



MODERN CHALLENGES AND IMPROVEMENT OF REGULATION IN UZBEKISTAN

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Abstract

This article analyzes the legal nature of surrogacy contracts, contemporary practical problems, and the current state of regulation in the legislation of the Republic of Uzbekistan. The research examines the experience of foreign countries in the institution of surrogacy, contract terms, rights and obligations of parties, and mechanisms for resolving disputes. The author identified the insufficiency of the legislative framework governing surrogacy contracts in Uzbekistan and practical difficulties. The article discusses civil law aspects of surrogacy contracts, their relationship with family law, and moral-ethical issues. Based on research results, practical proposals for improving national legislation have been developed.

Keywords: Surrogacy, contract, reproductive technologies, family law, genetic parents, civil law, child's best interests, legislative reform, legal regulation, dispute resolution.

Introduction

The development of modern medicine and reproductive technologies has enabled the institution of surrogacy to provide many families with the opportunity to have children. A surrogacy agreement is a relatively new and complex institution of civil law, requiring a careful balance between the interests of genetic parents, the surrogate mother, and the child to be born.

Although surrogacy is practiced in the Republic of Uzbekistan, its legal regulation has not yet been sufficiently developed. Existing legislative gaps lead to disputes and create difficulties in protecting the rights of the parties involved.



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The relevance of this issue is determined by the growing demand for surrogacy and developments in international practice.

The purpose of this research is to reveal the legal nature of the surrogacy agreement, identify problems arising in practice, and develop proposals for improving national legislation.

Issues of surrogacy have been widely studied by foreign and domestic scholars. Russian scholars such as M.N. Maleina and A.A. Pestrikova have analyzed the civil law aspects of surrogacy and presented their views and approaches in this field. American researchers L. Andrews and D. Spar have examined the ethical and legal problems of surrogacy agreements.

In Uzbekistan, Sh.Z. Ergashev and M.X. Rustambekov have researched issues of family law and reproductive technologies. However, a specialized study dedicated specifically to surrogacy agreements remains insufficient.

The experience of foreign countries shows that there are two main approaches to regulating surrogacy:

a liberal approach (certain U.S. states, Ukraine);

a restrictive approach (Germany, France).

The United Kingdom, Canada, and Australia occupy an intermediate position, permitting only non-commercial (altruistic) surrogacy.

The following scientific methods were used in the research:

Comparative legal analysis – to study the legislation of foreign countries;

Systemic analysis – to examine the elements of the surrogacy agreement;

Sociological method – to analyze practical materials;

Normative-legal method – to analyze national legislation;

Logical method – to formulate conclusions.

The research findings identified the following features of the surrogacy agreement:

Type of contract:

A surrogacy agreement is a sui generis contract. Although it contains elements of a service agreement, it cannot be fully equated with one.

Composition of parties:

First party: genetic parents (commissioning parties)

Second party: surrogate mother (performer)



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Third party: medical institution (in most cases)

Subject matter of the contract:

The surrogate mother's service of carrying and giving birth to a child, and transferring the newborn to the genetic parents.

Although cases of childbirth through surrogacy occur in Uzbekistan, there is currently no specific legislative act regulating this type of relationship. The existence of such a legal gap leads to uncertainty regarding the rights and obligations of the parties and makes lawful dispute resolution difficult. At the same time, a segment of the population considers the formal legalization of such relations to be contrary to parental and children's rights. Negative public opinion also complicates the adoption of specific legislative acts regulating these relations.

Some legal scholars argue that surrogacy agreements should be regulated under the general provisions of contract law contained in Articles 353–385 of the Civil Code of the Republic of Uzbekistan. However, upon closer examination, it becomes clear that a surrogacy agreement significantly differs from an ordinary service contract in terms of its subject matter. Although it may include the provision of services, its result involves the obligation to transfer a child to another person. This outcome fundamentally distinguishes it from ordinary service contracts and indicates the necessity of regulating surrogacy agreements under a separate legal framework.

As noted above, while the Civil Code of the Republic of Uzbekistan establishes general rules for contracts, there is currently no specific legislative act regulating surrogacy agreements within the national legal system.

Turning to the experience of foreign countries, it is evident that many states impose strict requirements on surrogacy agreements. These requirements aim to ensure adequate protection of the rights of the contracting parties and the child born as a result of surrogacy. Some countries permit commercial surrogacy, while others limit it exclusively to altruistic arrangements intended to assist individuals in need of surrogacy. The United Kingdom and Canada serve as examples of countries that allow only altruistic surrogacy.



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The rights and obligations of the parties under a surrogacy agreement are multiple and interrelated. In particular, the **genetic (intended) parents** bear the obligation to:

- Pay for medical services related to assisted reproductive technologies;
- Provide financial support to the surrogate mother;
- Ensure proper medical supervision throughout the pregnancy;
- Cover additional expenses directly connected with the pregnancy and childbirth (if stipulated in the agreement).

At the same time, the **surrogate mother** assumes the obligation to:

- Comply with medical instructions and recommendations;
- Maintain a healthy lifestyle during pregnancy;
- Undergo necessary medical examinations;
- Carry the pregnancy in good faith;
- Transfer the child to the genetic parents after birth in accordance with the agreement.

Although surrogacy is legally regulated in several dozen countries, disputes continue to arise in practice. In many cases, regardless of whether the surrogacy agreement was formally concluded or not, the surrogate mother may refuse to hand over the child after birth. Conversely, there are situations where the intended parents refuse to accept the child, particularly in cases involving health conditions or other unforeseen circumstances.

Such disputes demonstrate that the mere existence of medical practice is insufficient; clear legal regulation is essential. For effective dispute resolution, it is necessary not only to conclude a properly drafted surrogacy agreement but also to establish a comprehensive legislative framework governing these relationships. Without specific legal norms, courts may face difficulties in determining parental status, enforcing contractual obligations, and protecting the rights of the child.

Importantly, a surrogacy agreement defines not only the rights and obligations of the surrogate mother and the genetic parents, but also serves as a legal foundation for safeguarding the future child's rights. This includes the child's right to:

- Know his or her origins (subject to national legal policy);



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- Receive accurate information about personal identity;
 - Be protected from legal uncertainty regarding parentage;
 - Have his or her best interests prioritized in all decisions.

Therefore, the regulation of surrogacy agreements should be based on the principle of the **best interests of the child**, which must prevail over the contractual interests of the parties. A balanced legislative approach should clearly define parental status, establish procedures for registration of birth, regulate financial aspects, and provide effective mechanisms for dispute resolution.

In the context of Uzbekistan, the absence of a specific legal act governing surrogacy creates uncertainty in determining parental rights, enforcing obligations, and ensuring the protection of the child. Consequently, the development of a specialized legal framework appears to be a necessary step toward ensuring legal clarity, fairness, and social stability in this sensitive sphere.

CONCLUSION

The results of the study demonstrate that a surrogacy agreement should be recognized as an independent institution of civil law and regulated separately. There are significant gaps in the legislation of Uzbekistan concerning the regulation of surrogacy-related relations. Foreign experience shows the necessity of ensuring a balanced protection of the rights of genetic parents, the surrogate mother, and, most importantly, the child.

To address these issues, it is proposed to adopt a special Law “On Surrogacy,” introduce amendments to the Family Code regarding the procedure for registering children born through surrogacy, develop clear medical standards, establish criteria for the selection of surrogate mothers, create an effective state supervision mechanism, and consider establishing a specialized court chamber for resolving family disputes related to surrogacy.

In the future, important areas for further research include cross-border surrogacy, the rights of single individuals, the legal status of embryos, and the psychological aspects of surrogacy.



Comprehensive regulation of the surrogacy institution within national legislation would meet the needs of modern society and ensure the realization of the right to found a family.

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LITERATURA

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