

## Human Rights in Cross-Border Surrogacy: An Exploratory Study Applied to Surrogacy Facilitators

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**Abstract :** Cross-border commercial surrogacy, where Australians travel overseas to access reproduction through a surrogate mother, is an increasing phenomenon. This paper focuses on the role of Australian surrogacy facilitators, including lawyers, non-for-profit agents, fertility counselors, who act as intermediaries managing cross-border surrogacy arrangements in Australia. It explores the extent to which surrogacy facilitators are concerned with the human rights of children born through cross-border surrogacy, surrogate mothers in developing countries, and intended parents. Commercial surrogacy is a matter that is often cast in the language of human rights. This paper will contribute to an in-depth understanding of the dynamics between intended parents, surrogates, and surrogacy facilitators by adopting a human rights framework to inform data analysis regarding the role of facilitators. The purpose of this research is to inform debate and discussion on law reform related to surrogacy. This paper presented here centers on interviews with surrogacy facilitators in Australia and non-participant observations in Australia to generate thick, empirical data about the fertility industry. The data showed that the process of facilitating surrogacy arrangements had prompted facilitators to form a view on human rights as they applied to their works. Although facilitators claimed that the right of intended parents, surrogate mothers, and children were all taken into consideration, the researcher observed that the commercial surrogacy contracts described by these facilitators favored the interests of intended parents with the baby acting as their unique selling point. The interests and needs of surrogate mothers were not prioritized in the views or actions of facilitators. The result was a commercial transaction that entailed the purchase, through cross-border surrogacy, of a child, as a commodity, by relatively affluent intended parents from disadvantaged surrogate mothers through unfair contracts.

**Keywords :** cross-border surrogacy, facilitators, human rights, surrogacy

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