

“ANY SURROGATE MOTHERS?” A DEBATE ON SURROGACY IN INTERNET DISCUSSION FORUMS¹

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Abstract: Surrogacy has long been discussed in reproductive medicine. In the Czech Republic, surrogacy is not legally regulated. Because of this legal vacuum, there are no official procedures or organizations that openly deal with surrogacy. Potential surrogate mothers and applicants do not have many options for obtaining or sharing information. The only source is the Internet. Online forums are a popular tool for gaining information and contacts regarding surrogacy. The goal of this research was to use qualitative research methods to survey the most searched and discussed topics on Czech online discussion forum websites. We used discussions that we found on www.emimino.cz between 2009 and 2019. This article analyses the comments of the Internet forum discussants/participants, their involvement, knowledge of surrogacy, the information sought and their opinions. In particular, the participants discussed where to find a surrogate mother or how to become one. This article attempts to outline the discussions ordinary people have about surrogacy outside official expert forums.

Key words: Surrogacy; assisted reproduction; health care ethics; public debate; internet discussion forums

Introduction

Surrogacy is a process whereby a woman who is not the genetic mother undergoes assisted reproduction, pregnancy and birth, and then transfers her parental rights and obligations to another person through prior agreement. The term for a woman who goes through this process is surrogate mother. Although a surrogate mother may donate ova and so become the genetic mother, this procedure is not common, nor recommended. The term surrogacy is used in this article to indicate a process in which the surrogate mother is not the genetic mother, but bears and gives birth to a child on behalf of a couple who donate their own generative cells (genetic parents) or use donated generative cells (which is less frequent) (Dostál, 2007). In this article, we use the terms “genetic parents” or “applicants”. When

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citing discussions from the Internet, we retain the less exact but more frequent term “biological parents”.

Countries differ in their legislative approaches to surrogacy. In some, surrogacy is illegal, such as in Germany or France. Other countries legally regulate surrogacy, for example Israel or Great Britain. The Czech Republic is one of the countries in which surrogacy is not legally regulated. This is the case in most EU countries (Barancová, 2017). There is one reference to surrogacy in the Czech legislation, which states that lineal kin adoption and adoptions between siblings are prohibited, while adoptions are allowed in surrogacy cases (§ 804 of Act No. 89/2012 Coll., Civil Code). This relatively new law shows that surrogacy does exist in the Czech Republic and is recognized in the legislation—despite there being no specific surrogacy laws. The explanatory statement accompanying the Civil Code states that the law must take into account medical advances enabling an inseminated egg to be implanted in another woman’s uterus (Důvodová zpráva k novému občanskému zákoníku, 2012).

The principle is that what is not expressly forbidden by law is allowed, thus surrogacy cannot be considered illegal. But because it takes place in a legal vacuum, there are no official data on the number of surrogacies or the official procedure for entering into a surrogacy. It is estimated that tens or hundreds of children are born in the Czech Republic through surrogacy (Pektorová & Ventruba, 2015). There are no official procedures on arranging a surrogacy. There is just the 2012 recommendation by the Assisted Reproduction Section of the Czech Gynaecological and Obstetrical Society at the J. E. Purkyně Czech Medical Association that surrogacy should not be carried out using donated generative cells, or where there are health problems, and that no more than one embryo should be implanted (Konečná et al., 2018). There are assisted reproduction clinics that offer surrogacy (some publicly on their websites), and there are infertile couples interested in surrogacy, and women and girls who want to be surrogate mothers. The lack of any specific legislation has fostered debate on the possible legal solutions. It has also led to information searches and experience sharing on “how it can be arranged”. Because of the legal vacuum, there are no official procedures in the Czech Republic or organizations that openly deal with surrogacy. Potential surrogate mothers and applicants do not have many options for obtaining or sharing information. The only resource is the Internet, which is also a good place for sharing personal experience and contacting applicants and surrogate mothers (Konečná & Svatoš, 2018). Awareness about surrogacy is created mainly through the Internet, discussion forums and groups on social networks. These help to construct the social and media reality (e.g. Berger & Luckmann, 1999; Mautner, 2008; Fairclough, 2003).

We encountered all these problems when we decided to research surrogacy. There are no data on the number of surrogacies and the outcomes, and there are no databases of surrogacy participants. Internet discussions appeared to be the only source of information we could use. Similar research has not been carried out in the Czech Republic so far. Konečná et al. (2019) researched the Czech Internet environment in relation to this issue but focused only on the selection criteria for surrogate mothers. The foreign literature does not give details on the role of the Internet in the quest for surrogacy either. Eichenberg and Küsel (2019) looked at the different options for establishing a family (artificial insemination, surrogacy and single parenting) using the Internet. But they focused on psychotherapeutic practice and generative

cell donation in the main. They claim that online forums provide mutual support and offers of help for the desire to have a child. “Co-parenting” can be initiated through online forums and contact websites. These offer the advantage of direct contact and being able to share experiences without criticism of “the selected way of life.” They also state that the lack of medical control is a disadvantage. They state that the Internet is frequently used in the quest to have a child because of legal restrictions in the country of residence. This is true in the Czech Republic as well, which is our focus.

Goal

Given the absence of any official data on surrogacy in the Czech Republic, we focused on Internet discussions. For this reason, our study produces findings that would be impossible to obtain otherwise. The goal of this study was to map and describe the topics relating to surrogacy that are most popular on Czech Internet websites (in terms of searches) and the topics discussed in discussion groups. This article outlines surrogacy discussions among the ordinary population (outside official expert forums) and describes the information and opinions on surrogacy the Internet helps to create. We were interested in the type of Internet interactions among the people involved—(potential) surrogate mothers and (potential) applicants (parents)—the questions the discussion participants ask, and how and whether they have assessed the practical, legal and ethical aspects.

Materials and methods

This research employed a qualitative research strategy. We used the thematic analysis method in Braun and Clark (2006) to analyse the discussion comments in the surrogacy open discussion forums.

During the pre-research, we used the keywords “surrogacy AND discussion” and “surrogate mother AND discussion”. We found discussion forums with relevant open discussions. We excluded closed group discussions on social networks (mainly Facebook). We also excluded discussions under news articles. In these discussions, mainly people with no personal involvement shared their opinions on surrogacy, and there was no required interaction between surrogate mothers and applicants.

The priority website for us was the discussion website eMimino.cz (i.e. eBaby), which is managed by MAFRA, a.s. It is the most visited and largest community website in the Czech Republic aimed at pregnant women and mothers of small children. It focuses on pregnancy planning, pregnancy and child-raising (Medial group MAFRA, Portfolio. Available from: <https://www.mafra.cz/portfolio.aspx>). If you use the most popular search engines in the Czech Republic—www.google.cz and www.seznam.cz—to search for “surrogacy” AND “discussion” or “surrogate mother” AND “discussion”, the first three to six links that come up are to discussion forums on eMimino (depending on the search engine and keywords). This was also the reason we chose this website. We analysed the comments uploaded between 2009 and 2019. The research was carried out between April 2018 and June 2019. During this period, there were 31 discussions on emimino.cz with titles explicitly featuring the term “surrogate mother” or “surrogacy” (e.g. “Surrogacy”; “Surrogacy and its domain”;

“Surrogacy—experience”; “Surrogacy—is it on?”; “How to become a surrogate mother?”). In two discussions, the term surrogate mother/surrogacy did not feature in the title but was the main topic of discussion (“How much money would you take to give birth for someone else?”; “I am looking for a future mother”). These discussions were included in our research as well. In total, there were 33 discussions. They differed in volume and length. Some did not last long, only a few months, and included a few dozen comments, while others went on for a few years and included hundreds, even thousands, of comments. The longest discussion was “Is there anybody expecting a child from a surrogate mother?” This discussion was started in 2012 and was active up until 2019. It contains over 6,600 comments. Out of the 33 discussions about surrogacy, 10 are still active. Active discussions are those that include comments from 2019.

We processed the data as in Braun and Clark (2006), using the following steps:

1. Familiarization with the data—we read all the “posts” and “comments” and entered them into a Microsoft Excel table. While reading and entering, we created preliminary codes and we formed our initial assumptions.
2. Generation of initial codes—We allocated codes to the discussion comments from phase 1 and included new codes.
3. Search for themes—We classified and compared the codes according to potential theme. The codes could not overlap, so we had to decide where to put each code.
4. Review of themes—In this phase, we read the comments with the codes again and established the boundaries between the themes. We considered the validity of the themes and decided whether any important aspects had been left out.
5. Defining and naming the themes—In this phase, we thought about the core of each theme and which aspects it included and then searched for suitable citations capturing the essence of the theme. After each citation, we placed the nicknames the participants used in the discussions in brackets, and after the name we placed a semicolon, and the date the comment was uploaded (dd/mm/yy).
6. Producing the report—The final analysis was of the final selection of themes. We cover the important elements of this in the results section. We compared the data with premises in the academic literature.

Results and discussion

Search context

There is no set Czech terminology for surrogacy. There is a term that is equivalent to “surrogate motherhood”/“surrogate mother” and terms that come from the English “surrogacy” (Hobzová, 2018). We entered the Czech equivalent of “surrogacy” or “surrogate mother” into the Google and Seznam.cz search engines and found the most frequent search contexts. The most frequent related expressions were “price”, “offer”, “legal regulation”, “discussion”, “advertisement”, “clinic” and “adoption”. There were also expressions like “for gays”, “Ukraine”, “health risks” or “age”. The Internet search statistics on surrogacy in Google.cz and Seznam.cz show that the most frequent expressions are “surrogacy price”, “surrogacy offer” and “surrogacy in the Czech Republic”.

Discussion topics and participants

On Czech web pages, the average user will come across discussion groups while searching for basic information on surrogacy. As mentioned in Materials and Methods, the terms “surrogate mother” or “surrogacy” often feature in the titles of these discussions. There are also a number of discussions whose focus is not surrogacy but in which the topic has appeared in the course of the discussion. Typically, these are discussions on the services provided by assisted reproduction clinics, the (un)successfulness of IVF, frozen embryo transfer (the transfer of a healthy unfrozen embryo into the uterus), motherhood after hysterectomy (uterus removal), ovum donations or the biological parenthood options for homosexuals.

Most discussion participants comment under a “nick” (nickname) and some post anonymously. Very few participants share photographs, such as pictures of their children. From the “nicks” and comments (use of word endings indicating the sex of the poster), we can deduce that almost all discussion participants are women (e.g. Nováková, Konečná, & Sudová, 2018). We were unable to find a specifically male discussion group focusing on surrogacy.

The initiators of these discussions appeared to be mainly women who had not been able to become pregnant using assisted reproduction (IVF) over a long period of time, and surrogacy seemed to be the last option to have a biological child and so they collected information from women/couples who had undergone surrogacy or were looking to do so (“Is there anybody here who is having a child through a surrogate mother?”; “I am looking for a surrogate mother”). The dilemma of whether to continue with the thus far unsuccessful IVF procedures or whether to try surrogacy became a discussion title (“12 years of IVF and nothing—a surrogate mother?”, “An attempt to have a baby or a surrogate mother”). Another important group of discussion initiators seemed to be women who wanted to become surrogate mothers and collect information from other surrogate mothers and gain access to potential applicants (“I am thinking of offering surrogacy—what do you think?”; “How can I become a surrogate mother?”; “I would like to become a surrogate mother”).

The themes which the comments related to can be categorized as follows: A) finding basic information, B) request for a surrogate mother, C) offer of surrogacy, D) reasons for choosing surrogacy, E) parents’ experience of surrogacy, F) surrogate mothers’ experience of surrogacy, G) legal aspects of surrogacy, H) financial costs, and I) possible problems and complications.

The comment posters can be categorized as follows: A) potential surrogacy applicants with no previous experience, B) parents who have experienced surrogacy (at least up to the surrogate mother’s pregnancy), C) surrogate mother candidates, D) surrogate mothers (at least at pregnancy stage), E) individuals not involved in surrogacy and F) not specified.

Finding basic information

The posters of this type of comment were usually women/couples who had unsuccessfully been trying to conceive their own biological child through assisted reproduction/IVF, or women who were unable to have a child for health reasons—typically after a hysterectomy. They became aware (usually at an assisted reproduction clinic) that surrogacy was an option

and were trying to find out information. They were usually the initiators of the discussions, so the first comment was theirs: “Not long ago, I found out that surrogacy is the only way of having my own child. I have not come to terms with this yet but I am starting to become aware of the value of your experiences. Have you experienced it? Do you know a reliable and experienced surrogate mother? How much does this “service” cost? What was it like?” (Anonymous, 17/11/11). “May I ask about the price of surrogacy? Can you write me an email [...] The doctors told me that I could not have children after a year of assisted reproduction and that the only option was surrogacy.” (-xx, 11/11/12). Some discussion participants knew (almost) nothing about the issue and the Internet was their first means of obtaining information. They may have come across inaccurate information that surrogacy is illegal in the Czech Republic and try to use the discussions to find out how to get round this obstacle. “My friend is having a hysterectomy and I’m interested in surrogacy because of her. I know that it is illegal in our country but some time ago I stumbled across a discussion where someone claimed that it was possible and the obstacle could be got round. She didn’t say how, so if anybody knows how, please write to me” (Pudloslava, 09/04/09).

Some comments showed that the inquirer had information about surrogacy but wanted to verify it with people who have practical experience: “Hi girls, I have unfortunately ended up here. We have been unsuccessful for several years. I can’t have a child (we don’t know why). I know you will judge me for it so I am asking those with experience or who are thinking of surrogacy. Does anybody have any experience? How did you deal with the issue of adoption, finances, etc.?” (Reaskiller, 16/06/19). “I would like to know what the procedure is. Where can you do it besides Zlín? How many embryos are transferred?” (creance, 28/11/13).

Besides the common questions of “how to arrange it?” or “what is the procedure?”, the most frequent request was for information on which assisted reproduction clinics carry out the procedure, where to find a surrogate mother, how much it costs and the legal procedure (e.g. Nováková et al., 2018). These questions are dealt with below.

Request for a surrogate mother

The process assumes that a woman/future surrogate mother will be found by the applicants (genetic parents) (Pektorová & Ventruba, 2015). A very important part of the discussion comments is “advertising”. Women try to make contact with a potential surrogate mother or offer their services as surrogate mothers. Some women or couples are trying to contact surrogate mothers for the first time and have no experience of surrogacy. Other couples have had a good experience and want another child. In the Czech Republic, there are no intermediary agencies or official procedures for those wishing to become a surrogate mother. It all depends on the personal arrangements between the couple and surrogate mother. Besides personal contacts (help from a relative or a friend), the Internet discussions are the easiest way to make contact with a surrogate mother (Nováková et al., 2018). Besides the simple “I’m looking for a surrogate mother” (nelineli, 16/02/18), there are more emotional demands: “Are you out there, the surrogate mommy, who will give birth to our baby? Please contact us. We have been waiting for you for years. Our embryos are ready at the clinic. [...] We hope to find you. [...] I cannot have a child for health reasons [...]. (jaro2m, 02/09/17). Despite all the discussions including surrogacy offers, some comments show that

it is not easy to find a suitable surrogate mother and that Internet discussions are not always reliable: “We have no experience of Internet searching. We’ve got 2 offers and nothing has happened.” (Aja 1, 17/01/14). “Girls, we’re looking for a surrogate mother again. I’m going crazy. We’ve had one but it wasn’t successful and the other one has family issues. The embryos are ready and waiting for the person who will love and care for one of them for the next 9 months.” (DaenerysT, 23/10/17). The urgency of the situation is shown by the fact that the applicants share the same comments repeatedly in numerous discussions and on different discussion websites. Advertisers use all the available options and the discussion forums are one of them: “We are also looking for a surrogate mother. Everything is ready but we have to find a suitable surrogate mother. Could she be here?” (Janulala, 09/12/18). We assume that this way of contacting a surrogate mother is usually successful because the discussions contain comments from women who have been successful in their search for a surrogate mother and are trying to find one again: “I am looking for a surrogate mother. I already have a baby by a surrogate mother. Please contact me. Thank you.” (dimulka, 05/09/17).

The advertisements in the discussion forums are mostly requests for single or divorced surrogate mothers. Most frequently, they request a young single woman who already has a child. Mental and physical health and a healthy lifestyle are stressed: “A friend was arranging a surrogate mother on her own because she wanted to be sure the surrogate mother wouldn’t drink alcohol, smoke, eat unhealthily and live in an unclean environment” (Janichka, 17/11/11). Place of residence is also important, in terms of facilitating frequent contact during the pregnancy. This is why most couples decided to look for a surrogate mother in the Czech Republic. Some discussion participants were thinking about Ukraine or even India, but these were exceptions. Surrogacy is legal and commercial in both those countries (Štenclová, 2014). Whether the surrogate mother was firmly committed or had undergone surrogacy before was also key: “We would like to find a surrogate mother who already has a child/children this way. We would prefer her to be from the south of Moravia. She would help us by bearing our child [...] We would like our surrogate mother to be a non-smoker and not drink alcohol during the pregnancy or take intoxicants [...] so we would like to ask only those who have already made the decision and want to become surrogate mothers” (Mishelle82, 09/05/19). “We are looking for a single or divorced woman with one or more children, a clinic in Brno.” (jvesela86, 04/02/19). Sometimes, there are very specific requirements, such as a specific blood type: “I am looking for a surrogate mother whose blood group is A+. My embryos were frozen but I haven’t been successful” (Kačka 2424, 30/01/19). Women/couples do not require the surrogate mother to be of a particular age. However, one surrogate mother shared her experience: “When I was contacting couples, they mostly wanted a surrogate mother who was under 35.” (Evka73, 06/07/17). The applicants’ expectations mostly reflected the usual criteria for selecting a surrogate mother, as in Konečná et al. (2019).

Offers of surrogacy

The discussions not only contained requests for surrogacy, there were also comments by women offering themselves as surrogate mothers. There were offers from women who wanted to become surrogate mothers for the first time and from those who had already

offered the service repeatedly. Women who wanted to become surrogate mothers not only considered the request but usually felt the need to present and describe themselves. They usually stated their age, marital status, whether they had children or whether they had already undergone surrogacy. They also claimed to have a healthy lifestyle: “Hello. We are receiving many emails so we have decided to help a couple to have a baby for the last time between February and March 2017. At the moment, I am a 19-week-pregnant surrogate mother. I am 35 years old and I have 3 healthy children. I don’t smoke or drink alcohol. Married” (Nicollka, 31/05/16). Genetic parents prefer surrogate mothers who have children themselves—this is often stressed in the surrogacy offer. This is because these surrogate mothers are less likely to be unwilling to give the child up to its genetic mother or parents.

Married women are the exception in the offers. Most offers are from single mothers and unmarried women living with a partner. In these situations, there are fewer legal complications because the surrogate mother’s husband can automatically become the legal father. Some assisted reproduction clinics only take single surrogate mothers. Therefore surrogate mothers usually emphasize that they are single. There were not many married surrogate mothers in the discussions, but their marital status was often the subject of further discussion, whereas single surrogate mothers were not discussed. In a very few cases, the surrogate mother stated her skin colour and nationality. “I am single, non-smoker, I don’t drink alcohol and I am Caucasian” (ivananm, 17/06/16); “I am 34 years old with two daughters, married, healthy. I am from Ukraine. I live in Brno”. (milla s, 17/06/16).

Women who offer surrogacy were usually aged 30 to 39 years old. The youngest surrogate mothers were 21 and 22 and the oldest two were 44 years old: “I would like to become a surrogate mother and help a couple to have a baby. I am 22 years old with a two-year-old girl, we live alone.” (kate.boc, 16/06/16). “I would like to offer my services as a surrogate mother. I have been one twice [...] I have five children of my own [...]. The only thing that might make you decide against me is my age—44, but doctors do not see it as a problem and I feel healthy so another pregnancy would not be a problem.” (jirac, 03/06/17). “I was a surrogate mother at 44 and everything went without problems. The IVF was successful immediately and there were no complications with the pregnancy and delivery.” (bejbyn, 27/05/13).

One of the experienced surrogate mothers said that the maximum age depended on the assisted reproduction clinic: “[...] a surrogate mother up to 45 is not a problem [...] I was also afraid of congenital defects because of being older. However, the embryo had different biological parents and none of my genetics so it was explained to me that I didn’t have to worry about my age.” (Evka73, 15/09/12).

One frequently discussed question was who can be a surrogate mother. Theoretically, any adult woman regardless of her age can be a surrogate mother, as stated by one of the participants: “It is not necessary to have functioning reproductive organs; the uterus is enough, so to speak.” (Anonymous, 18/11/11). In the Czech Republic, the upper age limit for IVF is 49.9 years, and this age limit applies to surrogate mothers who are considered standard IVT applicants by the assisted reproduction clinics.

Surrogate mothers never forget to emphasize that their main motive is to help infertile couples to have their own child. However, they welcome adequate financial compensation: “[...] I am thinking of helping a couple. I won’t pretend that I am not interested in financial

compensation but how many times do you have an opportunity to change someone's life and give them the most valuable thing." (mamka88, 19/01/13).

In some advertisements, it is clear that surrogacy is being offered to solve a difficult social situation. Since most genetic parents look for unmarried mothers with at least one child, it is clear that the surrogate mothers are usually being recruited from the group of single mothers. While most people emphasize their desire to help others and that financial compensation comes second, we found an advertisement where a young potential surrogate mother put the financial compensation first: "I am a young 21-year-old mommy of 3 beautiful children. I am healthy and there were no complications with the pregnancies and births. I would be grateful for your help." (deniska9191, 14/07/12).

Discussion comments that advertise services are often deleted by administrators because the discussion rules forbid the advertising of goods or service: "Hello, we understand this is a difficult problem but making public offers of surrogacy is not allowed in the discussions. Any type of promotion is against our rules. Thank you for understanding and we wish all couples good luck!" (admin, 16/10/17). They not only forbid surrogacy offers but any commercial offers, advertisements, personal ads and selling/buying. However, on advertisement websites, open offers and surrogacy requests can be found (Nováková et al. 2018).

Many of the people involved are aware of the complications of openly offering surrogacy (legal risks—surrogacy could become a business), so offers are made on closed social network groups, or surrogate mothers hide behind non-committal comments and use phrases such as "I am thinking about", "I would like", instead of "I am offering": "I am 38 years old. I have two children and I am thinking of becoming a surrogate mother." (svetliko, 15/04/16).

Reasons for surrogacy

Konečná (2018) states that in the Czech Republic there are a growing number of cases that do not reflect the traditional image of surrogacy clients (young heterosexual couples with their own generative cells, unable to have a baby of their own; surrogate mothers have close ties to the genetic parents; Czech citizens). Our search of the discussion forums did not reveal this. We analysed comments from discussants describing themselves as infertile heterosexual couples of reproductive age with their own embryos/generative cells. The discussion comments gave reasons for seeking surrogacy, such as health complications. The participants usually did not specify their health problems and usually stated that they were unable to have a child: "My uterus is in such a condition that I will probably never become pregnant and if I did, I wouldn't be able to carry the child." (kovarovakobyla, 04/07/12). When health problems were mentioned it was usually by women who had been diagnosed with cancer or who had had a hysterectomy (e.g. Rumpík et al., 2019). Our findings reflect those of Nováková et. al (2018). There were also couples who had had a series of unsuccessful IVF treatments and surrogacy was their last chance of having a baby. In these cases, they described surrogacy as a way of resolving their problems: "3 years ago, I couldn't have imagined the option of a surrogate mother and could never have done it. Today? After several unsuccessful IVF treatments in which hormones destroyed my body, my mental state is screwed, I am isolated [...] my hopes are invested in this last option that

would give me and my husband a child.” (Anonymous, 16/01/13); “I have not run out of all options yet. I have decided not to cause myself any more agony and try surrogacy instead.” (Anonymous, 04/07/12).

We also found homosexual applicants: “We are two guys (25 and 29 years old) and we are trying to find a surrogate mother. We would prefer it if she had her own children. [...] We both have university degrees and are getting registered next year. But we lack the thing that would complete our happiness—a bundle of joy. If you are interested in giving birth to our child, contact us.” (vogastisburg, 12/05/14). Although this option is not entirely ruled out and some clinics have been mentioned in discussions, as shown by Konečná (2017), the surrogate mothers in our sample group were not interested. They refused to use their own eggs and they were afraid of the legal uncertainties of using donated eggs: “I used to think about it. I received an offer to be a surrogate mother for a gay couple. I wouldn’t have minded but neither they nor I knew what would happen with the birth certificate, so I didn’t go through with it. It would bother me being registered as the mother of the child.” (lísteček1, 28/11/13). This reflects the findings of Pastor, Žáková, and Jeřeta (2017). The legal uncertainty is also a concern for non-homosexual applicants. In fact, the legal aspects are the most discussed topic.

Legal aspects

As mentioned, there is no legal regulation of surrogacy in the Czech Republic. It is not prohibited but nor is it legally regulated (Burešová, 2016). In the Czech Republic, there was discussion of introducing legislation when the Civil Code was last updated but so far there has been no change (Králíčková, 2015). The legal aspects are therefore a frequent discussion topic. However, the discussion participants generally do not recognize the full extent of criminal law in this context (Svatoš & Konečná, 2019). People often think that surrogacy is illegal in the Czech Republic, but more informed and experienced participants explain that the absence of legal regulation does not necessarily mean prohibition: “It is not illegal. It is just not legally regulated.” (Bébka, 17/11/11). Some find it surprising that surrogacy is not illegal: “And surrogacy is allowed in the Czech Republic? We spoke about it at home and I was convinced that it was illegal.” (rohlice, 09/01/11); “[...] I didn’t know surrogacy was allowed in our country or that it existed here at all.” (Marge1980, 23/09/14)

Most discussion participants think that the absence of legislation is unhelpful and would welcome a change in the legislation: “There should be some legislation or maybe agencies like in foreign countries so they could examine surrogate mothers in terms of their health and mental state.” (bejbyn, 30/07/12). We also came across the opinion that the non-existence of legislation is positive: “The Czech Republic is an ideal place for surrogacy because it’s not legally regulated and therefore not prohibited, so you don’t have to worry that you are doing anything illegal. The prices for surrogacy are not that high compared to the countries where it is legally regulated and surrogate mothers are registered in databases and half of the money goes to the agency ...” (Conulka, 30/10/17).

The discussion participants were aware that the absence of legislation increases the risks associated with surrogacy. Czech law states that the mother is the woman who gave birth to the child and the father is her husband if she is married. Giving birth is the only

factor determining who the child's mother is (Skácel, 2011). This "complication" is also the reason why married women are not a popular choice of surrogate mother. A frequent topic of debate among genetic parents is arranging custody of the child after the surrogate mother has given birth. Although assisted reproduction clinics require the surrogate mother and genetic parents to sign an agreement, it is not enforceable (Kodriková, 2006). Haderka (1986) warned about the non-enforceability of these agreements in one of the oldest Czech articles on surrogacy. He stated that nobody could be forced to give up their child and nobody could be forced to adopt a child or recognize their parental obligations on the basis of an agreement.

"Basically, it is just a promise. You can sign an agreement but it is not enforceable in court and the child cannot be taken away. You have to trust the woman will give up the child. Otherwise, she is the mother and nobody can take the child from her." (Aspera, 09/01/11). All participants agreed that an agreement gives them some kind of security, even though they were aware it was not enforceable. One participant even called it a "placebo". Most discussion participants were afraid a surrogate mother might refuse to give the child to its genetic mother. Skácel (2011), however, warns that the greater risk is of genetic parents deciding for some reason not to adopt the child and the surrogate mother remaining registered as the mother, which is something many potential surrogate mothers are not aware of.

The usual procedure whereby a genetic couple can gain at least a partial legal right to their child is for the surrogate mother to declare that the genetic father is her partner. After giving birth, the surrogate mother gives up the child and the genetic father's partner (the genetic mother) can then adopt it (Pektorová & Ventrubá, 2015). One of the surrogate mothers described the process: You find a woman who is willing to carry your baby and the assisted reproduction clinic (ARC). You sign an agreement with the surrogate mother. Czech law states that the mother is the woman who gives birth to the child, so the surrogacy is based on the trust between you and the surrogate mother. Unfortunately, no agreement can protect you if the surrogate mother changes her mind after giving birth and decides to keep the child. It is hers and there is nothing you can do about it. It would probably be a fight between your lawyers and a difficult trial and I am not sure how it would end. The ARC carries out the hormonal stimulation so that your eggs can be harvested, your husband gives his sperm and the embryo is transferred to the surrogate mother, who carries it and gives birth to the baby. Then there has to be a court hearing where the surrogate mother gives up the baby and the biological parents adopt it. If possible, it is better to record the biological father on the birth certificate because he has a right to the child and nobody can take it away from him. It is a kind of protection for all biological parents and they can continue to hope they will get their child (first the father, and the mother has to adopt it later). It is also protection for the surrogate mother if the biological parents change their minds and do not want the child—she will at least have the right to alimony. It is unlikely but not impossible." (Evka73, 18/08/12).

A much-discussed topic is the child being adopted by the genetic parents after the birth. The court deals with this and discussion participants were unsure whether it was better for the surrogate mother to admit to the surrogacy or to make an accusation of adultery. These two approaches were either supported or refused:

“When genetic parents report it to the social services, they will say that the child’s father committed adultery. When we found out that I was pregnant, we decided to have the child and that he and his wife would have custody because they had no children of their own. For this reason, we went to the registry office and signed a written declaration on fatherhood.” (Evka73, 09/09/12); “[...] We were recommended to confess to the surrogacy but not to speak of the money, which is clear. If you stick to adultery and the father’s wife wants to adopt the outcome of his adultery, the courts don’t believe it and start to press you [...] Most judges are aware of what is going on.” (bejbyn, 02/11/12).

The price

The price of surrogacy is also a very popular topic. There can be no official price for surrogacy because both sides could be accused of child trafficking. The following is always brought up when mention is made of the terms of compensation for the pregnancy and birth: “Officially it can’t be done for money. Finances are not part of the legal agreement.” (Anonymous, 17/11/11).

“Financial compensation in this case is a felony and you can be accused of child trafficking. I have already read about a case. Be careful when writing ads if you want to place them. The authorities go after these cases because they have spread.” (bejbyn; 08/07/12).

Prices for using a surrogate mother differ in the discussions. The price is usually between 200,000 and 500,000 CZK. (between €8,000 and €20,000). The amount can go even higher, to 900,000 CZK (€35,000) for example. This is in line with the findings of Nováková et al. (2018), who claim that the usual price is between 200,000 and 800,000 CZK (between €8,000 and €30,000). Some surrogate mothers claim that some genetic parents offer very low amounts, such as 40,000 CZK (€1,600). These figures are far beyond the means of some couples, especially if they have already undergone IVF, which is not covered by insurance, or if they have to use donated eggs: “When I went through the comments, I thought about looking for a surrogate mother but we cannot afford the cost. I wouldn’t be able to save that much. We have enough problems saving the 80 thousand, and we can’t afford to pay the surrogate mother the same amount.” (zandulka1983; 29/08/12).

Lower prices are not always viewed positively. People are suspicious and cheap surrogate mothers are seen as unreliable. On the other hand, a higher price is sometimes seen as a sign of good quality and trustworthiness: “Girls that want to make money and don’t have a healthy lifestyle cost up to 200,000 CZK, but she paid 900,000 CZK, which was worth it, and now they have twins.” (Janichka, 17/11/11.); “If parents cannot afford it, they shouldn’t look for a reliable surrogate mother but a gypsy who will be satisfied with 100 thousand.” (@lili1986; 20/09/14).

Financial compensation for surrogacy is the most criticized aspect discussed. “People don’t do this out of altruism and love for their neighbour but out of need and for money.” (Cuarentena; 12/01/13). Other negative comments referred to the naturalness or the psychological aspect: “I think it is impossible to carry a child for 9 months, go through the pregnancy and birth and give the child away and not see it as your own [...] In my opinion, the mother–child bond is created in pregnancy. The child must also experience shock—not

hearing the voice it knew for 9 months. I feel sorry for women who can't have their own child and I understand it is one of the options they can take, but I don't understand surrogate mothers and I think they lack emotion in a way." (karolec; 04/07/12).

Surrogate mothers' experiences

The discussions focus more on the experiences of surrogate mothers more than those of genetic parents. The preparation phase concerns the contact between surrogate mothers and genetic parents, but after the birth the situation of the surrogate mother becomes more important. Genetic parents take care of their child—and the fact that it was born to a surrogate mother is irrelevant. Surrogate mothers create pathways for other applicants, in that their views and experiences are a form of advertising.

"14 days ago I gave birth to a healthy longed-for baby girl for a couple. I will always be happy I helped a couple to have their own child." (zelejda; 31/07/12). "It was the best feeling I have ever had. We have decided to do it with another surrogate mother." (Nicollka; 15/11/16). There are also the experiences of genetic parents. We found negative experiences only in relation to finding a surrogate mother. Most discussion participants assessed the surrogacy experience positively: "I would like to tell everyone that a surrogate mother gave birth to a baby for us this year. We are happy. We found a great surrogate mother, and we will be grateful to her for the rest of our lives." (Anonymous, 21/02/16). One of the genetic mothers expressed displeasure at genetic parents having very restricted, or even no, influence over the surrogate mother: "Well, difficulties. Our surrogate mother has her own children so she knows everything. And you depend on her and you can't stand up to her too much, argue and drive a hard bargain... You just have to give in and hope everything turns out well. I am scared to look for another surrogate mother for another baby." (Anonymous, 10/12/12). Even this participant wants another *surrogate mother* despite all the problems.

Surrogate mothers viewed their role mostly positively. They were always quick to emphasize that their motivation was to help others to have a child. They used phrases such as "an incredible experience", "the best feeling", "a beautiful feeling", "personal fulfilment" or "a feeling beyond price". Despite this, there are comments about physical and psychological difficulties. Physical problems tended to include hormonal support intolerance, nausea, swelling and other problems associated with pregnancy, although many discussion participants said that each pregnancy is different and cannot be generalized if there are negative experiences. Surrogate mothers usually do not associate any psychological difficulties with the fact the child is not theirs and that they have to give it up to the genetic parents. They said they were aware of it when agreeing to the process: "I take it well because it can't be any other way. I'm not going to make a song and dance about it. But I would never give up my own child. For example, abortion, adoption... I will just be loaning the child so it's OK :-)" (MaminkaVerunka, 10/12/12). The psychological difficulties are often associated with their responsibility towards the genetic parents, especially if the embryo-transfer is unsuccessful or if they have a miscarriage: "I always became pregnant immediately so I was confident that everything would go smoothly. Unfortunately, the pregnancy test was negative and the blood test was Hcg 0. I was quite sad and disappointed,

especially because of the biological parents. I don't know how to tell them. It was hard to take." (Nermin, 09/04/18). Surrogate mothers considered the prospect of the child having a disability to be hypothetical. There was no mention of anyone in the discussion forms having practical experience of this.

Possible problems

The discussion participants generally saw surrogacy in positive terms and admired surrogate mothers. Negative opinions were expressed mostly by those not directly involved. As we have already mentioned, most of the negative opinions were to do with finances: "What I don't like is surrogacy being seen as something admirable, a service to mankind, almost a moral obligation. Because it's not. It is a morally questionable enterprise which women go through because they have to. Nobody would do it for free if they didn't have to; maybe a mother for her daughter or a sister for her sister" (Cuarentena, 16/01/13). Although surrogacy is mostly seen as positive, there can be problems. In the discussions, there was talk of potential complications arising from a surrogate mother being unwilling to give the child up to the genetic parents, or rejecting the child because they changed their minds during the pregnancy or not wanting to adopt a disabled child. Pektorová and Ventruba (2015) show that these issues do sometimes occur. Nobody talked about having an experience of this type. Participants who were not involved most frequently spoke about the surrogate mother being potentially unwilling to give up the child after birth. Some genetic mothers were afraid they might not be able to form a parent-child relationship with the newborn: "I am only afraid I might not have a true mother-child relationship. What will it be like if I haven't felt the baby inside me. There are so many questions on this topic. On the one hand, I'm looking forward to it but there are also many question marks" (creance, 28/01/13). Most frequently, there are practical questions about the least complicated way of giving the child to its genetic parents, and also sharing practical instructions about what to put in the agreement, what to say in court, whether to admit to the surrogacy, whether surrogate mothers should pretend to be pregnant by using padding, and so on. These aspects go beyond this study. Nonetheless, the number of potential problems being discussed in the discussions shows there is a need for the legislation on surrogacy that many experts are calling for. Císařová and Sovová (2015) opine that the legal principle "what is not forbidden is allowed" cannot be left as the basis for solving the basic elements of parent-child relationships and biological and social parenthood.

Conclusion

The available options in assisted reproduction (including surrogacy) are an example of how impossible it is for ethical thinking to keep up with the rapid developments in biomedical technologies. The basic question in bioethics—whether we should be allowed to do whatever we are capable of—is behind this development (Vácha et al., 2012). Despite the legislative vacuum, perhaps even because of it, surrogacy is developing very quickly in the Czech Republic. When we allow everything that is not explicitly forbidden by law, there are no limits to this development.

Some assisted reproduction clinics, applicants (couples) and women advertise surrogacy services. As we have pointed out in this paper, these groups meet, interact and share experiences in online discussions. Assisted reproduction clinics are not directly involved in these discussions, but experienced couples and surrogate mothers who have already undergone surrogacy are. We can deduce from their comments which of the assisted reproduction clinics are willing to help and what services they offer. In online debates, potential applicants—genetic parents—obtain relatively precise information about what to do and how to contact a surrogate mother. Surrogate mothers use the discussion sites to offer their services. The majority of participants were women. This was partly because of the topic and partly because we analysed web pages aimed at women—mothers.

In the Czech Republic, surrogacy is conducted in the legislative “grey zone” so most comments concerned practical questions (how best to arrange it) and attempts to connect applicants with surrogate mothers. As there is no legal regulation of surrogacy or “mediation agencies” or “intermediary organizations”, people rely on shared experiences and practice. The legal restrictions are contained in Act No. 373/2011 Coll. on specific medical services and relate to the age of the recipient of assisted reproduction, and some parts of Act No. 285/2002 Coll. on the donation, collection and transplantation of tissues and organs (transplantation act), which relate to the prohibition of advertising and financial compensation. It is debatable to what extent these regulations apply to generative cell donation and surrogacy. The participants of the online discussion forums were mostly aware of this fact (there is always a participant who reminds everyone). Open surrogacy advertisements can be found in the forums but administrators often delete them.

The participants did not explicitly consider surrogacy from the ethical point of view. Implicit ethical questions or conflicts were usually expressed in other ways (by questioning whether surrogate mothers should receive financial compensation or labelling the whole process as “unnatural” or being hesitant to step into the “grey zone”). The end points or goals of the participants in the reproductive process also obviously affect the standpoints from which they make ethical decisions about the process (Mahowald, 2006). The participants did not distinguish between the legal and ethical sides of surrogacy either. Their approach was implicitly utilitarian and pragmatic. Anything done to achieve the goal and bring maximum benefit to most participants was considered right. The arguments on when what brings satisfaction is right were also infused with emotion. The online discussions show that even without legislation, official procedures and “mediation agencies or intermediary organizations”, surrogacy has found its place in the Czech Republic. The question is whether it is headed in the right direction. But this question cannot be answered without a well-grounded expert debate.

References

- Barancová, H. (2017). New technologies and the existing model of protection of motherhood and parenthood. *Lawyer Quarterly*, 7(4), 231-242.
- Berger, P. L., & Luckmann, T. (1999). *Sociální konstrukce reality: pojednání o sociologii vědění* [The social construction of reality: A treatise in the sociology of knowledge]. Brno: Centrum pro studium demokracie a kultury.

- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Burešová, K. (2016). Surogátní mateřství a jeho (nejen) právní aspekty [Surrogacy and its (not only) legal aspects]. *Právní rozhledy*, 24(6), 196-201.
- Císařová, D., & Sovová, O. (2015). Náhradní mateřství v právní praxi [Surrogacy in legal practice]. *Časopis zdravotnického práva a bioetiky*, 5(2), 13-24.
- Dostál, J. (2007). *Etické a právní aspekty asistované reprodukce* [Ethical and legal aspects of assisted reproduction]. Olomouc: Univerzita Palackého v Olomouci.
- Důvodová zpráva k novému občanskému zákoníku [Explanatory notes to new civil code] (2012). Retrieved from <http://www.pracepropravniky.cz/zakony/novy-obcansky-zakonik-duvodova-zprava>
- Eichenberg, C., & Küsel, C. (2019). Desire to have a child and internet. *Psychotherapeut*, 64(2), 134-142.
- Fairclough, N. (2003). *Analysing discourse: Textual analysis for social research*. London: Routledge.
- Haderka, J. (1986). Surogační mateřství [Surrogacy]. *Právní obzor*, 69(10), 917-934.
- Hobzová, H. (2018). Surogátní mateřství: rozpory v terminologii [Surrogacy: discrepancies in terminology]. *České gynekologie*, 83(6), 464-467.
- Kodriková, Z. (2006). Matka vždycky jistá? [Mother always certain?]. *Právo a rodina*, 8(10), 13-14.
- Konečná, H., Nováková, K., Prudil, L., Honzová, I., & Prudilová, L. (2018). Náhradní mateřství: stav v České republice a odpovědnost praktického lékaře [Surrogacy in the Czech Republic: current status and the responsibility of the general practitioner]. *Praktický lékař*, 98(6), 270-274.
- Konečná, H. (2017). Asistovaná reprodukce u single osob a homosexuálních párů [Assisted reproduction techniques (ART) by single persons and homosexual couples]. *Časopis zdravotnického práva a bioetiky*, 7(1), 28-43.
- Konečná, H., & Svatoš, R. (2018). Sdílená odpovědnost v proceduře náhradního mateřství [Shared responsibility in the surrogate motherhood procedure]. *Časopis zdravotnického práva a bioetiky*, 8(3), 54-67.
- Konečná, H., Witzanyová, A., Honzová, I., Prudil, L., & Prudilová, L. (2019). Kritéria pro výběr náhradní matky [Criteria for selecting a surrogate mother]. *Česká gynekologie* 84(1), 28-32.
- Králíčková, Z. (2015). Mater semper certa est! O náhradním a kulhající matce [Mater semper certa est! About surrogate and limping motherhood]. *Právní rozhledy*, 23(21), 725-732.
- Mahowald, M. B. (2006). *Bioethics and women. Across the life span*. Oxford: Oxford University Press.
- Mautner, G. (2008). Analysing newspapers, magazines and other print media. In R. Wodak & M. Krzyzanowski (Eds.), *Qualitative discourse analysis in the social sciences* (pp. 30-51). New York: Palgrave Macmillan.
- Nováková, K., Konečná, H., & Sudová, M. (2018). Náhradní mateřství v České republice: způsoby hledání náhradní matky [Surrogate motherhood in the Czech Republic: ways to find a replacement mother]. *Časopis zdravotnického práva a bioetiky*, 8(2), 32-42.
- Pastor, Z., Žáková, J., & Jeřeta, M. (2017). Jsou nutné změny v regulaci přístupu žen bez partnera a homosexuálních osob k asistované reprodukci? [Are changes needed to regulate access to assisted reproduction for single women and homosexuals?]. *Česká gynekologie*, 82(2), 158-159.
- Pektorová, M., & Ventruba, P. (2015). Surogace, ano či ne? [Surrogacy, yes or no?]. *Česká gynekologie*, 80(4), 299-30.
- Rumpík, D., Rumpíková, T., Pohanka, M., Ventruba, P., & Bělašková, S. (2019). Gestational surrogacy in the Czech Republic. *Biomedical papers of the Medical Faculty of the University Palacky, Olomouc, Czechoslovakia*, 163(2), 155-160.
- Skácel, J. (2011). Est mater semper certa? *Bulletin advokacie*, 6, 26-32.
- Štenclová, B. (2014). *Právní etické otázky náhradního mateřství*: Diplomová práce [Legal and ethical issues of surrogate motherhood: Thesis]. Brno: Masarykova univerzita.

Svatoš, R., & Konečná, H. (2019). Náhradní mateřství v trestněprávních konsekvencích [Legal and ethical issues of surrogate motherhood]. *Trestněprávní revue*, 17(1), 7-13.

Vácha, M., Königová, R., & Mauer, M. (2012). *Základy moderní lékařské etiky* [Basics of modern medical ethics]. Praha: Portál.

Zákon č. 89/2012 Sb., občanský zákoník, (Act No. 89/2012, Civil Code).

Zákon č. 285/2002 Sb., (Act No. 385/2002 Coll.).

Zákon č. 373/2011 Sb., (Act No. 373/2011 Coll.).

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