



**UNITED FAMILIES
INTERNATIONAL**

Securing a Future for the Family Since 1978

Written contribution to the Human Rights Council's Universal Periodic Review of **Georgia**

United Families International
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United Families International is an international non-governmental organization working to strengthen and defend family, marriage, human life, parents, and religious freedom. United Families International has worked to secure a future for the family since 1978 and has enjoyed consultative status with the United Nations Economic and Social Council since 1999. Our work has taken us around the world consulting with other like-minded entities to build a culture that is supportive of children and their parents and to shore up sustainable societies capable of helping all humans to flourish.

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Third-Party Reproduction in Georgia

1. The birth of a child to parents who were unable to conceive naturally is one of the great success stories of modern medicine, but assisted reproductive technology and the industry it has spawned is not without significant ethical challenges, including violations of long-standing human rights.
2. United Families International urges the Human Rights Council to take this matter into serious consideration. In the following contribution, we explain why third-party reproduction undermines the principles of human dignity and endangers the human rights of women and children. These are protected by international human rights instrument to which Georgia is a party.

An overview of third-party reproduction including surrogacy and gamete donation

3. Third-party reproduction is defined as a type of assisted reproductive technology (ART), the application of which is the conception and birth of a child. Involved can be six types of individuals 1) *The genetic father* – the male who provided the sperm for fertilization and after birth, assumes the responsibilities of the child's father, 2) *The genetic mother* – the female providing the egg for fertilization and concurring, after birth, to assume the responsibilities of the mother, 3) *The paternal donor* – the male who provides the sperm for fertilization without intending to assume responsibilities of the father, 4) *The maternal donor* – the female who provides the egg for fertilization and does not intend to assume responsibilities of the mother, 5) *The traditional surrogate* – the female of childbearing age who provides her egg for fertilization and agrees to carry a child of the genetic father without intending to assume maternal responsibilities over the child¹, and 6) *The gestational carrier* – a female of childbearing age who does not provide her egg, but agrees to carry a child from the genetic parents without intending to assume maternal responsibilities.
4. In traditional surrogacy, the surrogate is genetically related to the resulting child. She provides her own eggs and is inseminated with the sperm of either the intended father or a sperm donor.
5. Gestational surrogacy, on the other hand, does not involve the surrogate's genetic material. An embryo, usually made from the sperm and egg of the intended parents, is implanted in the surrogate, who then carries the biologically unrelated child to term.
6. Third-party reproduction includes a third-party donating or selling the genetic material (egg, sperm, or embryo) or gestation of a child to another individual or couple who will ultimately raise the resulting child. The third-party participates only in reproduction, while the intended parents raise and care for the child. Conception is typically achieved through *in vitro* fertilization, wherein an embryo is created in a lab and inserted in a female uterus for gestation.
7. Third-party gamete donation occurs when a person provides the underlying genetic material, either egg or sperm, necessary to create a human embryo; but does not intend to parent any resulting child. The gametes may be combined with the genetic material of an intended parent, or both the egg and sperm may be provided by third-party donors in the form of an embryo. In the absence of a surrogacy arrangement, the intended mother typically carries the child to term.

An overview of third-party reproduction including surrogacy and gamete donation in Georgia

8. Third-party reproduction, including gestational and traditional surrogacy, and gamete donation, has been legal in Georgia since 1997.²
9. Georgia is a popular destination for third-party reproduction because it is one of the only European countries where it is legal, it is considered to be inexpensive compared to other destinations, and it has fewer safeguards relating to surrogacy, making the process “easier” than in other countries, at the potential expense of the surrogate mother and the child’s well-being.
10. For example, a marriage certificate of couples is not needed until the birth of the baby in Georgia, which may make it more convenient for couples, but does not ensure that the baby is coming home to parents in a committed, stable relationship. Foreign couples are not even required to travel to the country to sign a surrogacy agreement. They can complete the process from a distance.³ In fact, one Georgian surrogacy center markets the fact that there is “no assessment of the adopting parents’ suitability”.⁴ This is drastically different than the procedural requirements in many other countries with legalized third-party reproduction.

Third-Party gamete donation undermines human value (mainly women and children)

11. While often viewed as a gift to infertile couples eager for children, these practices undermine the principles of human dignity and endanger the human rights of women and children.
12. The transfer of a third-party’s egg or sperm to another is typically described as a “donation.” This is a misnomer. In most cases, third-party gametes are not donated, but are bought and sold on a commercial market. This commodification of the fundamental building blocks of human life replicates the harms created by commercial markets in human organs.
13. The World Health Organization’s Guiding Principles on Human Cell, Tissue and Organ Transplantation condemn commercial payment for human organs because payment “is likely to take unfair advantage of the poorest and most vulnerable groups,” and it “conveys the idea that some persons lack dignity, that they are mere objects to be used by others.”⁵ For these reasons, the UN General Assembly continues to combat trafficking in human organs.⁶ Likewise, third-party gamete donation is positioned to take advantage of the most vulnerable and compromises human dignity.
14. Each egg or sperm conveys distinct genetic attributes, which when combined with gametes from the opposite sex, create a unique human life. Historically, the genetic connection carried by gametes has been the foundation of biological, ethical, and social relationships between mothers, fathers, and children.⁷ The commodification of this life-creating human tissue erodes the dignity of the life and relationships it creates.
15. Furthermore, where payment is involved, the most vulnerable, especially women, are most likely to be exploited.

16. The process of egg stimulation and extraction exposes women to risk of ovarian hyper-stimulation syndrome, which can lead to blood clots; kidney failure; and in rare cases death.⁸ It can also lead to intra-abdominal bleeding, infection, ovarian torsion, and short-term infertility.⁹ The long-term risks following the procedure are unknown, because there are no meaningful longitudinal studies of the medical and psychological risks of egg donation.¹⁰
17. In a commercial market, those most in need of financial resources are the most likely to undergo such a procedure and to suffer all of the short- and long-term risks.
18. Third-party gamete donation also undermines the resulting child's right to know his or her origins.
19. Article 7 of the Convention on the Rights of the Child (CRC) provides that every child has a "right to know and be cared for by his or her parents." The definition of "parents" includes "genetic parents," such as third-party donors.¹¹
20. Article 8 of the CRC also guarantees the "right of the child to preserve his or her identity." This provision is, at its root, a child's right to know his or her biological origin.¹²
21. The Committee on the Rights of the Child has confirmed that Articles 7 and 8 protect a child's right to know his or her biological origins and has repeatedly encouraged states to protect this right in the context of both adoption and third-party gamete donation.¹³
22. The importance of knowing one's biological origins to identity formation and well-being is reaffirmed by the literature on children conceived through donors.
23. While the research is limited, the available studies in western countries consistently show that donor-conceived children desire to know their genetic origins and view information on their donor parent(s) as critical to their sense of identity.¹⁴ One study found that 65 percent of children conceived through sperm donors agreed that their sperm donor is half of who they are, and approximately two-thirds of donor-conceived children support the right of donor-conceived children to know the truth about their biological origins.¹⁵
24. Donor-conceived children can also be troubled by the circumstances of their conception.¹⁶ Some feel wronged by the transactional and sterile nature of their conception.¹⁷ Where information of a donor-conceived child's conception is withheld and then discovered, there is often a strong sense of loss, confusion, and betrayal.¹⁸
25. Georgia violates the right of donor-conceived children to know their biological parents and preserve their identity by failing to regulate gamete donation.

Surrogacy's impact on human value

26. Like third-party gamete donation, commercial surrogacy undermines human dignity and violates the fundamental human rights of women and children. The reproductive capacity of the female body becomes a means of economic production, and the resulting child, the object of a financial transaction.
27. The General Assembly's working group on the issue of discrimination against women in law and in practice has found that "the instrumentalization of women's bodies lies at the heart of discrimination against women," and has urged states to combat "all forms of instrumentalization of women's bodies and biological

- functions.”¹⁹ Commercial surrogacy is the clearest form of instrumentalization of women’s bodies and biological functions.
28. Beyond the moral harm of instrumentalization, surrogacy violates women’s human rights. Surrogacy agreements often impose significant burdens on the personal autonomy and bodily integrity of the surrogates. The agreements can limit the surrogate’s freedom to engage in sexual intercourse, dictate what she eats and where she lives, and constrain her ability to travel. When the fetus is found to be undesirable, the agreements can even give intended parents the authority to direct the surrogate to obtain an abortion.²⁰ In Georgia, surrogates have “no rights relating to the child even if she cancels her contract with the buyers”. Some Georgian surrogacy institutions do not even allow surrogate mothers to see or touch the child after birth.²¹
 29. Where commercial surrogacy is present, financially unstable women are the most likely to accept this work.
 30. The exploitation of young surrogate mothers has clearly been documented wherever surrogacy is popular. Worldwide, the women most at risk of becoming surrogates are women of color, immigrant women, and women found in vulnerable financial situations.²² Unemployment and a desire to pay for the education of their children are some primary motivations for surrogates in general, even when policy is put into place that technically states otherwise.²³ When asked what the motivation to be a surrogate mother was, a Georgian surrogacy center owner simply described it: “The motivation is entirely money.”²⁴
 31. Many Georgian surrogate women are victims of domestic abuse. A population of them have been left single and poverty-stricken after their husbands leave their forced marriages. Some men coerce their wives into being surrogates for money. Surrogacy clinic director, Dr. Oliko Murgalia, suggested, “I think these men exploit the women: the female body is a source of income for them.”²⁵
 32. Georgian third-party reproduction trends are in direct opposition with the 2011 resolution passed by European parliament, which states that “surrogacy increases the trade in women and children as well as illegal cross-border adoption”.²⁶
 33. The international community has long recognized that the sale of children runs contrary to the best interests of the child and undermines the child’s human dignity and worth. For this reason, the Convention on the Rights of the Child directs states to take all appropriate measures to prevent the sale of or traffic in children “*for any purpose or in any form.*”²⁷
 34. The Committee on the Rights of the Child has repeatedly expressed concern that surrogacy may “lead or amount to the sale of children.”²⁸ And the Special Rapporteur on the sale and sexual exploitation of children recently found, “Commercial surrogacy as currently practiced usually constitutes sale of children as defined under international human rights law.”²⁹

Recommendations

35. The European Parliament has committed to human rights instruments supporting principles of human dignity and the human rights of women and children. With the rights of children in mind to know their biological origin and to know and be cared for by their parents, we recommend that Georgia ban all forms of third-

- party gamete transfer, following the parliament's 2011 resolution.
36. In order to prevent the commodification of babies and the commercialized use of women's bodies, we recommend surrogacy arrangements, both commercial and altruistic (no monetary exchange), be deemed illegal.
 37. If altruistic surrogacy should remain legal, we recommend that Georgia institute a strict framework for transfer of parental rights to intended parents, and that all parental rights transfers be approved by local courts. An independent regulatory body should be formed in order to ensure reproductive policies are regulated.
 38. Maternal and paternal birth certificates should be required in all cases of third-party reproduction, removing anonymity from the process. Foreign couples should have a greater role in the process overall. Surrogate mothers should receive greater care and increased rights, including access to psychological care.
 39. Egg procurement ads should include health disclaimers, similar to the warnings on cigarette packages. Medical research should be provided regarding both the short- and long-term effects of both egg harvesting and extraction. Fertility clinics should be required to collect, analyze, and regularly update exhaustive health files of their donors, publicly publishing results annually and offering information to interested recipient families upon request. While data is retrospectively collected, analyzed, and published, a temporary moratorium should be enacted.
 40. The above recommended changes are essential steps in protecting human rights and safeguarding the most vulnerable members of society.

¹ <http://egov.kz/cms/en/articles/2F12207surrogatemother>

² Surrogacy in Georgia, Gestational & Traditional Surrogacy in Tbilisi Georgia. (n.d.). Retrieved from <https://www.vinsfertility.com/surrogacy-in-georgia/>

³ <https://www.vinsfertility.com/surrogacy-in-georgia/>

⁴ The new Caucasian chalk circle: Georgi's surrogate motherhood business. (2017, November 27). *168 Ora*. Retrieved from <https://168ora.hu/kriziszona/the-new-caucasian-circle-georgias-surrogate-motherhood-business-12709>

⁵ World Health Organization, *Guiding principles on human cell, tissue and organ transplantation*, WHA63.22 (May 2010), pp. 5-6.

⁶ See General Assembly resolution 59/156, *Preventing, combating and punishing trafficking in human organs*, A/RES/59/156 (20 December 2004); General Assembly resolution 71/322, *Strengthening and promoting effective measures and international cooperation on organ donation and transplantation to prevent and combat trafficking in persons for the purpose of organ removal and trafficking in human organs*, A/RES/71/322 (25 September 2017).

⁷ For further treatment of this argument, see Cynthia B. Cohen, "Selling bits and pieces of humans to make babies: the gift of the Magi revisited", in *The International Trafficking of Human Organs: A Multidisciplinary Perspective*, Leonard Territo and Rande Matteson, eds. (Boca Raton, Florida: CRC Press, 2012), pp. 169-86.

⁸ Institute of Medicine and National Research Council, *Assessing the Medical Risks of Human Oocyte Donation for Stem Cell Research: Workshop Report* (Washington, DC: The National Academies Press, 2007), pp. 17-22.

⁹ Molly Woodriff, Mark Sauer and Robert Klitzman, "Advocating for longitudinal follow-up of the health and welfare of egg donors," *Fertility and Sterility*, vol. 102, no. 3. (September 2014), p. 662.

¹⁰ *Ibid.*, pp. 662-63.

¹¹ UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*, 3rd ed. (Geneva, Switzerland: United Nations Children's Fund, 2007), p. 105.

¹² *Ibid.*, p. 113.

¹³ See the following concluding observations of the UN Committee on the Rights of the Child: CRC/C/DNK/CO/5 (26 October 2017); CRC/C/BGR/CO/3-5 (21 November 2016); CRC/C/TKM/CO/2-4

(10 March 2015); CRC/C/LUX/CO/3-4 (29 October 2013); CRC/C/MKD/CO/2 (23 June 2010); CRC/C/UZB/CO/2 (2 June 2006); CRC/C/RUS/CO/3 (23 November 2005); CRC/C/15/Add.198 (18 March 2003); CRC/C/15/Add.182 (13 June 2002); CRC/C/CHE/CO/2-4 (26 February 2015).

¹⁴ Vardit Ravitsky and Joanna E. Scheib, "Donor-conceived individuals' right to know", The Hastings Center (20 July 2010), available at <https://www.thehastingscenter.org/donor-conceived-individuals-right-to-know/>; Inmaculada d Melo-Martin, "How best to protect the vital interests of donor-conceived individuals: prohibiting or mandating anonymity in gamete donation?", *Reproductive BioMedicine and Society Online*, vol. 3 (2016), p. 102.

¹⁵ Elizabeth Marquardt, Norval D. Glenn and Karen Clark, "My Daddy's Name Is Donor: A New Study of Young Adults Conceived Through Sperm Donation", Institute for American Values (2010), pp. 11-12.

¹⁶ *Ibid.*, p. 7.

¹⁷ Margaret K. Nelson, Rosanna Hertz and Wendy Kramer, "Gamete donor anonymity and limits on numbers of offspring: the views of three stakeholders", *Journal of Law and the Biosciences*, vol. 3, no. 1 (October 2015), p. 57.

¹⁸ Eric Blyth and others, "Donor-conceived people's views and experiences of their genetic origins: a critical analysis of the research evidence", *Journal of Law and Medicine*, vol. 19, no. 4 (June 2012), pp. 782-83.

¹⁹ Human Rights Council, *Report of the working group on the issue of discrimination against women in law and in practice*, A/HRC/32/44 (8 April 2016), pp. 1, 21.

²⁰ "Surrogate motherhood: ethical or commercial", Center for Social Research (2012), pp. 44-45, available at https://drive.google.com/file/d/0B-f1XIdg1JC_Ui04RmlYUkNsTFE/view.

²¹ The new Caucasian chalk circle: Georgi's surrogate motherhood business. (2017, November 27). *168 Ora*. Retrieved from <https://168ora.hu/kriziszona/the-new-caucasian-circle-georgias-surrogate-motherhood-business-12709>

²² Boteju, M. D. (2014, January 28). Women and Children First. *Public Discourse: The Journal of the Witherspoon Institute*.

²³ *Ibid.*

²⁴ The new Caucasian chalk circle: Georgia's surrogate motherhood business. (2017, November 27). *168 Ora*. Retrieved from <https://168ora.hu/kriziszona/the-new-caucasian-circle-georgias-surrogate-motherhood-business-12709>

²⁵ *168 Ora*.

²⁶ European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women. Retrieved from: europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0127+0+DOC+XML+V0//EN

²⁷ General Assembly resolution 44/25, *Convention on the Rights of the Child*, A/Res/44/25 (2 September 1990), Art. 35.

²⁸ See Human Rights Council, *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, A/HRC/37/60 (15 January 2018), p. 3 (collecting CRC concluding observations).

²⁹ *Ibid.*, p. 12.

³⁰ Lahl, J., & Fell, K. (2010). *Think Again for a Human Future: A Study Guide on the Legal, Medical, and Tethical Questions of Third-Party Reproduction*. Pleasant Hill, CA: The Center for Bioethics and Culture Network.