illuminating the complex nature of the procedure. When it comes to surrogacy, it is equally important to consider the experiences of individuals taking part in surrogacy,

The child's vulnerability in the surrogacy process is conspicuous as well. Whether children born of surrogate mothers also run psychological risks due to the lack of maternal attachment of the surrogate mother during pregnancy and the "abandonment" straight after birth is disputed, as scientific studies are few and far between and often plagued by inherent bias.

Major Parties Involved and Their Views

- China

As is in most countries, surrogacy is illegal in China. However, a combination of rising infertility, a recent relaxation of the one-child-per-family policy, and a cultural imperative to have children has given rise to a booming black market in surrogacy that experts say produces well over 10,000 births a year. Despite its illegality since 2001, surrogacy is still practiced and is highly controversial in the country - demonstrating that illegality does not necessarily imply a complete removal of the subject.

- Thailand

  Thailand currently does not allow surrogacy. In order to continue existing in this rapidly changing legal landscape, the surrogate market in Thailand depends on the women's mobility – being able to travel to and from health checks and move across national borders – but also immobility, periods in which they have limited opportunities to move freely, for example when waiting to give birth. This places the women in a precarious and vulnerable position.

- India

  Surrogate mothers in India usually live in surrogacy clinic-assigned hostels that facilitate supervision of the surrogate's health and medical needs undertaken by medical staff and commissioning parents to ensure the safety of the unborn child. However, with the incline in COVID-19 regulations during 2020-2022 with the Indian lockdown, there are serious concerns about surrogate mothers' access to basic services, including health care, food, and transportation (related to agenda 2.) Both research and practice focusing on social work's role in facilitating community support for this vulnerable population was even more critical during the pandemic, as well as the post-pandemic era.

- UNICEF

  UNICEF, too, raises a poignant aspect of the surrogacy market wherein, medically and legally, children's rights are sacrificed in many cases. UNICEF and Child Identity Protection have identified key considerations for children's rights and surrogacy by initiating protocols such as: The United Nations Convention on the Rights of the Child (CRC) Children born through surrogacy have the same rights as all children under CRC. Regardless of individual State positions on surrogacy, all States have a duty to protect the human rights of all children born through surrogacy without discrimination, including ensuring appropriate legal and regulatory frameworks exist at the national level to protect and promote their rights.

Timeline of Relevant Resolutions, Treaties and Events

2011

- Optional Protocol to the Convention on the Rights of the Child
  Children born through surrogacy, especially ISAs, are at risk of multiple human rights violations – particularly, their right to an identity, including name, nationality, family relations, and access to origins; the right to the enjoyment of the highest attainable standard of health; and the right to not be sold [the latter also stated in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)]. Decisions may be made by adults in surrogacy situations that are discriminatory based on the child's disability and/or gender and which are contrary to the child's best interests as the paramount consideration.

2018

- General Assembly - "Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material" (A/HRC/37/60)

2019

- General Assembly - "Sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material" (A/74/162) The Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography, and other child sexual abuse material, presented a 2019 thematic report to the General Assembly in October 2019 on safeguards for the protection of the rights of children born from surrogacy arrangements (A/74/162).

2020

- The Cuomo Proposal
  The Cuomo Proposal continues to initiate a "voluntary central tracking registry" to gather and maintain data related to surrogacy transactions, including those resulting in severe injury and even death. Some segments of the proposal have also been subject to controversy as Cuomo revives the push for gestational surrogacy legalization in New York.

2022

- Verona Principles To ensure children's rights in ISA (International Surrogacy Association), UNICEF mandates - The Concluding Observations and Recommendations of the CRC Committee, the thematic reports on children and surrogacy of the UN Special Rapporteur on sale and sexual exploitation of children, as well as the Verona Principles, provide guidance on protecting the rights of children born through surrogacy.

Possible Solutions

There is a lot of work to be done to make ART a rewarding, healthy, and safe experience for both the donor parent and the surrogate mother. The problem needs to be addressed on many different levels. Medically, there should be more rigorous rules and guidelines that will clearly prevent those at risk from becoming future parents or surrogate moms, for e.g., age, health, social framework, existing and past parental issues, if any, the seriousness or criticality of the situation, etc.

Deploy specialized units to eradicate illegal medical procedures

From a regulatory perspective, there can not only be more rigorous oversight on a country basis but also better coordination and collaboration among countries so as to prevent illegal pregnancy tourism. Specialized units will work to identify, arrest, and convict perpetrators of illegal ART procedures.

Increase awareness via education facilities

The government, social service organizations, and NGOs must undertake a concerted campaign to eradicate the 'stigma' of the inability to bear a child and educate both men and women on the ethics, rights, and responsibilities of surrogacy. Debriefing pre-pregnancy is a significant precaution to prevent further complications postpartum. Specifically, all stakeholders must understand the severity and consequences of devaluing the life of a surrogate and a baby as a simple monetary transaction in a market dictated by the laws of demand and supply.

Prioritize adequate compensation on a universal basis

Confidential and convenient online portals ensure payments are managed and distributed securely on schedule. Organizations such as SeedTrust are escrow companies that specialize in ART Escrow and are independent third parties. With an adequate record of each transaction, third-party evaluations remove the pressure of keeping track of reimbursement payments and allow surrogate mothers to focus on their health and personal needs.

Ensure thorough screening of surrogates

The American Society for Reproductive Medicine (ASRM) recommends that gestational carriers receive a psychological evaluation and counseling. A responsible agency will facilitate a full mental health evaluation, including MMPI and PAI psychological testing. Ideally, a surrogate will also take part in monthly

psychological support groups led by licensed mental health professionals for the duration of her involvement in the process. These evaluations help determine if a surrogate mother meets the general requirements to carry, but just as important, they help her begin to grasp the full scope of the commitment.

Encourage other human rights mechanisms

Encourage other human rights mechanisms, such as the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, and United Nations entities to contribute, with further research, to discussions on surrogacy and its impact on the human rights of women and other stakeholders concerned, in order to develop human rights-based norms and standards and prevent abuses and violations.

Bibliography

"ASEAN's Black Market Babies." *Global Shepherds*, globalshepherds.my/news-events/aseans-black-market-babies. Accessed 19 Dec. 2023.

Barat, Somjit. "Ethical and Marketing Perspectives on Surrogacy Tourism." *Ethics & Bioethics*, 1 June 2023, sciendo.com/article/10.2478/ebce-2023-0003.

Eskew, Ashley M, and Emily S Jungheim. "A History of Developments to Improve *in Vitro* Fertilization." *Missouri Medicine*, U.S. National Library of Medicine, 2017, www.ncbi.nlm.nih.gov/pmc/articles/PMC6140213/.

Goli, Marjan, et al. "Reproductive and sexual health of surrogate mothers, developing a care program: A protocol for mixed methods study." *Reproductive Health*, vol. 16, no. 1, 2019, https://doi.org/10.1186/s12978-019-0687-8.

Goswami, Lopamudra, et al. "The Impacts of the COVID-19 Pandemic on Surrogacy in India: The Role of Social Work." *Qualitative Social Work : QSW : Research and Practice*, U.S. National Library of Medicine, Mar. 2021, www.ncbi.nlm.nih.gov/pmc/articles/PMC8261337/.

Johnson, Ian, and Cao Li. “China Experiences a Booming Underground Market in Surrogate Motherhood.” *The New York Times*, The New York Times, 2 Aug. 2014, www.nytimes.com/2014/08/03/world/asia/china-experiences-a-booming-black-market-in-child-surrogacy.html.

Kapfhamer, Joshua. *Gestational Surrogacy: A Call for Safer Practice - Fertility and Sterility*, www.fertstert.org/article/S0015-0282(16)61125-1/fulltext. Accessed 19 Dec. 2023.

Key Considerations: Children's Rights & Surrogacy - UNICEF, www.unicef.org/media/115331/file. Accessed 19 Dec. 2023.

Pfcla. “History of IVF: Origin and Developments of the 20th Century.” *PFCLA*, PFC Management LLC, 27 July 2022, www.pfcla.com/blog/history-of-ivf.

“Psychological Aspects of Surrogacy.” *ConceiveAbilities*, ConceiveAbilities, 5 June 2018, www.conceiveabilities.com/about/blog/psychological-aspects-of-surrogacy.

“Surrogacy Health Risks to Women and Children.” *Why Not Surrogacy: A Deeper Look*, www.legalizesurrogacywhynot.com/surrogacy-health-risks-to-women-and-children. Accessed 19 Dec. 2023.

“Surrogacy Market Size, Share: Forecasts Report, 2023 – 2032.” *Global Market Insights Inc.*, www.gminsights.com/industry-analysis/surrogacy-market. Accessed 19 Dec. 2023.

“Vulnerability of Surrogate Mothers in Global Market.” *Mirage News*, Mirage News, 17 Oct. 2022, www.miragenews.com/vulnerability-of-surrogate-mothers-in-global-876052/.

Walters, LeRoy, and This essay reviews 15 statements on the ethics of in vitro fertilization (IVF) and embryo transfer that were produced between 1979 and 1985. The statements represent the deliberations and

conclusions of committees from Australia. “Test-Tube Babies: Ethical Considerations.” *Clinics in Perinatology*, Elsevier, 16 May 2018, www.sciencedirect.com/science/article/pii/S0095510818307644.

Yadav, Vikas, et al. “Comparison of Obstetric Outcomes of Pregnancies after Donor-Oocyte *in Vitro* Fertilization and Self-Oocyte *in Vitro* Fertilization: A Retrospective Cohort Study.” *Journal of Human Reproductive Sciences*, U.S. National Library of Medicine, 2018, www.ncbi.nlm.nih.gov/pmc/articles/PMC6333036/.