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**The Ethical and Legal issues of providing Medical Services in Human Reproduction treatment.**

Masters Program In Medical Rehabilitation and Healthcare Management

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## Abbreviations

ART - Assisted Reproductive Technologies

ESHRE - European Society of Human Reproduction and Embryology

ET - Embryo Transfer

FET - Frozen Embryo Transfer

ICSI - IntraCytoplasmic Sperm Injection

IMSI - IntraCytoplasmic Morphologically Selected Sperm Injection

IP - Intended Parent

IUI - Intrauterine Insemination

IVF - In Vitro Fertilization

PGD - Pre-implantation Genetic Diagnosis

PGS - Pre-implantation Genetic Screening

WMA - The World Medical Association

i. Introduction

This paper will discuss the current problem of medicine and practical health in the field of implementing ethical principles in providing services related to human reproduction.

ii. Aims and scope of the thesis

The further expansion of the principles of democracy in the world has made it necessary and urgent to bring patient rights to the forefront. Especially in the context of modern medicine, when not a single modern method of solving reproductive problems has been developed, it has become necessary to reconsider the ethical and legal aspects of this issue. In the context of modern medicine, this issue has been put on the agenda by many countries, although it is more acute for those countries that are strictly tailored to stereotypical frameworks and where many issues are still stigmatized.

The protection of patients' rights has become especially important since the second half of the last century, after various horrific scientific studies performed on humans revealed, even though nowadays the basic principles of ethics such as patients safety, respect and privacy are more or less established in modern medicine, there are numerous violation of these principles. <sup>1</sup>

My interest in this issue is due to the number of problems and shortcomings that we encounter in the medical facilities of different fields as a medical service provider, due to poor or still failed implementation of ethical principles, these problems are even more sensitive in institutions that provide services to people with still stigmatized conditions. Another reason why I found this topic interesting and necessary to discuss is the absence of the particular legislation in Georgia. All the ethical or law issues related to human reproduction are still determined by the general legislation that creates a lack of specificity and many issues are still unregulated.<sup>2</sup>

The process of reproduction makes it possible for living beings to transmit their genes to the next generation of life. There are numerous ethical issues of human reproduction, moral problems arise constantly in social life, the social relations of human reproduction underwent radical change in the later half of the 20th century, with the development of in vitro fertilization and using another peoples gametes or

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<sup>1</sup> ბ. მამულაშვილი, ბიოეთიკა, თბილისის სახელმწიფო სამედიცინო უნივერსიტეტის ბიბლიოთეკა, გამომც. უნივერსალი, 2012, 42-66

<sup>2</sup> იქვე, 42-46

body for a purpose to solve infertility problems.<sup>3</sup> Although the issue is relevant to all medical disciplines and is highly global, only the reproductive and related fields will be discussed in the present paper.

### iii. Thesis Structure

The present paper is structured as following: The thesis consists of 4 main chapters, which are divided into corresponding chapters and subsections. The first chapter contains information about the historical past of ethics, definitions of ethics and medical law, as well as distinguishing the differences between this two concept. The same chapter discusses the basic principles of medical ethics that are considered to be fundamental for medical ethics and law and the rights that patients have obtained from the minute of birth. One of the long-standing problem will be put into forefront, which is the lack of access to information for certain groups in society in Georgia.

The second chapter deals directly with the issue of reproductive health in Georgia today. For the purpose of rest of the topic to be easier to understand, the chapter will briefly describe, what a combination of processes is In Vitro fertilization and what a great hope it is in terms of the possibility of family planning in the lives of modern people. In the same chapter we will discuss the huge and problematic matter of discussion about the rights and the status of an embryo, that humanity is constantly arguing about and which still remains unresolved. We will briefly discuss pre-implantation diagnostics and screening as well as their impact on the future of the embryo, with continuation of what the church thinks about the status of the embryo as a future human being.

The third chapter deals directly with the selection and validation of egg and semen donors, discusses what types of legal gaps and shortcomings each party faces, at this stage of finding an alternative treatment for infertile couple, and discusses the criteria for applying for donation, and the administrative and medical parts of becoming a donor. The same chapter also contains a subsection on embryo donation, which is currently generally unregulated in terms of legislation. As a continuation of the same issue, we will briefly touch single motherhood and aging parents as well.

The fourth chapter is very sensitive because it deals with surrogacy, discusses types of surrogacy and criteria for selecting a surrogate, within legal issues. In the same chapter some court cases will be described as a proof of how surrogate mothers impacted on children lives and to consider how huge can an emotional dependence can be.

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<sup>3</sup> ბ. მამულაშვილი, ბიოეთიკა, თბილისის სახელმწიფო სამედიცინო უნივერსიტეტის ბიბლიოთეკა, გამომც. უნივერსალი, 2012, 42-66

For the purpose to complete this present paper there are used textbooks, approved legislation, articles, various Internet resources and personal conversations with people who are employed in this field, as Georgian law does not particularly cover the issue and there is a lack of regulations or relevant literature, the ongoing processes and work environment where there are persistent gaps are best described by the people employed in this field.

## Chapter 1. The relationship between medical law and ethics.

The history of Medical ethics takes start form an ancient time from Code of Hammurabi: Code of Ethics; Legal Code of ethics contains 282 Laws – regulating different topics including society, family life and occupation and the instructions for conduct of physicians.<sup>4</sup> Apparently the legal aspects between the interaction of a patient and a physicians was a matter of discussion even in the ancient times, therefore it's not surprising that this topic has constantly been paramount over the centuries and with the development of medicine and human mindset it was a constant need to adopt new rules and measures.

"ETHICS is derived from the Greek word – “Ethos” - character and from Latin word mores "custom" together they combine the definition of how individuals choose to interact towards each other."<sup>5</sup>

The most fundamental document that determines behavior etiquette of the people who are occupied in a medical field is The Hippocratic oath (600B.C. – 100 A.D.: Annex I) that happens to be the example of medical protocol of how to interact and behave as a physician through the centuries and dictates the "obligations of the physician to students of medicine and the duties of pupil to teacher. In the oath, the physician pledges to prescribe only beneficial treatments, according to his abilities and judgment, to refrain from causing harm or hurt and to live an exemplary personal and professional life."<sup>6</sup> For reasons unknown, the Oath is always related to the name of Hippocrates (460- 356 B.C.) – “the Father of Rational Medicine.”<sup>7</sup>

Gaining and maintaining public trust is the main task of the whole medical society. Any violations or ethical errors that may be observed in a relation with medical society have the greatest impact on both the medical and non-medical community. Owing to human nature, even a single misconduct on the part of a doctor

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<sup>4</sup> Hays, Jeffrey. “CODE of HAMMURABI: HISTORY, CONTENT, ETHICS and PUNISHMENT. september 2018, Factsanddetails.com, <https://factsanddetails.com/world/cat56/sub363/entry-6079.html>

<sup>5</sup> Cornell Law School, Ethics. LII / Legal Information Institute, 2020, <https://www.law.cornell.edu/wex/ethics>

<sup>6</sup> The Editors of Encyclopedia Britannica. “Hippocratic Oath | Ethical Code.” *Encyclopædia Britannica*, 15 Nov. 2017, [www.britannica.com/topic/Hippocratic-oath](http://www.britannica.com/topic/Hippocratic-oath).

<sup>7</sup> The Editors of Encyclopedia Britannica. “Hippocratic Oath | Ethical Code.” *Encyclopædia Britannica*, 15 Nov. 2017, [www.britannica.com/topic/Hippocratic-oath](http://www.britannica.com/topic/Hippocratic-oath).

is such everlasting that no matter how competent the doctor is in managing and treating a particular disease, the unethical behavior may be detrimental for the whole career. Developing norms and laws of ethics on the one hand protects the physician and teaches him what is proper and equitable, while on the other hand protects patients and sets clear expectations for them.

"Ethics is a philosophical discipline that studies the manifestation of morality and ethics"<sup>8</sup> while "medical law is made up of bits from a large number of different branches of law."<sup>9</sup> An analysis of the two concepts reveals that ethics is mostly derived from intrinsic, essential values and feelings and is more personal, also the understanding of what is ethical and what is not may vary from person to person as the beliefs and views are different. Medical law turns out to be a unity of frameworks that are already legalized and is one and the same for everyone and non-observance of which imposes certain sanctions on the offender.<sup>10</sup>

It also should be noted that most patients are not competent in medical issues, and because of lack of the information or having uncertainties they always rely on different opinions heard from physicians or random people while making decisions, needless to say that every information provided by the doctor and the entire medical team, together with the administrative service of the clinic, becomes so crucial that all of them above share to have a great deal of responsibility of what information and in what kind of way they are providing. Transmitting information and treating the patient is one of the most common and difficult issues where medical ethics and law intersect. While talking about ethics a doctor is instructed by his inner culture and character to speak to patients in an understandable, calm, caring, soothing tone, and his inner voice dictates him to tell everything openly and in an understandable language, medical law obliges him to tell the truth accurately, patiently and clearly. In the first case, the patient depends entirely on the moral principles of the doctor of what the doctor considers to be ethical, while in the second case, the patient is protected by law, which obliges the doctor. Thus in medicine the right actions are achieved through the unity of ethics and law.<sup>11</sup> However, ethics and law often contradict with each other, and we find such examples in the other chapter of this present thesis.

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<sup>8</sup> ბ. მამულაშვილი, ბიოეთიკა, თბილისის სახელმწიფო სამედიცინო უნივერსიტეტის ბიბლიოთეკა, გამომც. უნივერსალი, 2012, 9

<sup>9</sup> Herring Jonathan, *Medical Law and Ethics*. Oxford, United Kingdom, Oxford University Press, 2016 (a), 2

<sup>10</sup> Herring Jonathan, *Medical Law and Ethics*. Oxford, United Kingdom, Oxford University Press, 2016 (b), 2

<sup>11</sup> N. Kiknadze - Lecture N1 and N2 in "Legal issues in Healthcare", November 2019, Georgian Institute of Public Affairs.

## 1.1 Main principles of medical law and ethics

A Declaration on the promotion of patients' rights in Europe, adopted by European consultation on the rights of patients in Amsterdam, March 1994, perfectly defines and distinguishes the line between social and individual rights. "In the treatment of patients' rights, a distinction should be made between social and individual rights. Social rights in healthcare relate to the societal obligation undertaken or otherwise enforced by government and other public or private bodies to make reasonable provision of health care for the whole population. What is reasonable in terms of the volume and range of services available and the degree of sophistication of technology and specialization will be dependent on political, social, cultural and economic factors. Social rights also relate to equal access to health care for all those living in a country or other geopolitical area and the elimination of unjustified discriminatory barriers, whether financial, geographical, cultural or social and psychological. Social rights are enjoyed collectively and are relative to the level of development of the particular society; they are also in some measure subject to political judgment regarding priorities for development in a society. In contrast individual rights in patient care are more readily expressed in absolute terms and when made operational can be made enforceable on behalf of an individual patient. These rights cover such areas as the integrity of the person, privacy and religious convictions."<sup>12</sup>

"Bioethicists often refer to the four basic principles of healthcare ethics when evaluating the merits and difficulties of medical procedures. Ideally, for a medical practice to be considered "ethical", it must respect all four of these principles: autonomy, justice, beneficence, and non-maleficence. The use of reproductive technology raises questions in each of these areas."<sup>13</sup>

As already mentioned above, one of the main principle of human rights in a relation with medical law and ethics is the human autonomy, which in turn combines the existence of informed consent expressed, verbally implied, behaviorally conditioned, or materially substantiated and certified with a signature. On the specifics of the field, the understanding of the content of a particular consent by an ignorant person often relies on how a well-informed, professional understands and realizes the responsibility to transmit the needed information to another less informed person.

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<sup>12</sup> A Declaration on the promotion of Patients' rights in Europe European consultation on the rights of patients. Amsterdam 28 -30 MARCH 1994 World Health Organization, 1994. Guiding Principles, 6.

<sup>13</sup> Stanford University. "What are the basic principles of medical ethics." Stanford.edu, 2019, <https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>



Medical documentation like contracts between patients and the informed consents for medical procedures, for treatment or examining procedures are written in a wording that many specific medical terms are used, and the exact meaning of this wording may not be understandable for people with other educational bases, unless the relevant person draws an accurate picture and gives an accurate information or the consent will be written in proper, easy to grasp language. If the patients understand but do not realize the content of the consent that they are signing to express their readiness for several procedures, the fact is that there is a signed consent that is performed only technically and formally, but obtaining an informed consent implies not only the existence of a signature on the paper but also understanding and realizing the risks associated with the procedure and acknowledging the expected future outcomes. When talking about human autonomy, the principle of confidentiality must be emphasized, the acceptance and respect of the principle of privacy is a moral obligation of the entire population, however, it's proven with multiple facts that the protection of this principle is often forgotten even by people who are occupied in medical field, not to talk about the ordinary citizens. The principle of confidentiality becomes even more important and sensitive when it is related to such personal and intimate matters as reproduction and related cases are. Principle of autonomy combines the principle of telling the truth and interference in private life.<sup>14</sup>

According to an article of Stanford University: "Autonomy requires that the patient have autonomy of thought, intention, and action when making decisions regarding health care procedures. Therefore, the decision-making process must be free of coercion or coaxing. In order for a patient to make a fully informed decision, she/he must understand all risks and benefits of the procedure and the likelihood of success. Because ART is highly technical and may involve high emotions, it is difficult to expect patients to be operating under fully-informed consent."<sup>15</sup>

The basic principles of medical law also include the principle of beneficence which "requires that the procedure to be provided with the intent of doing good for the patient involved. Demands that health care providers develop and maintain skills and knowledge, continually update training, consider individual circumstances of all patients, and strive for net benefit." <sup>16</sup> Another basic principle is non - maleficence,

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<sup>14</sup>N. Kiknadze - Lecture N1 and N2 in "Legal issues in Healthcare", November 2019, Georgian Institute of Public Affairs.

<sup>15</sup>Stanford University. "What are the basic principles of medical ethics?." Stanford.edu, 2019(a), <https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>

<sup>16</sup>Stanford University. "What are the basic principles of medical ethics." Stanford.edu, 2019(b), <https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>

which holds that there is an obligation not to inflict harm to others; The fourth fundamental basic principle of medical law is justice that expresses that people cannot be differentiated by their race, origin, the way how they express themselves or any other niche that makes them unique, every human being on the planet has the equal right to benefit from medical services, even though this issue is still problematic and varies between being rich and having lack of funds, especially when it comes to Reproductive treatment, as the costs are high, many people are not able to afford themselves to fulfill their dream of becoming a parent. <sup>17</sup>

## 1.2 Lack of information in Georgia

In Georgia the fundamental principles of the Medical law and ethics are already well implemented in the relevant legislation but, the enforcement mechanism does not work properly and the first step that needs to be taken towards implementing all the rules in practice is mass education of the medical staff and the whole population. Unfortunately we, people in Georgia are not taught how to stand for our rights from the childhood and we acquire the knowledge and acquired knowledge is always harder to be turned into habit. Starting from the past few years more and more steps are taken forward to educate as many people as possible, to normalize the doctor - patient interaction, the existence of social media made it even easier to disseminate the necessary information to as many people as possible, but the main target who need this information the most are still left out of distribution area due to the territorial inaccessibility. The most recent case I would like to mention as a good example of how a well-transmitted information works and to emphasize the role of awareness raising is that, due to the covid-19 many people especially in the country side of Georgia refused to vaccinate, some doctors decided to start a campaign and started to record videos or lives in a social media and some of them even visited villages to draw an accurate picture of how the vaccine works, as the people who didn't have access to interact with doctor or check proper sources to get the information, the fact that they could ask questions and have competent answers resulted more people to get their vaccines and this fact is proven by the statistics, of how the number of vaccinated people started to grow.

The Open society Georgia Foundation published a handbook for patients, where all the rules and rights of medical society and patients are described, this handbook

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<sup>17</sup>Stanford University. "What are the basic principles of medical ethics." Stanford.edu, 2019(c), <https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>

deserves to be taken into a consideration because it's written in easily understandable language, while all the official documents are performed in a field-specific language.<sup>18</sup> As mentioned above many people do not have access to the proper literature to be aware of their rights when seeking medical assistance and because of this problematic and still unsolved issues there are numbers of patients whose rights are violated in different ways. In my opinion education is the biggest promotion, educating people about the rights every human being has on this earth should be taught from school, in that way it's possible to have a future generations that know their own and respects another people's rights, our country needs to normalize talking about rights even with the children, "it's always better to talk with the children as they were adults."<sup>19</sup>

As for the Reproductive legislation in Georgia all the legal issues of Reproduction are determined from different medical laws and will be described in the later chapters.

## Chapter 2. Ethical Issues of Human Reproduction

Reproduction and the conditions related to human reproduction is still more likely to be a taboo, because of the sensitivity and intimacy of this case, all of these factors attach great importance to the strict adherence of medical ethic norms and principles.

The introduction of new reproductive technologies has brought with it a number of philosophical, religious, legal and moral issues on the discussion. The issue of human infertility is quite diverse from a medical point of view, however the ways to solve the problematic medical condition lead to a specific list of treatment options at this stage. In terms of reproductive health, many such medical techniques have been introduced that we can confidently say that the world has taken a very big step in this field starting from the end of 20th century and the great achievements are progressively reaching in 21st.<sup>20</sup>

There are already numbers of reproductive clinics in Georgia, that successfully carry out various types of interventions to solve the problem of infertility. Worth mentioning is the fact that: "The Professor Ioseb Zhordania Scientific Research Institute for Human Reproduction located in Tbilisi, Georgia was the first clinic in Europe to treat infertility in women and men with assisted reproductive technologies,

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<sup>18</sup> მ. კვაჭაძე, ი. მანჯავიძე, ნ. კვანტალიანი, ნ. მირზიკაშვილი, ნ. გვენეტაძე, გ. აზაურაშვილი; "ადამიანის უფლებები და ჯანდაცვა" - წიგნი პაციენტებისთვის; ფონდი ღია საზოგადოება საქართველო, თბილისი 2011,

<sup>19</sup> Davis, Brian. "Why You Should Treat Your Child like an Adult." Fatherly, 08 Nov. 2019, [www.fatherly.com/love-money/why-you-should-treat-your-child-like-an-adult/](http://www.fatherly.com/love-money/why-you-should-treat-your-child-like-an-adult/).

<sup>20</sup> Brown, Simon. "ESHRE, the First 21 Years." [Www.eshre.eu](http://www.eshre.eu), 2005.

including in vitro fertilization and intrauterine insemination. The first child born through in vitro fertilization in Georgia was delivered on June 21, 2000, which was soon followed by the birth of a second child by using the same method. From this period begins the active period of in vitro fertilization, although in 2009 only 250 children were registered through in vitro fertilization. Compared to nowadays this number is very little." <sup>21</sup>

The privacy of the issue and the stigmatized stereotypes attach great importance to the existence of relevant legislation and the implementation of already existing ethical norms in this area. Given that the medical society is actively working to keep pace with the world progress and is actively trying to introduce and implement the latest reproductive methods in Georgia, it is important that the legislation keeps pace with this progress as well. The more new technologies are discovered and introduced in practice, the more legislation need to cover all the related topics specifically.

The development of reproductive medicine in Georgia has already reached the stage that the laws or orders that regulate the health care system do not completely cover the reproductive field, due to its general nature, already approved legislation do not specify and cover all the topics related to reproductive care. For example, the Law of Georgia on Donation of Blood and Its Components, adopted in 1995 that has been amended many times to date, outlines the principles of donation, funding issues, and donor rights and responsibilities in particular<sup>22</sup>. Unfortunately, there is no law on reproductive health in Georgia, and especially for donation and surrogacy, the law that will outline all the donor and surrogate rights and responsibilities, also the criteria of choosing and selecting donors and surrogates. Generally it's stated that the most of the cases related to this field is unregulated in Georgia, In my opinion a definition "not regulated" for such an important subject is not a solution, it is necessary to develop and approve a particular law or add relevant articles to an existing law, in order to avoid various inconvenient circumstances, for the IVF clinics that provide reproductive treatment, for donation-surrogacy agencies, for patients and for service providers (surrogates and donors) and finally to obtain legally justified ways of solution.

## 2.1. The essence of ART

In vitro fertilization found practical application in the 1940s when American scientists carried out "in vitro fertilization" , although the survival of a created

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<sup>21</sup> ბ. მამულაშვილი, ბიოეთიკა, თბილისის სახელმწიფო სამედიცინო უნივერსიტეტის ბიბლიოთეკა, გამომც. უნივერსალი, 2012, 149

<sup>22</sup> "სისხლისა და მისი კომპონენტების დონორობის შესახებ." სსიპ "საქართველოს საკანონმდებლო მაცნე", 21 Mar. 1995, [matsne.gov.ge/ka/document/view/28498](http://matsne.gov.ge/ka/document/view/28498).

embryo under experimental conditions lasted only a few hours. Creating this method is related to the names of Ewards and Steptow, it's obvious that their experiments required financial support, although their idea was so ethically unacceptable at first by that time that in 1971 the British Committee for Medical Research even refused to fund them. However, the situation has slowly changed and in vitro fertilization is now taking its place among the usual medical treatment options. Essentially all the accomplishments in the method of in vitro fertilization and embryo transfer are related to complex moral issues. In 1987, the World Medical Association adopted the "Regulation on In Vitro Fertilization and Embryo Transplantation", which states that the use of in vitro fertilization and embryo transfer is justified when other methods of infertility, whether medical or surgical, are ineffective.<sup>23</sup>

" Assisted reproductive technology" is understood as all treatments or procedures that include the handling of human oocytes or embryos. It encompasses an increasingly complex range of interventions—such as therapeutic donor insemination, ovarian stimulation, ova and sperm retrieval, in vitro fertilization, gamete intrafallopian transfer—and may involve multiple participants."<sup>24</sup>In order to better understand the essence of the problem and the importance of ethics and legislation, let's briefly consider what in vitro fertilization means.

"In vitro cycle consist of the following stages:

1. Ovarian Stimulation for Superovulation - During the preparation phase, the ovary is stimulated, which of course involves taking specific hormones, both orally and in the form of injections at this stage follicles are monitored by counting the antral follicles regularly, this is the golden method of ovulation control. Size of any active follicles in the ovaries with an egg is monitored. Average diameter of the dominant follicle is 22 to 24 mm for normal cycle. In stimulated cycle using hormonal treatment generally most of the antral follicles grow. In around 10 - 14 days, an egg develops from these follicles.<sup>25</sup>

2. Ovarian pick-up , also known as egg retrieval procedure is mostly performed under the anesthesia (after anesthesia most of the patients have several discomforts such as, dizziness, itchiness, aches and pains, feeling cold or shivering and etc.) Egg retrieval is a minimally invasive way to remove the eggs from ovaries. After ovarian pick-up the eggs can be frozen, there is no any evidence in practice that the freezing process may affect the oocytes in any way, but the embryologists recommend to the

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<sup>23</sup> ბ. მამულაშვილი, ბიოეთიკა, თბილისის სახელმწიფო სამედიცინო უნივერსიტეტის ბიბლიოთეკა, გამომც. უნივერსალი, 2012, 149

<sup>24</sup> Assisted Reproductive Technology. American Medical Association. 2010. <https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

<sup>25</sup> ESHRE Reproductive endocrinology guideline group. OVARIAN STIMULATION for IVF/ICSI Guideline of the European Society of Human Reproduction and Embryology. Oct. 2019.

IVF doctors to use fresh oocytes to create an embryo obviously to protect the oocytes from possible damage while thawing after freezing, Freezing the oocytes is mostly common in women whose ovarian supplies are running out and she has no plan for childbearing for next several years." <sup>26</sup>

3. "Swim up and oocyte cultivation - After the eggs are retrieved the fertilization process needs to be performed, for the fertilization, both frozen and fresh semen and oocytes samples can be used. The method that is generally and mostly used for semen to fertilize an egg is called swim up method, by this technique, the sperms are selected on their motility and the capability to swim out of the seminal plasma. 3 days after fertilization a normally developed embryo will contain about 6-10 cells, by the fifth or sixth day a blastocyst is developed which contains of two parts, inner part is embryo and outer part is a group of cells that protect the inner group of cells. The 3 day embryos are not used for the transfer but blastocysts are transferred into the uterus. The embryo transfer procedure can be performed after 5-6 days from egg retrieval or creating an embryo, this is what IVF doctors call a fresh embryo transfer but in most of the IVF programs frozen embryos are used for transfer, but even if the Fresh embryo transfer is performed freezing of the remaining already created embryos are still necessary. "<sup>27</sup>

The practicing of artificial reproductive technologies faces many difficulties in terms of the social and legal status of children born in this way, it is considered a relatively simple situation when the biological and intended parents of the child coincide and the issue of legal birth of the child does not arise. However, even in such cases, there is a risk of discrimination against children born as a result of Assisted Reproductive technologies. The 1987 Statute of the World Medical Association states explicitly: " Physicians involved in providing assisted reproductive technologies should always consider their ethical responsibilities towards any child who may be born as a result of the treatment. If there is evidence that a future child would be exposed to serious harm, treatment should not be provided" <sup>28</sup>

However, considering and analyzing Georgian legislation, the validity of this statement still depends on the internal culture and moral of the doctor, as he / she does not have any specific sanctions under the law if she/he gives a child to a mother

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<sup>26</sup> D'Angelo, Arianna, et al. "Recommendations for Good Practice in Ultrasound: Oocyte Pick Up†." *Human Reproduction Open*, vol. 2019, no. 4, 2019, 10.1093/hropen/hoz025. Accessed 15 Apr. 2020.

<sup>27</sup> Adiga, Satish Kumar, and Pratap Kumar. "ANDROLOGY: Influence of Swim-up Method on the Recovery of Spermatozoa from Different Types of Semen Samples." *Journal of Assisted Reproduction and Genetics*, vol. 18, no. 3, 2001, pp. 160–164, 10.1023/a:1009464121194. Accessed 1 July 2020.

<sup>28</sup> WMA - the World Medical Association- WMA Statement on Assisted Reproductive Technologies. [www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/](http://www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/). Adopted by the 57th WMA General Assembly, Pilanesberg, South Africa, October 2006.

who is apparently unable to provide proper motherhood to a child. There always will be one physician standing for the right of a women to express motherhood no matter in what condition she is, it's therefore clear how important it is for reproductive care, every scenario to be taken under the law frames.

## 2.2 Family planning

Modern medical possibilities and techniques have allowed people to plan their families, normally a large portion of the population plans to have at least one child, although the rhythm of modern life has extended the age of childbearing. Since every human body is individual and also is a female ovarian supply, women have been given the opportunity to maintain the ability to have their genetic children at an age when they are ready to express it. In modern reproductive medicine, the freezing of eggs is already successfully performed in practice, when a woman reaches a certain age and the function and ability to have a genetically related child is periodically reduced, it is recommended to freeze the eggs. Freezing biological material is exactly the same for men, But the whole process is much simpler and easier, both financially and in terms of pre-procedures, storing male biological material samples is easier for obvious and objective reasons, given that women need to stimulate the ovary and then the doctor needs to perform mini invasive procedure of egg retrieval (chapter 2.1). The best part of developing gamete freezing and storing method is that, storage of frozen biological materials is highly demanded in people who start different types of treatment that can lead to further infertility even though the treatment will be beneficial, for example in oncology patients who have not yet had a child, it is common to store biological material, sperm or eggs before radio or chemotherapy as far as the bad impact of this treatment on fertility is already well described.

"Women are born with all of their eggs. These eggs gradually mature and ovulate over their lifetime. Years of aging and environmental damage will decrease the egg quality over time. It is not difficult for women to get pregnant after 40 as long as the egg is young. Freezing young, healthy eggs can eliminate the pressure of family planning while you focus on your career and personal life. "<sup>29</sup>

As for the men, sperm freezing is becoming more and more popular, as more and more people are being acknowledged and start to realize that through the years the sperm quality may be decreased, also due to the pandemic in a year of 2021 when the vaccine of the Covid 19 is available and there are some rumors, but not an evidence

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<sup>29</sup> American society for reproductive medicine, "Age and Fertility." Reproductivefacts.org, 2019, <https://www.reproductivefacts.org/news-and-publications/patient-fact-sheets-and-booklets/documents/fact-sheets-and-info-booklets/age-and-fertility/>

based information, that start to spread about the vaccine to be affecting on the quality of sperm there are some occasions when people freeze their biological material prior to vaccinating, even though they do not experience any medical condition that may affect the reproductive system, the sperm freezing became more in a trend at this point.

Couples who underwent the IVF treatment and have the embryos under their belonging have an opportunity to freeze the embryos and thaw them for frozen embryo transfer procedure even after several years, so now people are able to plan their own families and have as many children as they want and they can even manage the age gaps between their children. Some state their opinion that children born and grown up in such kind of planned environment are more likely to be taken a better care in a better environment. To sum up the option of freezing gametes stands for people's rights to become parents whenever they are ready and guarantees that the children born this way are truly awaited.

### 2.3 Rights of an embryo.

After the completion of the fertilization procedure, the specialists start working not with the gametes but with the embryos, this time we are again confronted with the philosophical and moral problems that are constantly heard in the society. What is the ontological and moral status of the embryo? To what extent does an embryo own the rights? At what stage can an embryo be considered as a human being? What happens when more than the required number of blastocysts are obtained? There is no any scientific data of how long a blastocyst can be stored frozen, also the use of frozen blastocysts that were frozen several years before is well-practiced for frozen embryo transfers. It should also be noted that storing frozen biological material creates certain financial obligations for the couple in front of the clinic or laboratory where they are kept. Due to such commitments, the discard of embryos / blastocysts is frequent. Even though blastocysts are still just a group of cells, it is fairly clear to everyone that these group of cells have the ability to evolve and become human beings, religious attitudes toward such issues are more sensitive than moral or legal. We encounter the same type of ethical dilemma when multiple pregnancies occur in the uterine cavity, which is mainly due to the displaced blastocyst dividing and lead to three or more fetuses to be developed, in this situations for the reason to avoid unnecessary risks that can occur to all other developed embryos and even the pregnant woman, an embryo reduction method is performed, Embryo reduction method means that if, more than three embryos develop in the uterus, the particular



quantity of embryos (one, two or three) are removed and one or two embryos are left in the uterus, the number of the not reduced embryos are still dictated from the total condition of the pregnant woman and the probability of awaited risks.<sup>30</sup> Although for many people such practices are considered ethically unacceptable, as treatments and processes that serve to create new life may lead to artificial termination of it.

"In some countries this is regulated by law, for example in Germany, it is forbidden to transfer more than three embryos into the uterine cavity during one cycle and is punishable by imprisonment for up to three years or a fine. Belgium regulates the possible number of embryos to be transferred in accordance with the age of a women, the same rule validates in Greece, Hungary, Australia. In Japan the maximum quantity of transferred embryos depends to not only the age of a women but the quality of the embryos as well. In addition there are number of countries like Croatia, China, Brazil, Turkey and Israel, where the number of transferred embryos are not specified and Georgia is one of among these countries.<sup>31</sup>"

As the main goal for the physicians is to minimize the risks by minimizing the number of cycles of ovarian stimulation and egg retrieval certain amount of created embryos are frozen for further use, these embryos remain to be a hope for prospective parents for whom they were created, these embryos also offer hope for the couple who are waiting for a candidate embryo to be donated to them, frozen embryos also offer the prospect of gaining scientific knowledge,<sup>32</sup> though considering all of the above the main issues is who will be taking the decision of how the embryos will further be treated, In my opinion the right people to make final decisions are parents, biologically related parents, for example if an embryo will be a matter of scientific research the consent is required from all of the parties whose gametes were used for creation.

### 2.3.1 Pre-implantation Genetic screening and diagnostic

One more issue that needs to be described is whether the parent would accept not having a child at all than consider the transfer of an embryo that would lead to a child with a devastating disorder? In the context of this topic, we must consider pre-implantation genetic screening and pre-implantation genetic diagnosis.

Pre-implantation genetic screening (PGS) and Pre-implantation genetic diagnosis (PGD) are forms of pre-implantation examinations that are used to screen embryos

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<sup>30</sup> Booth, Stephanie. "Multifetal Pregnancy Reduction." WebMD, 19 Mar. 2021, [www.webmd.com/infertility-and-reproduction/fertility-multifetal-reduction..](http://www.webmd.com/infertility-and-reproduction/fertility-multifetal-reduction..)

<sup>31</sup> Cohen, Chapter 5: Number of Embryos for Transfer in ART. *Fertility and Sterility*, vol. 87, no. 4, 1 Apr. 2007, pp. S19–S22, [https://www.fertstert.org/article/S0015-0282\(07\)00255-5/fulltext](https://www.fertstert.org/article/S0015-0282(07)00255-5/fulltext) |

<sup>32</sup> Storage & Use of Human Embryos. American Medical Association, 2010, <https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

prior to implantation. They are used to prevent the birth of children with genetic or chromosomal disorders, and to select embryos for implantation in In vitro fertilization (IVF) treatment cycles. ESHRE states that: " Reproductive autonomy not only regards people's freedom (or liberty right) to decide whether or not to have children, but also, at least to some extent, to decide about the health of their possible future children. At the heart of the latter is prospective parent's freedom to avoid the conception or birth of affected children."<sup>33</sup>

Pre-implantation genetic diagnosis (PGD) is a technology for selective reproduction that allows couples with genetic disorder history to reduce the risk of transmitting a genetic disease to their future generations or to have children affected with an inherited genetic disease. PGD is used to select embryos that will be implanted into a woman's womb for the purpose of creating a successful pregnancy. The procedure can be used to identify gene mutations in embryos that lead to certain types of genetic disorders and cause illnesses. If embryos are found to have a mutation, the couple can choose to have those embryos destroyed. The process begins with the extraction of a single cell from a couple's blastocyst-stage embryo, this is done via a process called embryo biopsy. The cell is then placed in a solution and the nuclei are removed, this allows the embryo to be tested for the presence of certain gene mutations. The embryos are then placed back in the same position they were in prior to the biopsy. If no mutation is present, the embryo will be implanted into the woman's uterus if a mutation is present, the implantation of the embryo becomes an issue of discussion with the embryologist and the geneticist and it's always highly suggested that an embryo with abnormalities should not be implanted. It is important to note that this is only a procedure used to select embryos for a specific purpose. In fact, PGD is not a form of genetic screening, as it only diagnostic method for particular gene mutations.<sup>34</sup>

Pre-implantation genetic screening is mainly used for detection of aneuploidies, or chromosomal abnormalities, across all 24 chromosomes (22 autosomes and the X and Y chromosomes), Examples include trisomy 21 (Down syndrome) and monosomy X (Turner syndrome). Every healthy person has 46 (23 pairs) chromosomes and this

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<sup>33</sup> De Wert, G., et al. "ESHRE Task Force on Ethics and Law22: Preimplantation Genetic Diagnosis." Human Reproduction, vol. 29, no. 8, 13 June 2014, pp. 1610–1617, 10.1093/humrep/deu132. file:///C:/Users/EDUKA~1/AppData/Local/Temp/ESHRE%20TF%20EL%2022%20Preimplantation%20Genetic%20Diagnosis.pdf

<sup>34</sup> Dickens, Courtney. "Preimplantation Genetic Testing (PGD) | the Johns Hopkins Fertility Center." [https://www.hopkinsmedicine.org/gynecology\\_obstetrics/specialty\\_areas/fertility-center/infertility-services/ART-procedures/preimplantation-genetic-testing.html](https://www.hopkinsmedicine.org/gynecology_obstetrics/specialty_areas/fertility-center/infertility-services/ART-procedures/preimplantation-genetic-testing.html).

condition is called euploidy, although sometimes the number of chromosomes is not 46. Such cases are called aneuploidy. Most aneuploidies are incompatible with life, so the transferring of such an embryo into the uterus, is either impossible or the pregnancy will soon be terminated. There are also a small number of life-related aneuploids. For example, Down syndrome, in which the 21st pair of chromosomes has an extra 1 chromosome, i.e. the number of human chromosomes is 47 instead of 46.<sup>35</sup> To sum up if the main goal for PGD is diagnose certain inherit disease the goal of PGS is to find the chromosomal disorders.

PGS is also found it's frequent use for gender selection. Order №01-74 / n adopted on October 7, 2014 by the Minister of Labor, Health and Social Affairs of Georgia On the approval of the rules for the implementation of abortion states:

" 2. Artificial termination of pregnancy is performed:

A) As per request of a pregnant women up to 12 weeks of pregnancy.

B) 12 to 22 weeks of pregnancy according to medical and social indications."<sup>36</sup>

Considering the fact that the period of finding the gender of the fetus even extended to the period of three months pregnancy to avoid the abortions determined by the gender of the fetus.<sup>37</sup> There is one question, why do the clinics still have the right to reveal the genders of all the PGS tested embryos and why do the parents still have a right as an option to choose between the genders. I think that it will be fair enough if the gender only will be accessible for those couples who already have 3 children or more with the same gender, it still leads us to the selection but to consider the rights and the wants of every side, it will be fair enough to give a chance to this kind of parents to fulfill their dream of being a parent of baby girl or boy.

According to the publication of ESHRE about pre-implantation genetic diagnosis: "sometimes PGD fails, so the result is inconclusive and the precise genetic status of the embryo is unknown. In other situations, all embryos tested prove to be affected. In rare cases, especially when this is the last chance of (infertile) couples to have a genetically related child, they may ask to transfer one of these embryos. Can a transfer be justified in such cases when the couple requests this? In traditional genetic counseling, especially in the context or prenatal diagnosis, it is generally accepted that professionals should not try to impose their own views upon pregnant women. Non-

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<sup>35</sup> "პრეიმპლანტაციური გენეტიკური სკრინინგი (PGS) | რეპროარტი." Reproart, [reproart.ge/preimplantaciuri-genetikuri-skriningi/](https://reproart.ge/preimplantaciuri-genetikuri-skriningi/). Accessed 11 Aug. 2021.

<sup>36</sup> საქართველოს შრომის, ჯანმრთელობისა და სოციალური დაცვის მინისტრი. "ორსულობის ხელოვნური შეწყვეტის განხორციელების წესების დამტკიცების თაობაზე." სსიპ "საქართველოს საკანონმდებლო მაცნე", 7 Oct. 2014, [matsne.gov.ge/ka/document/view/2514236?publication=0](https://matsne.gov.ge/ka/document/view/2514236?publication=0).

<sup>37</sup> ევროკავშირი სსქართველოსთვის. გენდერული ნიშნით სქესის შერჩევის პრევენცია საკომუნიკაციო სახელმძღვანელო სერვისის მიმწოდებლებისა და ექიმებისათვის. , 2017, 4

directive counseling, aimed at supporting people's autonomous reproductive choice, 'whatever they decide', is the professional standard. This normative framework cannot, however, be simply extrapolated to the context of medically assisted reproduction in general and PGD in particular, because professionals involved have a co-responsibility for the welfare of future children conceived with their assistance. Against this background, most PGD centers accept the policy to never transfer an affected embryo and likewise abstain from transferring an embryo after failed PGD even if there are no other, 'healthy', embryos available. This policy meets the primary aim of PGD and seems to best fit the principle to avoid a high risk of serious harm to future children.<sup>38</sup> It's all so individual that it's hard to generalize, there are people around us with genetically determined problems who openly say that the kind of life they have is torturous due to the situation that they can't move around and fulfill their daily routine without the other person assisting them and for this reason their personal space and independence is taken away, the best example of this situation to be described is Duchenne Muscular Dystrophy (DMD), in this occasion we encounter the dilemma between choosing a couples right to become a parent or the fetus's right to be healthy if artificially born. I stand for the second right, for the Childs right to have a normal life without torturing, if a parent already has doubts that the child might be affected with particular or several health related problems and will never be able even fulfill his or her daily routines herself, and this situation is known or doubted even on the stage of when it was an blastocyst, in my understanding a parents should not be able to make decisions based on their wishes and should not be able to not to consider another person, even though the person is their child who is not yet born.

### 2.3.2 The status of an embryo

There is no exact definition yet as to whether a fetus is considered a human being or not, of course we face the same problem with the embryos that were created in an IVF laboratories after MAP (medically assisted procreation). The fact that in the case of an already established pregnancy the chance of reaching the last stage of pregnancy and the vitality rate is higher than in the case of a frozen embryo when it is not yet known whether a particular embryo transferred into the uterus will develop life or not. When woman is less likely to become pregnant the maximum possible amount of embryos are created to increase the chance of the patients to become parents. For this

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<sup>38</sup> De Wert, G., et al. "ESHRE Task Force on Ethics and Law22: Preimplantation Genetic Diagnosis." *Human Reproduction*, vol. 29, no. 8, 13 June 2014, pp. 1610–1617, 10.1093/humrep/deu132.  
file:///C:/Users/EDUKA~1/AppData/Local/Temp/ESHRE%20TF%20EL%2022%20Preimplantation%20Genetic%20Diagnosis.pdf

purpose, a number of embryos are created in laboratories, no matter how many children a couple wants or is able to not only to give a birth but to raise and give a proper parenthood as well. Such facts are even more common and problematic in developing and poor countries, where in well-developed countries parents plan families and try to have as many children as they can take a responsibility to raise and to provide good parenthood, including education, in poor countries families with a not so high amount of income incur large financial costs for the procedures and are more likely to refuse to have as many children as the created embryos / blastocysts are, this might be determined from an objective reasons such as financial situation. Such parental approach is understandable on the one hand and protect yet unborn frozen embryos on the other, but the issue of embryo destruction is still painful and unresolved. While talking about the protection of the cryopreserved embryos many people are stating that parents should not give a birth to children if they do not have the opportunity to raise them, this does not only occur to the fact that they will not have enough material resources, but the parents should have enough time and proper condition to interact, teach and properly up bring their children giving them proper education and possibilities for the future. <sup>39</sup>

### 2.3.3 How religion defines the status of an embryo

An article by the Georgian Religious Studies Union in 2009 entitled: "Embryo Status - Who is an Embryo?" states the following: "To the question of who is an embryo? We must answer: the embryo is a form of human life; this human life is individual; it has a personal nature; "It's a human characteristic; the embryo is not just a form of human life but an individual of a human species." <sup>40</sup> This quote on the other hand responds and expresses the position of the orthodox church as well. "The teaching of the Catholic Church advocates the position of the original individual" in the quote from the Declaration on Termination of Pregnancy we read: "Modern science, genetics, confirms what was already clear from the discussions about the evolution of the soul, indicating that it has been planted from the outset what this living thing will look like: a human being, an individual with all the characteristics that make him an individual is already predetermined." <sup>41</sup> "As for the orthodox teaching, the fetus is a living being from the moment of

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<sup>39</sup> Allahbadia, G. N. "IVF in Developing Economies and Low Resource Countries: An Overview." *Journal of Obstetrics and Gynaecology of India*, vol. 63, no. 5, 1 Oct. 2013, p. , [www.ncbi.nlm.nih.gov/pmc/articles/PMC3798433/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3798433/), 10.1007/s13224-013-0477-0.

<sup>40</sup> ნებეიერიძე ნ., სტატია, ემბრიონის სტატუსი - ვინ არის ემბრიონი?, ბიოეთიკა, გამომც. საქართველოს რელიგიათმცოდნეობათა კავშირის ბიბლიოთეკა, თბილისი, 2009, 39

<sup>41</sup> იქვე, 39

conception, the violation of which, despite its stage of development, is tantamount to murder."<sup>42</sup>

In 1989, the UN General Assembly adopted the Convention on the Rights of the Child. The Convention does not specifically address the right to life of an unborn child, but its provisions cover child protection issues, that generally state that "every child has a right to live a proper life, to educate, be supported and have a life without torture."<sup>43</sup> In my understanding statement also describes the rights of an embryo, even though the law regulates that the fetus is recognized to be an individual live being, having rights.

### Chapter 3. Donation

" Donating eggs or sperm for others to use in reproduction can enable individuals who would not otherwise be able to do so to have children. However, gamete donation also raises ethical concerns about the privacy of donors and the nature of relationships among donors and children born through use of their gametes by means of assisted reproductive technologies." <sup>44</sup>

#### 3.1 Choosing, Approving and Selecting donors.

As already said several times above, in recent years, assisted reproductive technologies (ART) have been widely used in the treatment of infertility.

In the modern era people have access to every type of information they are seeking for, one of the biggest development, as an option for solving infertility problem if using donors gametes. The ways to become an egg or semen donor became more familiar and applicable with the development of technological progress, it only takes a few steps to register on the portal of the donation or surrogacy agency and the representatives are getting in touch with already registered potential donors in a short time. The main criteria to become a donor usually relies on peoples appearance based on which the egg or sperm donors are first selected by the agency, then approved by the physician considering donors reproductive health and lastly chosen by the intended parents. Even if a potential donor has a well-functioning reproductive system and the pregnancy is much awaited if using the gametes of his / her, if the phenotype is not preferred the person is most likely to be banned and cannot donate,

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<sup>42</sup> ნებიერიძე ნ., სტატია, ემბრიონის სტატუსი - ვინ არის ემბრიონი?, ბიოეთიკა, გამომც. საქართველოს რელიგიათმცოდნეობათა კავშირის ბიბლიოთეკა, თბილისი, 2009, 39

<sup>43</sup> *Convention on the Rights of the Child*, 1989.

<sup>44</sup> Code of Medical Ethics 4.2.2. , American Medical Association, 2010 <https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

the first selection usually is done by the representative of the donation / surrogacy agency who decides if the donor is more likely to be chosen by infertile couples and mostly the most good-looking candidates are selected for the donor base.<sup>45</sup>

As already described above, every patient signs an informed consent, donors are considered as patients as well and all of the donors sign an informed consent. The main problem in the process of approving and selecting donors is that "most of them are not visiting a psychologist as the proper records are not mandatory"<sup>46</sup> to check under what circumstances and in which mental condition are the final decisions made, in my opinion, people can make hasty solutions when they think they have no other possible option by that time, because for the sake of being honest it should be said that, donation is an easy source of income if a person is not capable enough to understand under what kind of risks are he or she putting her health and future under, there are several facts when women donate for purpose of improving their financial situation, there are number of women who think about the donation post factum, no matter to whom they gave the life-changing dreamy present such as being a parent is, they think about the strangers who are their children. For the purpose to avoid this psychological severities I think that the involvement of the government in this issue is crucial, the base of registered donors should be taken under the surveillance, there is a need in Georgia to restrict the number of possible donation cycles for donors, this will prevent their health condition as well as the future generations faith; Medical approval of a psychologist should be mandatory, only after all above the donors can be registered for a donation program and the written consent can be obtained.

Circumstances regarding the necessity of a consent and the circumstances of its declaration is clarified in the Law on Patients' Rights article 4 (B), adopted by the Parliament of Georgia, which clarifies that:

"Informed consent - the consent of the patient, and in the case of a minor - the legal representative of the patient to provide particular medical service after being informed:

Ba) on the essence and need for medical services;

Bb) the expected results of the medical service;

Bc) related to the medical care, the expected risk to the patient's health and life;

Bd) about other, alternative options of the intended medical services, their accompanying risk and possible effectiveness;

B.e) the expected consequences of refusing medical care;

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<sup>45</sup> According to a personal communication with representative of donation-surrogacy agency, July 2021 Tbilisi, Georgia.

<sup>46</sup> According to a personal communication with representative of donation-surrogacy agency, July 2021 Tbilisi, Georgia.

Bf) on financial and social issues related to the information provided for in sub-paragraphs "ba" -be "of this Article;"<sup>47</sup> The question is if every potential or already approved donor is explained what are the expected results, for example if while someone is undergoing a treatment for egg retrieval to become a donor is she truly aware that her eggs will be used for several couples, is she aware that these eggs will be used in Georgia for 3 to 5 families? Georgia is a very little country for these numbers and as the donation - surrogacy agencies and even the clinic see this process from the view of business, government should initiate and implement new, more restricted rules. The main problem in the case of donation in Georgia is lack of information for donors, ignoring the circumstances of why and under what conditions donors make their decisions, it can be completely incomprehensible for the moment, which can change a person's whole future life, so the involvement of a psychologist is crucial at this point, donation from the view of humanity and ethics, is an act that expresses kindness and charity and not a business investment.

### 3.2 Semen Donation

ART procedures, including in vitro fertilization (IVF), intracytoplasmic sperm injection (ICSI), and intracytoplasmic morphologically selected sperm injection (IMSI), involve the use of semen from a male (fluid of the male reproductive tract) to fertilize an egg from a female. The introduction of several reproductive techniques has led to a new group of donors who have become available for semen donation, including not only volunteer donors but also paid donors. Sperm banks differ in their selection of sperm donors, all are highly selective, but some are distinguished by the imposition of more criteria than others. For example, California Cryobank only accepts donors who attend or have graduated from a "major four-year university", donors must also be tall, trim, heterosexual, and between 19 and 34 years old.<sup>48</sup> (California Cryobank). Although it sounds unbelievable, half brothers and sisters (from the same donor father) have actually married not knowing they were related.<sup>49</sup> Thus, cryo-banks place a limitation on the number of children a donor can produce, when fact-finding about the different semen banks, it's apparent that most of such establishments set limits and the maximum number of babies born from the biological material varies a lot, for example for California Cryobank the maximum goal is 25-30

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<sup>47</sup> "პაციენტის უფლებების შესახებ." სსიპ "საქართველოს საკანონმდებლო მაცნე", 5 May 2000, [matsne.gov.ge/ka/document/view/16978?publication=11](https://matsne.gov.ge/ka/document/view/16978?publication=11).

<sup>48</sup> "Find a Sperm Donor | California Cryobank." Cryobank.com, 2019, <https://www.cryobank.com/services/donor-semen/>

<sup>49</sup> Yoffe, Emily. "My Wife Is My Sister." Slate Magazine, 19 Feb. 2013, [slate.com/human-interest/2013/02/dear-prudence-my-wife-and-i-came-from-the-same-sperm-donor.html](https://www.slate.com/human-interest/2013/02/dear-prudence-my-wife-and-i-came-from-the-same-sperm-donor.html)



family units worldwide per donor,<sup>50</sup> "for Fairfax Cryobank a donor's sales will cease when 25 families (children from the same donor living in one home) have been reported in the US. International distribution stops when 15 families have been reported. After the family limits have been met, vials will only be distributed for sibling pregnancies."<sup>51</sup>

For example in Austria the main criteria to be able to use the donated sperm is a present marriage, does not matter if it's a hetero or homosexual couples they are treated the same way;<sup>52</sup>

Also one of the most discussed issue, is the anonymity for all of the parties, on the one hand for the semen donor and on the other hand for the couple or a single woman who will use the donated semen. Some countries stay for non-anonymous way of donation, for example in Netherlands, Sweden, Finland, United Kingdom made the data available to identify the donor, some countries like, Russia, Romania, Denmark and Ireland use the mixed system and donors can opt between anonymity and making their personal data available for potential parents, though they also can choose what information they accept to share. Notably in majority of EU countries anonymity of donation is norm. <sup>53</sup>

Biological material transportation from one country into another is pretty common nowadays as well. There are numbers of shipping companies, so now people have an opportunity to use a donors semen from outside their countries. Even though the price for selection of foreign donor almost triples the average price, this service becomes more and more popular and high demanded because of obvious reasons, given this fact, I believe that out of the selected donors, only in maximum 5 family should children be born within Georgia using one persons gametes, as both the clinic and the donor have the opportunity to ship the biological material to give birth to children in other countries. The future outcomes of one semen donor having dozens of children in his own country is still yet to be realized in reality.

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<sup>50</sup> "California Cryobank Sperm Donor Policies." [www.spermbank.com](http://www.spermbank.com), [www.spermbank.com/about/sperm-donor-policies](http://www.spermbank.com/about/sperm-donor-policies). Accessed 2 Aug. 2021.

<sup>51</sup> "Limitations on Donor Births." Fairfax Cryobank - Find a Sperm Donor, <https://fairfaxcryobank.com/limitations-on-donor-births>. Accessed 6 Aug. 2021.

<sup>52</sup> "LGBT Rights in Austria: Laws, Attitudes, and Representation | Expatica." Expat Guide to Austria | Expatica, May 19, 2019 | [www.expatica.com/at/living/gov-law-admin/austria-lgbt-78729/](http://www.expatica.com/at/living/gov-law-admin/austria-lgbt-78729/).

<sup>53</sup> "Fenomatch." Fenomatch Web, 09 sep 2019 | <https://fenomatch.com/en/blog/egg-and-sperm-donation-anonymous-or-not>

### 3.3 Egg Donation

Egg donation is a process in which a fertile woman donates oocytes, to another woman to help her conceive. The number of eggs that are retrieved are not likely to result in an equal amount of embryos. Instead, they will gradually decrease in number as they go from retrieved egg, to maturity, to fertilization, and through the embryo growth stages. Not every egg a woman produces will become a viable embryo. In a normal menstrual cycle, women create several follicles out of which one becomes dominant and the rest are reabsorbed back into the body. That dominant follicle releases an egg into the fallopian tube during ovulation and is fertilized by sperm at that point. With IVF, normal cycle is manipulated by getting as many of women follicles to grow into that dominant phase as possible instead of just the one. It takes a special mix of medications to stimulate all of the follicles, and when the growth phase is complete (before ovulation), each egg is removed from its follicle through a process called an egg retrieval, it's expected that an average of approximately 80% will be mature.<sup>54</sup>

The process of egg donation is simple, but the process of finding an egg donor is not. Egg donor agencies have a number of egg donors on file, the women who are looking for becoming an egg donor options must apply in person to the agency and undergo an extensive screening process. The process of finding an egg donor is both time consuming and expensive. The process is time consuming since it takes the agency a period of time to find a donor who is compatible with a recipient, in vast majority of cases, the potential parents who are searching for an egg donor have their criteria, such as phenotype or origin, to cut a long story short, potential parent search for a donor similar to their phenotype for an objective reasons. Also the parents searching for an egg donor need to be sure that the health condition of the donor is satisfying, this is why the agency must screen potential egg donors, Also this process is related to a solid amount of money, egg donation service is expensive since the agency must compensate the donor, and the donor must be screened in order to make sure that she is healthy. The process of egg donation is not without its risks, the donors are putting their health under a risk, they may experience minor discomfort during the mini invasive egg retrieval procedure and after eggs are retrieved. Donation services are offered by donation and surrogacy agencies who are seeking to have as many patients as possible, these agencies are searching for donors and recipients both, thus this field of medicine is already closely connected with business. Since only a limited number of all the found and screened donors turn out to be,

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<sup>54</sup> "Patient Videos | Olive Fertility Centre Vancouver, Surrey." Olivefertility.com, olivefertility.com/patients/videos.

suitable for a particular infertile couple, the agencies have to pay a certain amount of money to check all the potential donors before they make the short-list, as there are number of women who are accepting to donate but all of them may not be suitable, therefore a high costs of donor eggs is also affected by this expenses. In Georgia it is a very common practice to give patients several donor profiles with their photos attached to better understand the phenotype. In Georgian couples, it is even more common to split eggs received from one donor within one cycle, in which case, the number of eggs received is divided into two or three, depending on how many recipients there are and how many eggs are expected to be received from the donor.<sup>55</sup>

While talking about the commercial donation, when the donor will be compensated and an agency is involved, needs to be mentioned that there is another form of donation when the agency is not involved and the patient brings in a donor herself, who is often a relative or friend, it is very common for sisters to be a donor-recipient.<sup>56</sup>

The mandatory tests for egg donors differ and vary from country to country, in Georgia. All donors are recommended to have genetic - carrier screening to identify if they are carriers of any heritable diseases, but some agencies provide this service some not as far as genetic-testing is not mandatory and the final decision is up to parents if they accept to use a donors eggs who is not examined on heritable diseases. The mandatory tests for donors include: Hepatitis B, Hepatitis C, HIV and Syphilis, these four testes are the most distinctive between countries, for example in Georgia testing a donor on gonorrhoea is not mandatory and donors are examined only if necessary according to their anamnesis, but in Ukraine Gonorrhoea is mandatory with Hepatitis B, Hepatitis C, HIV and Syphilis, obviously the donors should be negative to all of the above.<sup>57</sup> According to a personal communication with one of the donation-surrogacy agency representative turns out that the existence of psychologists medical record is not mandatory, for that reason not all of the donors visit Psychologist, but sometimes the parents ask for a proper medical record, before selecting the donor, also if it seems to be a need for Psychologist involvement the appointments are booked.<sup>58</sup>

One of the cases for discussion is that every donor should also be made aware of the complications that arise from egg donation, including the possibility of ovarian hyperstimulation syndrome.

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<sup>55</sup> Fertility Source Companies, 10 Apr. 2015, [www.fertilitysourcecompanies.com/the-egg-donor-selection-process/](http://www.fertilitysourcecompanies.com/the-egg-donor-selection-process/)

<sup>56</sup> Using Your Sister's Eggs | . 29 Aug. 2016, [momease.com/using-your-sisters-eggs/](http://momease.com/using-your-sisters-eggs/). Accessed 11 Aug. 2021.

<sup>57</sup> Egg Donor Selection and Screening. Ucsfhealth, [www.ucsfhealth.org/education/faq-egg-donor-selection-and-screening#2](http://www.ucsfhealth.org/education/faq-egg-donor-selection-and-screening#2).

<sup>58</sup> New Life - According to personal communication, August 2021, Tbilisi, Georgia

Donors should be informed that they will be required to undergo extensive medical testing before, during, and after egg collection.

Donors should be made aware that the process takes at least 5 days and they must be made aware that they may require general anesthesia during egg collection.

Donors should understand that there are risks associated with egg donation, but it is very unlikely that a donor will experience any complications.

The vast majority of egg donation procedures are successful, and there is no additional risk for the donor, other than the possibility of developing ovarian hyperstimulation syndrome (OHSS). All donors should be informed that the removal and cryopreservation of their eggs may cause a chemical reaction in the follicles of the ovary that will result in depletion of the ovarian follicle pool, and that this reaction can be temporary or permanent.

Donors should be informed that they may have changes in their menstrual cycles as a result of egg donation, including irregular periods and amenorrhea.

Donors should be made aware that their eggs will be used commercially.

An egg donor can donate for several times for a different women, In Georgia there is no any general Data Base in existence that will help to reduce the number of donated cycles per each donor. The fact that there will be as much donor oocytes as demanded for an infertile women to have children is fascinating but on the other hand there are numbers of children who are genetically related to each other, unfortunately the parents are not aware of each other once they use donors eggs, so there is always a risk when it comes to the connection between two human in the future of being relatives.<sup>59</sup> In my opinion this issue will take it's place in the most current issues for the future, because the problem itself is a large-scale and the chances of random incest cases in the future generations is high.

The number of registered egg donors is higher then it's in case sperm donors and the reason behind it might be the compensation which is higher for the women because they need to undergo an the whole process of stimulation and egg retrieval, they face more risks and discomforts. While donor sperm for IVF and intrauterine insemination is allowed in almost all European countries, egg donation is banned, for example in Germany, Norway, and Switzerland.<sup>60</sup>

In most cases, both egg and sperm are donated to couples who have reached a certain age and can no longer have a biological children because of infertility determined by the age, one part of society state that if couples over the age of 50 will

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<sup>59</sup> Woodruff, Emily. "Egg Donors Face Unknown Risks, with Scant Data on Complications." STAT, 28 Jan. 2017, [www.statnews.com/2017/01/28/egg-donors-risks/](http://www.statnews.com/2017/01/28/egg-donors-risks/).

<sup>60</sup> Fenomatch." Fenomatch Web, 09 sep 2019 | <https://fenomatch.com/en/blog/egg-and-sperm-donation-anonymous-or-not>

have children through medical assistance using different techniques as an option to become a parent, this may not develop the future fate of the child very reliably, I think that the occasion when the positions can be split into two different opinion, whether if there is a violation of becoming a parent and if there is a violation of child's rights because of possible undesirable outcomes, the same situation is encountered even when the mother has such health problems or physical disabilities that she cannot provide the child with proper motherhood. Contrary to this, it can be said that that everyone has the right to have a child and depriving a person of the right to be a parent due to age or health condition violates the right of a person to be a parent. In my opinion in this occasion we encounter the dilemma between choosing the right of a woman of becoming a mother no matter what her health condition is and the right of a child to experience a proper mother care, in this case I stand for the right of a child, even though the mother has a right to become and experience parenthood, the child should not be left without proper care, every scenario might be different and each case needs a careful consideration, to not to violate somebody's right to become a parent the limits and criteria cannot be set, I find the best option in obtaining the right to become a parent by court, the court will consider all the factors and the decision will be made.

After a female potential donor is selected to donate she starts to undergo a medical treatment, but before that she signs several documents, in most of the cases all the information related to the administrative issues are transmitted by the coordinators from the agencies and most of the donors do not have an appointment with the psychologist and here we encounter the necessity of psychologist involvement one more time. The fact that person is ready according to the laboratorial or instrumental examines do not approve the mental well being or ability to totally realize or understand all the outcomes of donation. Most of the donors have all the explanation about the medicines, procedures, discomforts and possible side effects of the procedures but are they told that their gametes are used for several couples not only abroad but inside their own countries? Most of the donors are very young with a little monthly income yet and they are trying to get benefits from the options they have, being a donor is one of them but all of the above is accompanied by the fact that in the end they still do good deeds with helping the infertile women but the problem that there are several people, who don't know each other and have a one parent in common may put us in front of shocking reality.

### 3.4 Embryo Donation

While talking about donated embryos, we consider possible genetic link between two or more completely unknown people, when in case of using a semen or egg donor gametes these people share one parent in common, in case of embryo donation they share not only but both of the parents, due to this consequences the issue of embryo donation is a necessary subject for consideration. Embryo donation is made to those individuals or In favor of a person who / who has no genetic connection With the embryo."<sup>61</sup> In my opinion that clinics should still ensure that the donated embryos are given to patients from different countries, the problems caused by donating several embryos to the couple that live in one and the same city is such a huge that there should be a data base, or a signed agreements in such a way that the parties could know about each other, however, it must be argued that this may harm the child's future as it cannot be determined in advance whether the biological parent will willingly or unwillingly establish communication with their biological children, thus the issue is still open to clinics and society.

The donated embryos stay in a frozen condition as long as there is a demand for it. Although the legislation for the whole reproductive field is still unclear, there are criteria for the families who will be chosen to be donated the embryos to, there are cases in practice when the parents are the ones who have criteria for the embryos, and the embryo donors are the ones who consider different outcomes and ask in advance to not to donate their embryos to the couple who live in the same country as they. The criteria for the families to be able to adopt an embryo may include: the age limit, health condition of the parents, being addict free and etc."<sup>62</sup>. The constitution of WHO states: "Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development."<sup>63</sup> Realizing this quote another big question is arising, does anybody control in what kind of environment do the children develop? In case of adoption social workers are involved in the process of child development and the adoptive parents have duties and obligations towards adopted children, while parents rights and obligations who raise children born from donated embryos equal to the biological parent, it's obvious that every parent has duties of being a good parent considering the fact that donated embryos are not genetically linked to the intended parents I find the involvement of social worker necessary.

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<sup>61</sup> ნ. ზოგვერაძე, ქართულ-ამერიკული უნივერსიტეტი სამართლის, სოციალურ მეცნიერებათა და დიპლომატიის სკოლა სამართლის სადოქტორო პროგრამა სუროგაცია/დონაციის სამართლებრივი რეგულირების პრობლემები საერთაშორისო და ეროვნულ დონეზე. , 2017.

<sup>62</sup> The national embryo donation center: Adoption of Embryos [www.embryodonation.org/adoption/](http://www.embryodonation.org/adoption/).

<sup>63</sup> CONSTITUTION of the WORLD HEALTH ORGANIZATION 1, BASIC DOCUMENTS, Supplement 2006, 2

### 3.5 Single motherhood

The embryo donation cases are frequent and demanded in a women who are single mothers to be. Some women with no partner and infertility issues themselves agree to get prepared to a frozen embryo transfer rather than going the whole infertility treatment, in this way the whole process becomes more affordable, skipping the stimulation days, egg retrieval procedure and the time needed to search for a semen donor shortens the whole procedure period and reduces financial obligations. The frequency of interest in embryo donation for single mothers can be attributed to their age as well, women over the normal reproductive supply age, whose ovarian supplies may already be depleted or the situation not so benign, see the best solution in raising a donor-born baby, which many believe is even a form of charity due to its content. The fact is that embryo donation is an act of charity for every parties, as parents who are not planning to give birth to more children, give a chance to other people to become parents and already created embryos have a chance to develop as a human being. However, the rights of children should be taken into account, how do they feel about raising up in the environment of only mother. Nowadays we encounter many stories of different women, who chose to become single mothers, some of them underwent IVF treatment, others used donated embryos. There is no any rule or law that will give the exact definition of what the proper environment for a child means and this issue still stays personal, in my opinion the number of people in the family doesn't coordinate and define a full-fledged environment and different stories of different women prove the actual existence of healthy environment in families of single mothers. <sup>64</sup>

### 3.6 Aging Parents

The issue of aging parents, particularly motherhood and reproductive issues are well described in a handbook for national human right institution:

"When working with reproductive rights, the focus tends to be on persons of reproductive age – and rightly so since many of the most egregious issues, such as preventable maternal mortality and morbidity, are most relevant for this age group. However, it is important not to overlook the fact that persons above the reproductive age have reproductive health issues that should be taken into account when taking a holistic approach to reproductive rights. The ICPD refers to the need to secure reproductive health services “suitable for different age and cultural groups and for

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<sup>64</sup> American Embryo Adoption Agency, Aug. 2021, <https://embryooptionusa.com/frequently-asked-questions/>

different phases of the reproductive cycle”.<sup>65</sup> The need to take a life cycle approach has also been confirmed in the practice of e.g. the Committee on the Elimination of All Forms of Discrimination against Women.<sup>66</sup> Due to women’s structural discrimination in general and their role in reproduction, reproductive health issues for ageing women are more acute than for ageing men. As many other issues the age of parents are not determined here in Georgia, this issue will always be unsolved, considering that it can't be in advance determined for how long a person will live a healthy life, and the numbers of age do not give a right to people to reject a chance of becoming a parent.

### 3.7 Medical errors and legal liability

There are numerous cases that describe shocking mistakes when embryologists and physicians accidentally mixed the material. One example is the story that happened in New York, This case is commonly well known, and for that reason the people involved in this case are identifiable. The couple Thomas and Nancy Andrews were naturally unable to have a second child, so they visited the Reproductive Medicine Center in New York. The woman underwent In Vitro fertilization cycle and soon the couple celebrated the birth of their second child, though they were surprisingly surprised by the baby’s skin and hair color. The little one underwent a DNA test and Thomas was not found to be his biological father. It was found that during artificial insemination the doctors were mistaken and used the semen of other men. Jessica Andrews was born in 2004. The judge quoted the parents as saying in their affidavit.: "While we love Baby Jessica as our own, we are reminded of this terrible mistake every time we look at her, it is simply impossible to ignore, We are conscious of and distressed by this mistake every time we appear in public."; The couple, who are seeking unspecified damages, were given permission to proceed with the case against Reginald Puckett as owner of the clinic but the judge rejected an attempt to sue him as an individual, saying he had no part in the care of the couple. The judge also dismissed the case against Martin Keltz, who performed the embryo implantation. However, a state supreme court justice found Carlo Acosta, the embryologist who processed the egg and sperm for creation of an embryo, could be held liable for the alleged error. According to their claim, the couple are concerned that the baby's natural father could try to claim rights to her. They also worry that the unnamed donor's sperm may have been used in other inseminations, or that another couple may have received Thomas Andrews's semen. "There is continuing

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<sup>65</sup> ICPD Program of Action, sect. 12.12.

<sup>66</sup> Committee on the Elimination of All Forms of Discrimination against Women, General Recommendation, No. 27 on older women and protection of their rights and Concluding Observations, e.g. Panama and Uzbekistan, both in 2010.



uncertainty...as to whether the genetic material of either or both of them has been inappropriately used for others and that they may have natural children or half-children that they are unaware of," the suit said. It also claimed that the confused history could cause the child unnecessary hardship. "Jessica will never know or be able to determine the identity of her actual father, and will consequently never be able to know her full medical history and condition." The judge rejected a claim that the baby's birth had caused the couple mental distress.<sup>67</sup> This particular example reveals the need for a proper legislation in case of medical errors, imposing responsibility on the embryologist in this situation is acceptable, as the team of embryologists is fully responsible for both the storage and use of the biological material, the management of the clinic is not the proper structure to be competent enough to know how the semen and eggs are identified and mixed in the lab.

## Chapter 4. Surrogacy

Who is a surrogate mother? -"a woman who becomes pregnant by artificial insemination or by implantation of a fertilized egg created by in vitro fertilization for the purpose of carrying the fetus to term for another person or persons"<sup>68</sup>

### 4.1 Types of surrogacy

There is controversy all over the world about surrogacy. During surrogacy, one woman's egg is fertilized by in vitro fertilization and the embryo is transferred to another woman's uterus, or the surrogate mother is undergoing an insemination procedure and her eggs are fertilized with donors or intended parents semen. There are different types of surrogacy:

1. Traditional surrogacy - a surrogate mother's egg is used and the surrogate mother is the gestational and biological mother of the child.<sup>69</sup>
2. Commercial surrogacy - in the literal sense is hiring a surrogate mother for the purpose of using the uterus and with the general understanding that from the moment of childbirth completion all the rights belong to the intended parents. The main element of commercial surrogacy is monetary compensation, the surrogate mother agrees to provide gestation services only in exchange for a fee and physically transferring the child.<sup>70</sup>

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<sup>67</sup> Glaister, Dan. "US Couple Sue Clinic for Sperm Sample Mix-Up.", 23 Mar. 2007, [www.theguardian.com/world/2007/mar/23/usa.danglaister](http://www.theguardian.com/world/2007/mar/23/usa.danglaister).

<sup>68</sup> Merriam-Webster dictionary, 2013, [www.merriam-webster.com/dictionary/surrogate%20mother](http://www.merriam-webster.com/dictionary/surrogate%20mother).

<sup>69</sup> Strasser M., Traditional Surrogacy Contracts, Partial Enforcement, and the Challenge for Family Law, *Journal of Health Care Law and Policy*, Vol. 18, Issue 1, 2015, 8

<sup>70</sup> Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, United Nations General Assembly, 2018, 11

3. Altruistic Surrogacy - In the case of altruistic surrogacy, the surrogate mother consents to the baby in the womb growing up and passing it on to her potential parents after giving birth without motivation to receive remuneration.<sup>71</sup>

4. Social Surrogacy - There is an additional type of surrogacy known as social surrogacy, When a potential mother applies for career or cosmetic reasons surrogacy, even though she has the potential to get pregnant and carry the child herself.<sup>72</sup>

Finding a surrogate mother is common in cases where the cause of infertility is a woman's lack of uterus or disorders that do not obey treatment and lead to several miscarriages or total inability to conceive. Surrogacy has been legally and morally accepted in some countries and it has been banned in others.<sup>73</sup>

#### 4.2 Current status of Surrogacy.

In the previous chapter all the types of surrogacy were described but the United Nations Convention on the Rights of the Child (CRC) recognizes at least two different kinds of surrogacy, namely, commercial surrogacy and traditional surrogacy.

Commercial surrogacy involves the use of a woman's body to gestate and deliver a child for a third party and there is no any biological link between the child and the surrogate mother. Traditional surrogacy involves the use of a woman's body to gestate and deliver a child for a woman who is unable to carry a child herself and when traditional, this is also known as altruistic surrogacy and when performed this the surrogate mothers eggs are fertilized through the artificial insemination, injecting donors or intended fathers semen, in this case the surrogate mother remains to be the child biological mother as well.<sup>74</sup>

The reason of different views is the ethical part of using human body, it is a question of whether or not the woman's body should be used to produce a child for someone else. There are other ethical issues that arise with surrogacy, such as whether or not the surrogate should have any rights in the child's upbringing. There are also issues of whether or not the surrogate should be financially rewarded for carrying a child for someone else. The philosophical question of whether or not surrogacy is different from other types of work is also an important one. Should surrogacy be regarded as a form of work? If so, how should payment for it be handled? What partly constitutes the difference between surrogacy and other types

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<sup>71</sup> Vodo T., Altruistic Surrogacy, Why to oppose empathetic gestures?, ECPM, 2016,

<sup>72</sup> Hatzis, Aristides N. "The Regulation of Surrogate Motherhood in Greece." SSRN Electronic Journal, 2010, 10. <http://users.uoa.gr/~ahatzis/Surrogacy.pdf>

<sup>73</sup> "Third-Party Reproduction: Sperm, Egg, and Embryo Donation and Surrogacy." 2018, \

<https://www.reproductivefacts.org/news-and-publications/patient-fact-sheets-and-booklets/documents/fact-sheets-and-info-booklets/third-party-reproduction-sperm-egg-and-embryo-donation-and-surrogacy/>

<sup>74</sup> "OHCHR | Surrogacy." Ohchr.org, 2019, [www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx](http://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx)

of work is the 'product' of the labor, it is a living human child.

Surrogacy has been around for many years as an alternative way to acquire a child, Nevertheless, it is still considered to be the most controversial artificial method In the field of reproduction.<sup>75</sup>

Mostly we think of surrogacy as a means of giving a chance of parenthood for those who cannot otherwise have children and as a means of ensuring fertility for homosexual couples. However, there are many reasons why people have choose to become parents through surrogacy. For some, it is due to health complications. There are many medical problems that can cause infertility at an early age. For instance, there can be many factors in sexual development that can contribute to infertility. This includes genetic and nervous system disorders, immune diseases, and blood disorders. HIV and other sexually transmitted diseases are the most common cause of infertility in young adults, and can often affect the male partner more than the female. The issue can also affect the female partner, especially after they go through the physical trauma of childbirth or have a miscarriage. For some people the reason they are searching for a surrogate mother it's because they are in a same-sex relationship, this is often the case in countries with anti-gay discrimination, therefore, individuals may consider surrogacy in order to ensure that they have access to parenthood. With same-sex marriage, it is a legal option in some countries to adopt and have a child. When same-sex marriage becomes legal in a country, it tends to lead to an increase in same-sex couples adopting children. There are many cases of individuals who are rendered infertile due to accidents and illnesses. For some, it can be due to illness that can occur post-birth in the child. Some individuals have conditions that can prevent them from giving birth naturally, and so they must use another women. For some, it is due to health complications that they face due to their age. Other problems can be due to surgery or birth defects.<sup>76</sup>

It's important to consider the protection of women's autonomy, I find two useful approaches to issues of autonomy, a conception that emphasizes the ability of individuals to make their own choices and a conception that emphasizes the need to protect individuals from being manipulated or coerced by others. I think that the first of the above examples (when women who are surrogates maintain autonomy over their body when they are carrying a fetus for another individual or couple) falls into the conception of autonomy that concerns itself with the ability of individuals to make their own choices and the need to protect individuals from being manipulated

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<sup>75</sup> London C., Advancing a Surrogate-Focused Model of Gestational Surrogacy Contracts, 18 *Cardozo J.L. & Gender*, (2012) 393

<sup>76</sup> REPRODUCTIVE RIGHTS ARE HUMAN RIGHTS a HANDBOOK for NATIONAL HUMAN RIGHTS INSTITUTIONS, 2014, , UNFPA, The Danish Institute For human Rights, United Nations Human Rights,

or coerced by others.<sup>77</sup>

As for the legislation, as in the case of donation, surrogacy laws also differ in each country. For example in Denmark, France, Germany, Ireland, Italy, Portugal, Spain, Bulgaria surrogacy is prohibited, these countries made the contract between intended parents and surrogate mothers unenforceable, this is why couples seeking for surrogacy, plan their surrogacy programs outside of their countries, the most popular destinations are the developing countries, where the law is still unregulated and it's possible to obtain contract and there is no any complication for obtaining a birth certificate taking the child out of the country is easy, also in developing countries the prices are more affordable. One of similar country is Georgia, the legislation issues in Georgia will be described in the next chapter. Some of difference between normal pregnancy and being a pregnant surrogate mother is that, first, surrogates, although often paid well above the minimum wage, should not be paid above the minimum or be treated as employees of the intended parent. Second, we should not profit from the exploitation of people who are desperate for help, the area of exploitation could be the surrogate herself. The surrogate may not get the support and care that she needs when she is carrying and delivering the child. In other words, as opposed to the intended parents, who can see what the surrogate is going through and can help, some of the surrogate mothers are completely left with no support. Surrogate mothers are expected to give everything up, and can get very little in return. These characteristics are rather different from those of the normal woman who may decide to carry and deliver.<sup>78</sup>

#### 4.3 Legal issues of surrogacy

"The legal status of surrogacy varies across countries and regions. Some countries completely ban it; others only allow for altruistic surrogacy—sometimes accompanied by payment of 'reasonable expenses' to the surrogate. In turn, a few countries allow for both altruistic and commercial surrogacy. Finally, in many countries, the legal status of surrogacy is uncertain: it is not expressly prohibited nor permitted."<sup>79</sup>

There are numbers of countries where surrogacy is legal but the Legal and administrative issues as well as criteria to be met are so complex that even citizens of the same country apply to other countries for surrogacy tourism, for example: in

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<sup>77</sup> Berkhout, Suze G. "Buns in the Oven: Objectification, Surrogacy, and Women's Autonomy." *Social Theory and Practice*, vol. 34, no. 1, 2008, pp. 95–117, [www.jstor.org/stable/23562110](http://www.jstor.org/stable/23562110).

<sup>78</sup> Cheung Heiler. "Surrogate Babies: Where Can You Have Them, and Is It Legal?" *BBC News*, 6 Aug. 2014, [www.bbc.com/news/world-28679020](http://www.bbc.com/news/world-28679020)

<sup>79</sup> Hevia, Martín. "Surrogacy, Privacy, and the American Convention on Human Rights." *Journal of Law and the Biosciences*, vol. 5, no. 2, 10 July 2018, pp. 375–397, [www.ncbi.nlm.nih.gov/pmc/articles/PMC6121059/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC6121059/), 10.1093/jlb/lisy013.

Israel every agreement formed between the Intended Parents and Surrogate mother should be approved directly by the government.<sup>80</sup>

International surrogacy mainly takes place when a childless couple wishing to have a child leaves abroad, in a country where surrogacy is legal and / or the service is associated with lower costs. In these cases the intended parent is mostly a citizen of the country where Surrogacy is prohibited by law. Accordingly, a potential parent trying to have a child in the country where it is deemed lawful. In some cases, the choice of a potential parent to search for surrogacy services conducted from financial terms, in particular the costs associated with surrogate compensation and surrogacy may be lower. There are times when The choice of a particular country is made in upon liberal law on surrogacy, other motives include fast procedures, the successful implementation of the procedure is high Rates, high standards of treatment or protection of privacy.<sup>81</sup>

As described above developing countries are the go to places to search for a surrogate mother, the poorer country is the compensation of a surrogate mother decreases. Georgia had a green light for surrogacy programs and surrogacy was the field of medical tourism working with good profits, because during the surrogacy program couples were traveling to Georgia several times and in the most of the cases they preferred to do the IVF and create an embryo here in Georgia as well, Surrogacy in Georgia has helped several women to pursue their dreams or to achieve a normal stage of life from extreme poverty. The vast majority of the surrogate mothers usually are socially vulnerable, these people have to fight against everyday poverty, so the compensation paid to them could change their and their families reality into better.<sup>82</sup>

According to Joint Order №133 – 144 of Minister of Justice of Georgia and Minister of Internal Affairs of Georgia, an application for registration of a civil birth certificate record must be submitted to the agency by the attorney of the parents or the parents who will be recorded and recognized as a real parents of the child in the birth certificate record, which means that the birth certificate indicates the intended parents as real parents of the children.<sup>83</sup>

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<sup>80</sup> Frenkel, D. A. "Legal Regulation of Surrogate Motherhood in Israel." *Medicine and Law*, vol. 20, no. 4, 2001, pp. 605–612, [pubmed.ncbi.nlm.nih.gov/11817392/](https://pubmed.ncbi.nlm.nih.gov/11817392/).

<sup>81</sup> ბოგვერაძე. ქართულ-ამერიკული უნივერსიტეტი სამართლის, სოციალურ მეცნიერებათა და დიპლომატიის სკოლა სამართლის სადოქტორო პროგრამა სუროგაცია/დონაციის სამართლებრივი რეგულირების პრობლემები საერთაშორისო და ეროვნულ დონეზე. , 2017.

<sup>82</sup> According to personal communication with New Life representative, Aug. 2021, Tbilisi, Georgia.

<sup>83</sup> საქართველოში ექსტრაკორპორული განაყოფიერების (სუროგაციის) გზით დაბადებული ბავშვის საქართველოდან გასვლის წესის დამტკიცების თაობაზე. სსიპ "საქართველოს საკანონმდებლო მაცნე", 11 Apr. 2016, [matsne.gov.ge/ka/document/view/3245541?publication=0](https://matsne.gov.ge/ka/document/view/3245541?publication=0).

The birth certificate will be issued immediately after the child birth, within 1 working day.<sup>84</sup> The couple will be registered as the parents in the birth certificate. Thus a birth certificate of the child born by a surrogate mother does not differ from the birth certificate of any other children.<sup>85</sup> Consent of the surrogate mother is not required for registration of the infertile couple as parents.<sup>86</sup> According to Georgian law the following is required to complete the registration process of a new born and obtain a birth certificate and is regulated by Order №18 - Minister of Justice of Georgia

" Article 19 - Registration of the birth of a child born as a result of in vitro fertilization

1. For the registration of the birth of a child born as a result of in vitro fertilization, together with the documents provided by the legislation of Georgia, the following must be submitted to the Civil Acts Registration Authority:

A) a document certifying in vitro fertilization, issued by a medical institution upon implantation of the embryo;

B) Notarized contract concluded before in vitro fertilization: Ba) between the woman conceiving the child and the genetic parents, or; Bb) between the woman giving birth to the child, the genetic parent, the person to be recorded as the child's parent in the birth certificate (who is not the child's genetic parent) and the donor, or; Bc) between a woman giving birth to a child, a couple and a donor.

2. The parents of a child born as a result of in vitro fertilization are considered to be:

A) genetic parents; B) the genetic parent and the person to be registered as a parent in the record of the birth certificate on the basis of a contract; C) pair.

3. It is not allowed to indicate the donor or "surrogate mother" as the parent of the child in the record of the civil birth certificate.

4. In case of non-submission of the agreement provided for in sub-paragraph "b" of paragraph 1 of this Article during the registration of the birth of a child born as a result of extracorporeal insemination, the parents of the child shall not be indicated in the record of the civil birth act. In this case, the name of the child shall be indicated in the record of the civil birth certificate on the basis of the application of the guardianship and custody authority.<sup>87</sup>

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<sup>84</sup> <http://psh.gov.ge/main/page/1/493>

<sup>85</sup> საქართველოში ექსტრაკორპორული განაყოფიერების (სუროგაციის) გზით დაბადებული ბავშვის საქართველოდან გასვლის წესის დამტკიცების თაობაზე. სსიპ "საქართველოს საკანონმდებლო მაცნე", 11 Apr. 2016, [matsne.gov.ge/ka/document/view/3245541?publication=0](https://matsne.gov.ge/ka/document/view/3245541?publication=0).

<sup>86</sup> "The Laws Governing Surrogacy in Georgia IVF Legislation General." Beta plus Fertility, [www.betaplusfertility.com/georgia-ivf-legislation/](http://www.betaplusfertility.com/georgia-ivf-legislation/)

<sup>87</sup> ბრძანება N18. "სამოქალაქო აქტების რეგისტრაციის წესის დამტკიცების შესახებ." სსიპ "საქართველოს საკანონმდებლო მაცნე", 31 Jan. 2012, [matsne.gov.ge/ka/document/view/1572063?publication=0](https://matsne.gov.ge/ka/document/view/1572063?publication=0). Accessed 24 Aug. 2021.

The Law of Georgia about Health states:

"Article 143

1. In vitro fertilization is allowed: (A) for the treatment of infertility, as well as the risk of transmission of a genetic disease from a wife or husband, using the couple or donor germ cells or embryo, if the couple has given their written consent;

B) if a woman does not have a uterus, by transferring and growing the embryo obtained as a result of fertilization into another woman ("surrogate mother"); The written consent of the couple is required.

2. In case of the birth of a child, the couple is considered to be the parents, hence the responsibility and authority; The donor or "surrogate mother" has no right to recognize the child as a parent.<sup>88</sup>

Article 144 For artificial insemination it is possible to use female and male germ cells or embryos preserved by the freezing method. The conservation time is determined at the discretion of the couple, in the prescribed manner."<sup>89</sup>

To sum up, as one of the few countries that allows for international surrogacy, Georgia is an ideal location for couples throughout the world to pursue their dreams of parenthood. Georgian legislation does not allow gestational surrogate mothers to keep the baby following delivery and only the names of the commissioning parents are written on the baby's birth certificate. This allows the parents-to-be to obtain the birth certificate in their name in just a day and offers peace of mind for many couples. Surrogate mothers are also required to comply with all medical laws, maintain excellent health and have at least one child prior to participating in a surrogacy program. Surrogacy programs can be a significant financial burden for many parents-to-be.<sup>90</sup> Also the process of traveling the baby into the home country is easy and regulated by law "When a child born in Georgia through extracorporeal fertilization (surrogacy) leaves Georgia, passport control is carried out at the border checkpoint in accordance with the legislation of Georgia and the rules established by this order."<sup>91</sup>

"In order to comply with the requirements of this Order, the Agency shall provide

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<sup>88</sup> ჯანმრთელობის დაცვის შესახებ. "ჯანმრთელობის დაცვის შესახებ." სსიპ "საქართველოს საკანონმდებლო მაცნე", 10 Dec. 1997, [matsne.gov.ge/ka/document/view/29980?publication=46](http://matsne.gov.ge/ka/document/view/29980?publication=46).

<sup>89</sup> იქვე.

<sup>90</sup> The Laws Governing Surrogacy in Georgia IVF Legislation General. Beta plus Fertility, [www.betaplusfertility.com/georgia-ivf-legislation/](http://www.betaplusfertility.com/georgia-ivf-legislation/)

<sup>91</sup> საქართველოში ექსტრაკორპორული განაყოფიერების (სუროგაციის) გზით დაბადებული ბავშვის საქართველოდან გასვლის წესის დამტკიცების თაობაზე. სსიპ "საქართველოს საკანონმდებლო მაცნე", 11 Apr. 2016, [matsne.gov.ge/ka/document/view/3245541?publication=0](http://matsne.gov.ge/ka/document/view/3245541?publication=0).

the Ministry of Internal Affairs of Georgia with access to the personal data stored in the relevant database of the Agency.<sup>92</sup>

#### 4.4 Risk of physical and emotional dependence

There are many examples of how huge is a connection between fetus and the pregnant women, future mothers are waiting till the day they will see the newborn, even though surrogate mothers are well informed and they have realized that they are a helping hand for the future parents, the risk of emotional dependence is still high.

##### 4.4.1 Mary Whitehead versus Sterns

As an example of emotional connection and dependence, most often professionals from different fields cite the case of Sterns and Whitehead. In 1987, Mary Whitehead accepted surrogacy, an embryo created by Elizabeth Sterns eggs and the sperm of her husband William Stern was transferred into surrogate mother's uterus. The surrogate mother did not have any genetic connection with the baby, but after the baby was born she refused to give the baby to the biological parents, the case went to court. The child was given to his genetic parents, but 10 months later New Jersey court settled the case differently, the court ruled that the genetic parents retained custody of the child, Whitehead was granted mother-visitor status, and the parties' labor contract was revoked, the court held that the contract was degrading to the human dignity of the woman.<sup>93</sup>

A similar view is held by opponents of surrogacy, who believe that surrogacy is a new form of trafficking in women, as a woman is given the function of a "living incubator", but is counterbalanced by a major problem such as female infertility and a number of infertility cases. The statute of the World Medical Association states that if a woman does not have the ability to conceive due to a specific medical indication, an alternative way of medical assistance may be used as a surrogate mother, this is not prohibited by law or the rules of the National Medical Association or other relevant organization. The World Medical Association rejects and prohibits the commercial approach when an egg sperm or embryo becomes the subject of a sale, although it is highly debatable how the monetary compensation received by a biological material donor or surrogate mother in return differs. Of course each of them takes specific risks on their own, the types of risks that may have a different negative impact on

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<sup>92</sup> იქვე.

<sup>93</sup> "Baby M and the Question of Surrogate Motherhood." The New York Times, 23 Mar. 2014, [www.nytimes.com/2014/03/24/us/baby-m-and-the-question-of-surrogate-motherhood.html](http://www.nytimes.com/2014/03/24/us/baby-m-and-the-question-of-surrogate-motherhood.html).



their health, and it is not at all surprising that in return for the risk they demand other types and in the vast majority of cases monetary compensation.<sup>94</sup>

#### 4.4.2 Baby Gummy case

This issue may not have much to do with emotional dependence, but in its content it echoes the rights of unborn children and the values of the presence of surrogate mother for some occasions. This case is known as BABY GAMMY, "in 2013 the Australian couple signed a contract with a Thai surrogate mother who would give birth to their biological child. Thailand, for its part, did not have much legal complexity or restrictions on surrogacy at the time but this case did change the attitude of many people and the fate of people involved in this case, as well as the legislation for surrogacy in Thailand. In 2013, after two blastocysts were implanted in the surrogate mother's womb and the result was positive as expected to be pregnancy, an ultrasonographic examination in the 7th month of pregnancy showed that one of the twins' was developing with Down Syndrome. The intended parents wanted the surrogate mother to abort that one baby due to a chromosomal mismatch, which the surrogate mother refused, it so happened that the surrogate mother gave birth to both twins, one completely healthy girl and a boy with Down syndrome. The parents left the area of Thailand alone with the girl as the surrogate mother had decided to take the boy with Down Syndrome herself and bring him up. Despite the efforts of the parents in the fall to return the child, the highest legislative bodies transferred the status of a full-fledged parent of the child to a surrogate mother. It is after this fact that tourism is banned for the purpose of surrogacy, taking children born through surrogacy to another country is not allowed. Surrogacy is allowed for only those couples who live in Thailand."<sup>95</sup> This issue is very difficult to solve in all its content, because here on the one hand the rights of the twin boy are revealed, no matter how much he grows up in a loving environment it's an issue of discussion how much it will affect him to understand that he was born by surrogacy and rejected by his biological parents when he was not even born. In some opinions an understanding of fact might harm his psychological state, since we are all unique, no one knows how his difference can affect a little boy who will be different from his peers not only in his medical condition but also in appearance. The Thai couple will have a child with a different phenotype from them. But the fact that the surrogate mother wanted the baby to raise him up shows that despite from his biological parents, he was wanted and chosen by the Thai mother.

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<sup>94</sup> WMA - the World Medical Association-WMA Statement on Assisted Reproductive Technologies. Oct. 2006, [www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/](http://www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/).

<sup>95</sup> "Family Cleared of Abandoning Baby Gammy." ABC News, 14 Apr. 2016, [www.abc.net.au/news/2016-04-14/baby-gammy-twin-must-remain-with-family-wa-court-rules/7326196](http://www.abc.net.au/news/2016-04-14/baby-gammy-twin-must-remain-with-family-wa-court-rules/7326196).

## Conclusion

As already mentioned in the second chapter, there is no particular law in Georgia in particular for reproductive health, donation of biological material (gametes) and surrogacy, due to this situation the IVF treatment provider clinics have to leave specific issues open because the law is inaccurate and does not provide a framework. A number of existing or future problems discussed above prove the need of more clarifications and restrictions.

In my point of view, the first issue that must be put on the agenda is to limit the number of possible donations, for such a small country as Georgia it is necessary to regulate the donation of eggs obtained as a result of donor aspiration for both foreign and Georgian couples. Of particular note, is the issue of egg donation within the country. It would be a better result-bringing to donate the eggs of one donor to a maximum of 5 family across one country for purpose of sibling programs<sup>96</sup>, with the possibility of donating such a number of embryos that the number of children born does not exceed fifteen.

In the case of a sperm donor, since due to biological peculiarities a sperm donor may help several couples in one donation attempt, it is necessary to extend the circumstance that a maximum 10-15 children are born with donor sperm within the borders of Georgia, the number of families is preferable to be 5. the number of vials (semen doses) should be counted and not more than 10 doses from one donor should be frozen.

Creating a donor database is another issue that should be in existence is a donor base, not only as an information base for the clinics, that is completed by them to keep all the information together but the base in general where all the information fro different IVF clinic will be uploaded and kept all together, this way its possible to avoid different medical errors, such as hyper stimulation, too many donation attempts, if there were any side effects of egg retrieval or stimulation, this scenario is perfect for the situation when egg donor donates for different IVF clinics. Surrogate mothers are actually screened, on a portal of MOH, checking the information about donors the same way could avoid frequent incentives and aspirations in the event of donor irresponsibility, and could control across the country to ensure that dozens of people do not end up with the same parent, the regulation scheme could be easy to implement, there is a need to add one extra module on the EHR system or the NCDC portal, on where the information about past donations will be accessible for only IVF

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<sup>96</sup> One donor is selected for a family and all of the children within one family are born with using same donor gametes.

clinics and the IVF doctors will be able to find out when was the last egg retrieval procedure happened, if there were any complications and etc. This will prevent the doctor, as well as the donation agency and the donor herself.

One of the most important and necessary issue to reconsider is the age limit, I consider donation under 21 to be inadmissible, even if there is a relevant conclusion of a psychologist, donors should be selected for donation program only over 21 years of age. The donor confirmation for the program should be monitored by the relevant structure, which will control both the number of donations and the documents required for donor approval, which must be accompanied by a psychologist record without exceptions to confirm that the male or female donor has made a conscious decision to become a donor without the affection of particular circumstances or having any other interest.

The age limit for surrogate mothers is not defined as well, the main criteria is for a woman to be of age, in my opinion the age limit for surrogacy should be raised to at least 21 years old. In my opinion the best way the surrogacy to approved is Altruistic type of surrogacy, but considering the fact that many women need the financial benefits they have from being a surrogate mother and this need is vital, it will not be fair to extinct this opportunity, whereas every women has an autonomy and they consciously accept to participate in other peoples surrogacy journey.

## References

### Georgian Legislation

საქართველოს კანონი სისხლისა და მისი კომპონენტების დონორობის შესახებ, 1995

საქართველოს შრომის, ჯანმრთელობისა და სოციალური დაცვის მინისტრის ბრძანება №01-74/ნ, ორსულობის ხელოვნური შეწყვეტის განხორციელების წესების დამტკიცების თაობაზე, 2014

საქართველოს კანონი პაციენტის უფლებების შესახებ , 2000

საქართველოს იუსტიციის მინისტრისა და საქართველოს შინაგან საქმეთა მინისტრის ერთობლივი ბრძანება №133-№144, საქართველოში ექსტრაკორპორული განაყოფიერების

(სუროგაციის) გზით დაბადებული ბავშვის საქართველოდან გასვლის წესის დამტკიცების თაობაზე, 2016

საქართველოს იუსტიციის მინისტრის ბრძანება №18 ,სამოქალაქო აქტების რეგისტრაციის წესის დამტკიცების შესახებ, 2012

საქართველოს კანონი ჯანმრთელობის დაცვის შესახებ, 1997

#### International Acts

World Health Organization - A Declaration on the promotion of Patients' rights in Europe  
European consultation on the rights of patients. Amsterdam 28 -30 MARCH 1994.

Convention on the Rights of the Child, 1989.

CONSTITUTION of the WORLD HEALTH ORGANIZATION 1,2006

#### Georgian Literature

ბ. მამულაშვილი

ბიოეთიკა  
2012

მ. კვაჭაძე, ი. მანჯავიძე, ნ. გვენეტაძე,  
ნ.მირზიკაშვილი, ნ. გვანტალიანი,  
გ. აზაურაშვილი;

"ადამიანის უფლებები და ჯანდაცვა"  
- წიგნი პაციენტებისთვის; ფონდი  
ღია საზოგადოება საქართველო,  
თბილისი, 2011

ნ. ბოგვერაძე.

ქართულ-ამერიკული უნივერსიტეტი სამართლის,  
სოციალურ მეცნიერებათა და დიპლომატიის  
სკოლა სამართლის სადოქტორო პროგრამა  
სუროგაცია/დონაციის სამართლებრივი  
რეგულირების პრობლემები საერთაშორისო და  
ეროვნულ დონეზე. , 2017

#### Foreign Literature

Brown S.

T he First 21 Years  
ESHRE, 2005

- De Wert, G., et al. -  
Reproduction, Preimplantation Genetic Diagnosis.” Human  
June 2014
- Herring J,  
Medical Law and Ethics.  
Oxford, United Kingdom, Oxford University Press,  
2016
- Vodo T.  
Altruistic Surrogacy, Why to oppose empathetic  
gestures?,  
ECPM, 2016,
- London C.  
Advancing a Surrogate-Focused Model of Gestational  
Surrogacy Contracts,  
2012
- Hevia, M.  
Surrogacy, Privacy, and the American Convention on  
Human Rights.” Journal of Law and the Biosciences, vol.  
5, no.  
10 July 2018
- Frenkel, D. A.  
Legal Regulation of Surrogate Motherhood in Israel.  
Medicine Law, vol. 20, no. 4,  
2001
- Reproductive endocrinology guideline  
group. OVARIAN STIMULATION for IVF/ICSI Guideline of  
the European Society of Human Reproduction and  
Embryology. ,  
Oct. 2019.
- Adiga, Satish Kumar, Pratap Kumar.  
ANDROLOGY: Influence of Swim-up Method on the  
Recovery of Spermatozoa from Different Types of  
Semen Samples. Journal of Assisted Reproduction and  
Genetics, vol. 18, no. 3, 2001, pp. 160–164,  
Accessed 1 July 2020.
- D’Angelo, Arianna, et al.  
Recommendations for Good Practice in Ultrasound:  
Oocyte Pick Up. Human Reproduction Open, vol. 2019,  
no. 4, 2019.  
Accessed 15 Apr. 2020.

## Internet Resources

რეპროდუქტი, პრეიმპლანტაციური გენეტიკური სკრინინგი (PGS) Reproart, [reproart.ge/preimplantaciuri-genetikuri-skriningi/](http://reproart.ge/preimplantaciuri-genetikuri-skriningi/).

Jeffrey Hays, CODE of HAMMURABI: HISTORY, CONTENT, ETHICS and PUNISHMENT, Sept. 2018

<https://factsanddetails.com/world/cat56/sub363/entry-6079.html>

Cornell Law School, Ethics. LII / Legal Information Institute, 2020,

<https://www.law.cornell.edu/wex/ethics>

The Editors of Encyclopedia Britannica, 15 Nov. 2017

[www.britannica.com/topic/Hippocratic-oath](http://www.britannica.com/topic/Hippocratic-oath).

Stanford University - basic principles of medical ethics. 2019,

<https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>

Davis, Brian - Why You Should Treat Your Child like an Adult, Nov. 2019,

[www.fatherly.com/love-money/why-you-should-treat-your-child-like-an-adult/](http://www.fatherly.com/love-money/why-you-should-treat-your-child-like-an-adult/).

American Medical Association - Assisted Reproductive Technology, 2010.

<https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

WMA The World Medical Association - Statement on Assisted Reproductive Technologies, October 2006

[www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/](http://www.wma.net/policies-post/wma-statement-on-assisted-reproductive-technologies/)

American society for reproductive medicine -Age and Fertility, 2019

<https://www.reproductivefacts.org/news-and-publications/patient-fact-sheets-and-booklets/documents/fact-sheets-and-info-booklets/age-and-fertility/>

Cohen - Number of Embryos for Transfer in ART. 1 Apr. 2007

[https://www.fertstert.org/article/S0015-0282\(07\)00255-5/fulltext](https://www.fertstert.org/article/S0015-0282(07)00255-5/fulltext) |

American Medical Association - Storage & Use of Human Embryos, 2010,

<https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

Dickens, Courtney. Preimplantation Genetic Testing (PGD), the Johns Hopkins Fertility Center.

[https://www.hopkinsmedicine.org/gynecology\\_obstetrics/specialty\\_areas/fertility-center/infertility-services/ART-procedures/preimplantation-genetic-testing.html](https://www.hopkinsmedicine.org/gynecology_obstetrics/specialty_areas/fertility-center/infertility-services/ART-procedures/preimplantation-genetic-testing.html)

Allahbadia, G. N. - IVF in Developing Economies and Low Resource Countries: An Overview, Journal of Obstetrics and Gynaecology of India, 1 Oct. 2013  
[www.ncbi.nlm.nih.gov/pmc/articles/PMC3798433/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3798433/), 10.1007/s13224-013-0477-0.

American Medical Association - Code of Medical Ethics 4.2.2. 2010  
<https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>

California Cryobank, 2019  
<https://www.cryobank.com/services/donor-semen/>

Yoffe, Emily - My Wife Is My Sister. Slate Magazine, 19 Feb. 2013,  
[slate.com/human-interest/2013/02/dear-prudence-my-wife-and-i-came-from-the-same-sperm-donor.html](http://slate.com/human-interest/2013/02/dear-prudence-my-wife-and-i-came-from-the-same-sperm-donor.html)

LGBT Rights in Austria: Laws, Attitudes, and Representation , May 19, 2019  
[www.expatica.com/at/living/gov-law-admin/austria-lgbt-78729/](http://www.expatica.com/at/living/gov-law-admin/austria-lgbt-78729/).

Fenomatch. Web, 09 sep 2019  
<https://fenomatch.com/en/blog/egg-and-sperm-donation-anonymous-or-not>

Using Your Sister's Eggs |. 29 Aug. 2016,  
[momease.com/using-your-sisters-eggs/](http://momease.com/using-your-sisters-eggs/)

Committee on the Elimination of All Forms of Discrimination against Women, General Recommendation, No. 27 on older women and protection of their rights and Concluding Observations, e.g. Panama and Uzbekistan, both in 2010.

Glaister D. - US Couple Sue Clinic for Sperm Sample Mix-Up, 23 Mar. 2007  
[www.theguardian.com/world/2007/mar/23/usa.danglaister](http://www.theguardian.com/world/2007/mar/23/usa.danglaister).

Hatzis, Aristides N. "The Regulation of Surrogate Motherhood in Greece." SSRN Electronic Journal. 2010.  
<http://users.uoa.gr/~ahatzis/Surrogacy.pdf>

Merriam-Webster dictionary, 2013,  
[www.merriam-webster.com/dictionary/surrogate%20mother](http://www.merriam-webster.com/dictionary/surrogate%20mother).

Third-Party Reproduction: Sperm, Egg, and Embryo Donation and Surrogacy." 2018, \  
<https://www.reproductivefacts.org/news-and-publications/patient-fact-sheets-and->

booklets/documents/fact-sheets-and-info-booklets/third-party-reproduction-sperm-egg-and-embryo-donation-and-surrogacy/

OHCHR | Surrogacy, 2019.

[www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx](http://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx)

Berkhout, Suze G. Buns in the Oven: Objectification, Surrogacy, and Women's Autonomy. *Social Theory and Practice*, vol. 34, no. 1, 2008

[www.jstor.org/stable/23562110](http://www.jstor.org/stable/23562110).

Cheung Heiler. "Surrogate Babies: Where Can You Have Them, and Is It Legal?" *BBC News*, 6 Aug. 2014, [www.bbc.com/news/world-28679020](http://www.bbc.com/news/world-28679020)

<http://psh.gov.ge/main/page/1/493>

The Laws Governing Surrogacy in Georgia IVF Legislation.

[www.betaplusfertility.com/georgia-ivf-legislation/](http://www.betaplusfertility.com/georgia-ivf-legislation/)

Baby M and the Question of Surrogate Motherhood, *The New York Times*, 23 Mar. 2014,

[www.nytimes.com/2014/03/24/us/baby-m-and-the-question-of-surrogate-motherhood.html](http://www.nytimes.com/2014/03/24/us/baby-m-and-the-question-of-surrogate-motherhood.html)

ABC News - "Family Cleared of Abandoning Baby Gammy." 14 Apr. 2016,

[www.abc.net.au/news/2016-04-14/baby-gammy-twin-must-remain-with-family-wa-court-rules/7326196](http://www.abc.net.au/news/2016-04-14/baby-gammy-twin-must-remain-with-family-wa-court-rules/7326196).

Booth, Stephanie. "Multifetal Pregnancy Reduction." *WebMD*, 19 Mar. 2021,

[www.webmd.com/infertility-and-reproduction/fertility-multifetal-reduction](http://www.webmd.com/infertility-and-reproduction/fertility-multifetal-reduction).

Woodruff, Emily. "Egg Donors Face Unknown Risks, with Scant Data on Complications." *STAT*, 28 Jan. 2017,

[www.statnews.com/2017/01/28/egg-donors-risks/](http://www.statnews.com/2017/01/28/egg-donors-risks/).

The national embryo donation center - Adoption of Embryos

<https://www.embryodonation.org/adoption/>

American Embryo Adoption Agency, Aug. 2021,

<https://embryoadooptionusa.com/frequently-asked-questions>

Fertility Source Companies, 10 Apr. 2015,

[www.fertilitysourcecompanies.com/the-egg-donor-selection-process/](http://www.fertilitysourcecompanies.com/the-egg-donor-selection-process/)



Egg Donor Selection and Screening. Ucsfhealth,  
<https://www.ucsfhealth.org/education/faq-egg-donor-selection-and-screening#2>

Olive Fertility Centre Vancouver, Surrey.  
[olivefertility.com/patients/videos](http://olivefertility.com/patients/videos)

#### Other Resources

ნ. კიკნაძის ლექცია ჯანდაცვის სამართლებრივ საკითხებში, საქართველოს საზოგადოებრივ საქმეთა ინსტიტუტი (GIPA), ნოემბერი 2019.

ნეზიერიძე ნ., სტატია, ემბრიონის სტატუსი - ვინ არის ემბრიონი?, ბიოეთიკა, გამომც. საქართველოს რელიგიათმცოდნეობათა კავშირის ბიბლიოთეკა, თბილისი, 2009

Personal Communication with representatives of Donation-Surrogacy Agency New Life, Aug. 2021

#### ICPD Program of Action

Strasser M., Traditional Surrogacy Contracts, Partial Enforcement, and the Challenge for Family Law, Journal of Health Care Law and Policy, Vol. 18, Issue 1, 2015, 8

Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, United Nations General Assembly, 2018, 11

UNFPA, The Danish Institute For human Rights, United Nations Human Rights - Reproductive are Human Rights a handbook for National Human Institutions, 2014,