

Legal Regulation of Reproductive Human Rights: Challenges and Solutions

Ivan Titko, Inna Polkhovska

Poltava Law Institute of Yaroslav Mudryi National Law University, Ukraine

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Introduction. In any country, the sustainable development of society depends to a large extent on its demographic perspective, which is directly related to reproductive health of the nation. In the Programme of Action of the International Conference on Population and Development (Cairo, 1994), for the first time at international level, reproductive rights were claimed as a human right to make free and independent decisions about their reproductive health, including birth of children, time and the intervals between their birth, the right to take decisions on procreation without discrimination, threats and violence, as well as recognition of the right to receive relevant information. According to the WHO, 15 % of couples of reproductive age in the world suffer from infertility. Therefore, today one of the most acute issues of biomedical ethics is the development of reproductive technologies, in particular the so-called auxiliary reproductive technologies (hereinafter – ART).

Aim. The aim of the study is to explore the issues of legal regulation of reproductive human rights, particularly in the field of auxiliary reproductive technologies.

Material and methods. While preparing the research, WHO's statistical data, international normative legal acts, internal law and judicial practice of individual states (Ukraine, Latvia), practice of the European Court of Human Rights were used.

Results. In terms of legal regulation of ART, the surrogate (substitute) motherhood has a special complexity. It is a way to combat infertility, which is gaining an increasing demand. At the international level, there are currently no common standards for regulating this issue; and national legislation varies considerably from the licensing regime for ART regulation, in particular surrogate motherhood, to its prohibition. Due to lack of legal regulation, surrogate motherhood is characterised by high latency, sometimes related to human trafficking and illegal transplantology, impossibility to establish the fact of motherhood (fatherhood).

Conclusions. In the process of exploring, the conclusions were drawn about (a) the appropriateness of international standardisation of using assisted reproductive technologies, and in addition, the basic theses for such standards were formulated; (b) the need for regulation of reproductive rights by individual laws at the level of national legislation and the main directions of such regulation (consolidation of basic definitions, legal aspects of the use of ART, especially surrogate motherhood, financial guarantees by the state in the right to infertility treatment, etc.).

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