



## RIGHT OF WOMEN WITH DISABILITIES TO USE SURROGATE MATERNITY SERVICES

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### ABSTRACT

*This article analyzes the right of women with disabilities to use surrogacy services based on the legislation of Uzbekistan and international legal norms. It highlights international guarantees of reproductive rights of women with disabilities within CRPD, CEDAW, ICESCR, WHO and Council of Europe documents. The experience of foreign countries, existing problems in the practice of Uzbekistan, safety and legal gaps, as well as proposals for regulating ART processes are presented*

### Introduction

The development of the surrogacy institution is closely linked to modern medical and legal achievements that expand human biological and social capabilities. Especially for women with disabilities, this institution is of particular importance as a means of exercising fundamental rights such as personal life, forming a family, and having children. Nowadays, reproductive rights are recognized as an integral part of human rights and are widely supported by international institutions such as the UN, the World Health Organization (WHO), the Council of Europe, and UNICEF. The Republic of Uzbekistan is also implementing major reforms in this area. In particular, the Law "On the Rights of Persons with Disabilities" No. O'RQ-641 adopted on October 15, 2020, created an important normative basis for ensuring equal rights of persons with disabilities. This includes the right to reproductive rights, access to medical services, freedom to form a family, and have children. This article analyzes the national and international legal basis of the right of women with disabilities to use surrogacy services, existing problems, foreign experience, and the need to improve legal regulation.

#### 1. Reproductive rights and the rights of women with disabilities

Reproductive rights are interpreted as the right of a person to freely decide on having children or not, obtaining medical assistance, and using reproductive technologies. According to the WHO, reproductive rights are "a complex right aimed at ensuring the physical, mental and social well-being of a person."

The exercise of these rights by women with disabilities is sometimes limited by medical, social, economic, and legal barriers. Article 6 of the CRPD Convention stipulates the need to protect women with disabilities from double discrimination. According to Article 23 of the Convention, states are obliged to ensure equal rights of persons with disabilities to form a

family, have children, use rehabilitation and medical services. These principles are also enshrined in Uzbekistan's legislation. Article 4 of the Law "On the Rights of Persons with Disabilities" prohibits any form of discrimination. Article 7 guarantees equal participation of persons with disabilities in social life. These norms directly support the right of women with disabilities to use surrogacy.

## **2. The essence and legal nature of surrogacy**

Surrogacy is a type of assisted reproductive technology (ART), in which the fetus belongs to the genetic parents but is carried by another woman. There are two types of surrogacy:

1) Gestational surrogacy — the embryo of the donor or the commissioning parents is transferred to the surrogate mother's uterus.

2) Traditional surrogacy — the surrogate mother uses her own egg (prohibited in many countries). In Uzbekistan, surrogacy is not regulated by a separate Law. However, the Ministry of Health has issued regulations on ART. These regulations define:

- medical indications,
- contract procedures,
- criteria for selecting a surrogate mother.

However, the legal status of ART is not included in the Family Code, which creates legal gaps.

## **3. The right of women with disabilities to use surrogacy**

Women with disabilities may sometimes be medically unable to carry a pregnancy, and surrogacy may be the only option for them to have children. Article 23 of the CRPD also calls on states to ensure equal opportunities for women with disabilities in childbearing. Common problems in Uzbekistan:

- clinics refusing to accept women with disabilities;
- excessive medical certificates being required;
- lack of a unified legal framework on surrogacy;
- economic restrictions;
- uncertainty in contract relations.

Therefore, it is necessary to adopt a special "Law on Reproductive Technologies."

## **4. International law and the approach of international organizations**

Several international documents support the right of women with disabilities to access reproductive services:

1. UN Convention on the Rights of Persons with Disabilities (CRPD)

- Article 6: protection from double discrimination.
- Article 23: right to family life, having children, reproductive rights.

2. Universal Declaration of Human Rights

- Article 16: the right to marry and have children.

3. International Covenant on Economic, Social and Cultural Rights (ICESCR)

- Article 12: the right to the highest attainable standard of health.

4. CEDAW

- Article 12: access to medical services.
- Article 16: the right to decide freely on having children.

5. Council of Europe parliamentary resolutions

- emphasize risks of exploitation in surrogacy.

## 6. FIGO Ethical Guidelines

- outline standards for the protection of women's rights in surrogacy.

These documents do not fully endorse surrogacy but define principles to expand reproductive rights.

## 5. Review of foreign experience

Different countries regulate surrogacy differently:

Countries with full legal permission (commercial surrogacy):

- Georgia
- Ukraine
- Russia
- Many U.S. states

Non-commercial surrogacy:

- United Kingdom
- Canada

Countries where surrogacy is prohibited:

- Germany
- France
- Switzerland

Foreign experience shows that:

- countries with special legislation face fewer disputes,
- the rights of surrogate mothers and commissioning parents are clearly defined,
- special quotas and subsidies are provided for women with disabilities.

## 6. Risks and solutions in surrogacy practice

Potential risks:

1. Legal disputes
2. Economic exploitation
3. Psychological pressure
4. Contractual uncertainty

Solutions:

- adopt a "Law on Assisted Reproductive Technologies,"
- amend the Family Code,
- financial support for women with disabilities,
- licensing clinics,
- introduce ethical standards based on international experience.

## Conclusion

The analysis shows that the use of surrogacy services by women with disabilities is an integral part of their constitutional and reproductive rights. Surrogacy may be the only way for such women to have children. Uzbekistan must eliminate existing legal gaps by adopting international standards. A special law will:

- reduce disputes,
- ensure equal opportunities,
- prevent exploitation,
- increase transparency.

This will protect women's rights, especially those with disabilities.

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