

Forced surrogacy as a background phenomenon of human trafficking

Olena Savayda*

PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
<https://orcid.org/0000-0003-2035-2604>

Ulyana Tsmots

Senior Research Fellow
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
<https://orcid.org/0000-0002-8423-8272>

Abstract. The article examined forced surrogacy as a latent manifestation of human trafficking, which poses a threat to the democratic and legal foundations of society, especially in the context of armed conflicts, which makes the study relevant. The aim of the work was to clarify the legal nature, causes and consequences of forced surrogacy as a form of exploitation and to develop ethical and legal guidelines to prevent this phenomenon. The methodology was based on the application of formal-legal, comparative-legal, problem-oriented, systemic-structural, logical-legal methods and the method of generalisation, which allowed for a comprehensive analysis of normative acts, approaches of different countries and key contradictions in the field of reproductive practices. The study found that forced surrogacy, despite its formal similarity to legal medical services, actually contains signs of exploitation and can be classified as a form of human trafficking under international law. It has been shown that socio-economic instability, imperfect regulation and the lack of effective control over the activities of medical and intermediary structures create a breeding ground for abuse, commercial coercion and violations of women's rights. International documents and Ukrainian legislation have been analysed, revealing gaps in regulation, including the absence of a clear legal definition, uniform standards for the protection of women and effective mechanisms for state control. Ethical and legal guidelines are proposed to minimise the risks of exploitation by strengthening guarantees of dignity and equality and enhancing international cooperation in combating human trafficking. The practical significance of the results obtained lies in the possibility of using the recommendations formulated to improve national and international policies in the field of reproductive technologies and the protection of women's rights

Keywords: exploitation; human rights; victim; violation of women's rights; violence; coercion

Introduction

When examining such a negative antisocial phenomenon and crime as human trafficking in modern conditions, it should be noted that, unfortunately, it remains relevant. It is evident that the growth of human trafficking both in Ukraine and in other countries (DW Global Media Forum, 2025a) and the dangers it poses necessitate the adoption, regulation, and control of this issue at the state level. This is evidenced by the enactment of a special regulatory framework to combat and eliminate human trafficking and its underlying phenomena in many countries. Ukraine is no exception (Order of the Cabinet of Ministers of Ukraine No. 496-p, 2023).

J. Attawet *et al.* (2024) emphasise that the growth in global demand for surrogacy services against the backdrop of gaps in legislation contributes to the spread of commercial

practices in this area. This development gives rise to numerous ethical, legal, physical and psychological risks for the parties involved, in particular surrogate mothers and children. The researchers highlight systemic problems associated with the contractual nature of such agreements, which can contribute to structural inequality and exploitation. Particular attention was paid to the challenges that arise in the context of international surrogacy, including the threat of loss of cultural identity for the child. The authors stress that a total ban on commercial surrogacy could lead to its undergroundisation. In this context, revising legislative approaches with a focus on protecting the rights of surrogate mothers without criminalising them is seen as a potentially effective strategy.

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*Corresponding author



C. Schurr and E. Militz (2018) note that transnational arrangements for surrogacy are inherently linked to elements of partial commercialisation, regardless of whether they are presented as altruistic or commercial practices. This is because processes of affective and functional attachment and alienation play a key role in constructing the intimate boundaries of families that are formed in the context of the globalised surrogacy industry. Z. Nisha (2022) conducts an in-depth feminist analysis of surrogacy in the Indian context, viewing it as a complex social phenomenon that can simultaneously serve as a means of self-realisation for women and a mechanism for their social control. The author demonstrates that legislative restrictions on commercial surrogacy, particularly within the framework of Government Act of India No. 47 “Surrogacy (Regulation) Act, 2021” (2021), do not necessarily guarantee freedom or protection for surrogate mothers. On the contrary, such restrictions may reinforce traditional, patriarchal notions of women’s roles, undermining the autonomy of women who seek to independently determine the terms of their own reproductive participation. Thus, the study emphasises the importance of rethinking the concept of “freedom” in the context of surrogacy and the need for regulatory approaches based on taking into account the voices of women themselves and respecting their choices.

From a psychological point of view, P.V. Tsymbal and N.V. Zavydnyak (2024) study the internal mechanisms of coercion and psychological dependence of victims of human trafficking on their exploiters. The authors conclude that the psychological trauma of women, particularly in the context of forced surrogacy, is one of the key consequences of this phenomenon, requiring comprehensive rehabilitation. In the field of legal morality, Y.Yu. Kozar and O.R. Saveliev (2024) examine human trafficking as a violation of the moral and legal foundations of human dignity and freedom of choice. They emphasise that the formation of a legal culture based on ethical values is an important condition for overcoming exploitative practices in modern society.

Taking into account the analysed scientific approaches, it can be argued that the problem of human trafficking, particularly in the aspect of forced surrogacy, is multidimensional and requires interdisciplinary consideration. Criminal law, sociological, psychological, and moral-ethical studies demonstrate that this phenomenon is formed not only due to the imperfection of the legislative framework, but also due to deep social and value deformations. The aim of this study was to determine what a negative social phenomenon such as forced surrogacy, as one of the background phenomena of human trafficking, represents in general, as well as to investigate the international status of this phenomenon.

Literature review

According to Ukraine’s national regulatory framework, one of the main tasks in the field of preventing human trafficking is to identify the causes and preconditions for the emergence of this negative phenomenon (Law of Ukraine No. 3739-VI, 2012). There are a considerable number of scholars who study human trafficking and its causes from different perspectives, namely: in the field of criminal law and criminology. For example, within the framework of the criminal law approach, D.V. Hryhorchak (2025) studies human trafficking as a systemic criminal phenomenon that arises at the intersection of social vulnerability and imperfect state control

mechanisms. The scholar concludes that effective counteraction to this crime is possible only through the integration of criminal law and social prevention tools. S.G. Kyrenko and D. Gumenyuk (2023) analyse human trafficking through the prism of contemporary trends in criminological science, viewing it as a consequence of structural deformations in society, in particular gender and economic inequality. The researchers emphasise the need to rethink the category of “exploitation” in the context of changes in the labour market and international migration. In the works of A. Andrushko (2021), human trafficking is considered a manifestation of transnational crime that requires the improvement of international criminal cooperation. The author emphasises the inconsistency between the national legal systems of different states, which complicates the prosecution of the organisers of such crimes.

From the perspective of common law and state building, P. Kotiswaran (2017) examines human trafficking as a consequence of the globalisation of economic processes and the commercialisation of the human body. The scholar emphasises that modern legal policy should take into account not only prohibitive but also socio-economic factors that shape the environment of exploitation. A. Gallagher (2010) examines the problem of human trafficking through the prism of international human rights law, focusing on the balance between state sovereignty and obligations to protect victims. In her opinion, the effectiveness of combating this phenomenon depends on the actual implementation of the provisions of the Protocol to Prevent and Suppress Trafficking in Persons into domestic legislation of states.

P. Asirvatham (2017) emphasises that the growing number of poor, illiterate women who join this process raises serious questions about possible coercion. On the other hand, it creates certain economic opportunities for them. In this context, an important question is analysed: can coercion be justified if it benefits the poor. The life stories of commercial surrogates are examined and various forms of coercion, which often remain invisible, are considered. S. Wilkinson (2015) explores the ethical issues associated with international commercial surrogacy, focusing on questions of exploitation. The author analyses whether surrogacy agreements between wealthy clients from developed countries and women from economically vulnerable regions are a form of morally unacceptable exploitation. The researcher argues that although the inequality and vulnerability of the participants in such agreements may create grounds for exploitation, not every case is ethically problematic. He distinguishes exploitation as unfair advantage and emphasises the importance of regulation rather than a complete ban on such practices. The study calls for ethical regulation of the international surrogacy market in order to protect women’s rights and reduce the risks of their exploitation.

P. Trowse and D. Cooper (2018) examine the exploitation of surrogate mothers in India within the framework of international commercial agreements. The main focus was on the ethical aspect: can a woman’s consent be considered truly voluntary in conditions of economic vulnerability. The authors analyse the structural inequality between surrogate mothers and clients, as well as issues related to the lack of legal protection for women. The article emphasises the need for clear legal regulation to reduce the risks of exploitation, with a focus on strengthening the protection of surrogate mothers rather than a complete ban on commercial practices.

A. Atreya and T. Kanchan (2017) explore the ethical and social aspects of forced surrogacy in Nepal. The focus was on the deeply problematic nature of forced surrogacy in this country, which occurs in a context of legal vacuum, social vulnerability of women and commercialisation of reproductive labour. The study shows that many women are involved in surrogacy without full informed consent and due to economic coercion, which is a form of exploitation. The lack of state control allows private clinics to operate without ethical restrictions, which is particularly dangerous in a country with high levels of poverty and gender inequality. The authors emphasise the need for the immediate introduction of strict regulatory mechanisms and the guarantee of the rights of women who may become victims of reproductive exploitation. They also stress the importance of international monitoring and ethical responsibility of clients in transnational surrogacy agreements.

However, despite a significant amount of research, the aspect of forced surrogacy as a latent form of human trafficking remains under-reported in contemporary scientific literature. The vast majority of works focus on general theoretical issues of combating human trafficking, leaving aside the specific mechanisms of exploitation inherent in the reproductive sphere. That is why research is needed to reveal the legal nature, causes and consequences of forced surrogacy, as well as to determine its place in the structure of criminal practices related to human trafficking.

Materials and methods

The study applied conceptual and theoretical frameworks based on contemporary approaches to the study of legal aspects of assisted reproductive technologies and human trafficking, in particular analysing theories of human rights, concepts of gender equality and the protection of reproductive rights. The use of general scientific and special methods of scientific knowledge allowed for a comprehensive assessment of the legal, medical and social aspects of forced surrogacy. A formal legal method was used to analyse the current regulatory and legal acts of Ukraine, in particular the Civil Code of Ukraine (2003), the Family Code of Ukraine (2003), Civil Procedure Code of Ukraine (2005), as well as subordinate acts of the Ministry of Health of Ukraine, such as Order No. 24 (1997) and No. 771 (2008), which regulate the procedures for artificial insemination and embryo implantation. This method revealed gaps in legislation that create risks of violating the rights of participants in surrogacy programmes, and identified regulatory mechanisms governing written informed consent and the responsibilities of medical institutions.

The comparative legal method made it possible to compare the legal limits of conventional surrogacy and forced surrogacy practices in an international context, in particular on the basis of Government Act of India No. 47 (2021), as well as data from international studies by ENoMW and ICAMS-ICASM (2022) covering cases of exploitation of migrant women in the field of surrogacy. The problem analysis method identified the socio-legal problems caused by forced surrogacy as a form of exploitation, while the alternative method allowed to systematise the positions of various authors on ways to overcome this phenomenon and classify states according to their level of regulation: those that prohibit, partially allow or fully allow surrogacy.

The source base of the study included regulatory and legal acts of Ukraine and international documents: Law of

Ukraine No. 3739-VI (2012), Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000), International Covenant on Civil and Political Rights (1966), Convention on the Rights of the Child (1989), as well as international studies and reports by DW Global Media Forum (2025a, 2025b), UNICEF & ISS (2021), and the International Justice Resource Centre (2025a, 2025b). Data obtained from open sources, statistical and analytical reports, communiqués from international organisations and press releases were processed. This approach made it possible to integrate the medical, legal, social and international legal aspects of the problem, ensuring a comprehensive analysis and the formulation of recommendations for overcoming the negative consequences of forced surrogacy.

The research sequence included: systematisation of the regulatory and legal framework; a comparative analysis of international and national practices; the identification of gaps and problematic aspects of the use of forced surrogacy; the summarisation of the positions of scholars and experts; the formulation of conceptual and practical conclusions on the protection of the rights of participants in surrogacy programmes and the prevention of exploitation. The study and analysis of sources made it possible to assess the real risks of forced surrogacy as a form of human trafficking and to provide legal and ethical guidelines for the development of safe and legal practices in the field of assisted reproduction.

Results and discussion

Background phenomena of human trafficking. Human trafficking is one of the phenomena of the modern world that is equated with modern slavery. At the international and global levels, it remains one of the priority challenges. Alongside this crime, there are numerous negative social and criminal phenomena, including organised crime, corruption, social marginalisation and forced surrogacy, which exacerbate and expand the scope of human exploitation.

Surrogacy in Ukraine is in a significant legal vacuum, as the Civil Code of Ukraine (2003) and the Family Code of Ukraine (2003) do not contain a specific definition of this phenomenon and do not establish clear mechanisms for regulating the rights and obligations of programme participants. The medical aspects of artificial insemination and embryo implantation were previously regulated by Order of the Ministry of Health of Ukraine No. 24 (1997), which required procedures to be performed only in specially accredited institutions and provided for the written informed consent of all participants in the programme. However, Order of the Ministry of Health of Ukraine No. 24 (1997) and No. 771 (2008) established rules for the use of assisted reproductive technologies, including artificial insemination and embryo implantation. This regulation is also currently considered invalid and has no legal force.

The absence of valid medical and legal acts creates numerous legal problems. In particular, surrogacy agreements remain “self-written,” which significantly increases the risk of violating the rights of programme participants, since the rights and obligations of the surrogate mother, genetic parents, and medical institutions are not defined by law. The practice of including provisions in contracts whereby parents waive any claims against the institution, which contradicts Article 3 of the Civil Procedure Code of Ukraine (2005), creates a conflict between medical practice and the civil rights of the parties. At a conceptual level, this situation illustrates

the underdevelopment of the legal framework regarding the technological capabilities of medicine, which jeopardises the principles of legal certainty, protection of dignity and freedom of expression of the programme participants.

Forced surrogacy considered a background phenomenon of human trafficking or exploitation. In low-income countries, some women are forced to become surrogate mothers because of poverty. In particular, in countries such as India, Ukraine and Georgia, where commercial surrogacy is permitted or poorly regulated, the economic vulnerability of women from rural or poor regions increases the risk of exploitation (GestLife Surrogacy, 2024). In India, there have been reports of illegal clinics operating without proper registration and exploiting women who have no alternative means of earning a living. According to media reports, these women are not given full information about the medical risks and terms of the agreements (Times of India, 2023).

In such cases, this may constitute coercion, as women have no other means of earning a living, and often in such situations their rights are not adequately protected. The absence of clear legal regulations or their violation means that surrogate mothers do not always have access to legal support and may be subject to manipulation or deception. For example, in the United Kingdom, where commercial surrogacy is prohibited but altruistic surrogacy is permitted, the right to informed consent and protection is strictly controlled, which reduces the risk of coercion (BBC News, 2014). Cases of failure to inform about all risks are most common in countries with weak regulation and low levels of healthcare, where surrogate mothers are often economically dependent. In some cases, forced surrogacy may be used as part of military strategies or ethnic cleansing. However, it should be noted that there are currently no documented cases where surrogacy has been officially used as a tool of ethnic cleansing or military strategy. This is more of a theoretical risk that is being discussed by human rights activists and scholars. At the same time, during wars or conflicts, women may be used to reproduce the offspring of a particular ethnic group. This may include forced conception leading to forced surrogacy. Such cases can be considered human rights violations and war crimes. However, to date, such cases remain poorly documented. In countries where surrogacy is prohibited or not properly regulated, cases of illegal forced surrogacy may occur. For example, in France, Germany and Italy, commercial surrogacy is prohibited by law, but there are often cases of “reproductive tourism” and illegal agreements via the internet, where women may be coerced or deceived (Gateway Surrogacy, 2024). For example, women are forced to become surrogate mothers without proper legal protection or consent on their part, which leads to serious violations of their rights. In countries where commercial surrogacy is permitted (Ukraine, Georgia), the price of services can range from €40,000 to €70,000, making this business profitable, but not always guaranteeing the protection of surrogate mothers’ rights (GestLife Surrogacy, 2024).

Forced surrogacy is a highly controversial and ethical issue that has serious consequences for the surrogate mothers themselves, for the children born as a result of this process, and for society as a whole. Among the serious consequences, it is worth highlighting legal and ethical issues (violation of women’s right to autonomy over their bodies, uncertainty of the outcome of possible legal disputes over paternity, the low cost of such services, which is often a consequence of

economic coercion and the vulnerable position of women who are forced to agree to participate in surrogacy programmes not of their own free will, but due to the lack of decent alternatives to meet their basic needs); physical and psychological consequences (physiological complications due to pregnancy and childbirth, infections, physical injuries, future reproductive problems, depression, anxiety, post-traumatic stress disorder, feelings of guilt, emotional attachment to the child); social isolation and stigmatisation of women (the low social status of surrogate mothers and their vulnerability increases the risk of exploitation); possible legal and social uncertainty for children; ethical issues (commercialisation of women and violation of the principle of voluntariness).

Forced surrogacy should be considered not only as a background phenomenon of human trafficking, but also as a form of it, which often goes unnoticed due to the legalised outer shell of this process. Formal contracts and consent may conceal elements of coercion caused by deep socio-economic inequalities, gender discrimination, insufficient legal awareness and lack of state oversight (Abdullah, 2019; Hyder-Rahman, 2021). Thus, a woman may find herself in a situation where her “consent” is more of a forced compromise between survival and a lack of real opportunities.

This type of exploitation is particularly dangerous because it is difficult to detect and prove, as it is often formalised with the consent of both parties, which in practice may be the result of pressure, blackmail, economic dependence or deception (Dutch National Rapporteur, 2012). In such cases, surrogacy can be used as a tool to control a woman’s body, which directly contradicts the principles of human rights protection (CEDAW, 1979; Palermo Protocol, 2000).

In addition, participation in international surrogacy programmes without proper control creates conditions for illegal schemes involving elements of human trafficking. In 2021, law enforcement agencies in Ukraine uncovered a large-scale scheme involving the trafficking of newborns, in which a clinic organised fictitious marriages between surrogate mothers and foreigners, and the newborns were “handed over” for a fee of up to \$70,000 (Ukrinform, 2021). Brokers, clinics, and agencies operating in the “grey area” of the law may prioritise profit over the safety and dignity of the women they recruit. In such cases, international human rights standards are often violated, in particular the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000).

Another important aspect linking forced surrogacy to human trafficking is the transnational nature of these processes. International surrogacy programmes, in which women from low-income countries carry children for foreign citizens, create an asymmetry of power and resources (Hyder-Rahman, 2021; ESHRE, 2025). In such cases, the surrogate mother often has no opportunity to fully influence the course of the agreement or protect her rights in the event of a breach of the terms. The report of the Dutch National Rapporteur states that in many cases, “persons other than the woman carrying the child, such as intermediaries or the husband, benefit from surrogacy, while the financial and medical risks are borne by the surrogate mother herself” (Dutch National Rapporteur, 2012).

The problem is further complicated by the fact that the existence of a legal contract does not always guarantee

voluntariness. Coercion can take both direct forms (threats, withholding of documents, restriction of freedom) and indirect forms (manipulation, misinformation about medical consequences, lack of access to independent legal assistance, etc.) (Abdullah, 2019). In both cases, it involves the exploitation of women, which has all the characteristics of human trafficking as defined in the Palermo Protocol (2000).

In light of this, particular attention should be paid to strengthening international control over the activities of surrogacy agencies, introducing clear mechanisms to protect the rights of women participating in surrogacy programmes, and creating independent institutions capable of monitoring and recording cases of coercion (Eurojust, 2024). It is also important to ensure an adequate level of education and awareness among potential surrogate mothers in order to minimise the risks of manipulation and economic exploitation. Forced surrogacy is a multifaceted phenomenon that requires a comprehensive approach, taking into account legal, social, ethical and psychological aspects. It should be recognised as part of the global problem of human trafficking, rather than remaining in the shadows of regulatory uncertainty and economic inequality.

International analysis on the use of forced surrogacy. There are international mechanisms aimed at combating forced surrogacy, in particular through laws against the exploitation of women, human trafficking and sexual violence. The UN and many human rights organisations are working to protect women in such situations. One important step is to establish international standards to regulate surrogacy in order to prevent its use as a tool for exploitation.

In countries where surrogacy is legal, it is important to establish clear rules to ensure that it remains voluntary and ethical, providing adequate legal protection for all parties involved in the process. The International Criminal Court (ICC) recognises sexual violence, including forced pregnancy, as a war crime and a crime against humanity. In particular, in the case of *Prosecutor v. Ongwen* (2023), the Appeals Chamber of the ICC confirmed that forced pregnancy can qualify as a separate international crime, rather than merely a form of rape or sexual slavery (American University Washington College of Law, 2022). In the cases of Rwanda and Bosnia, trials were held and those responsible were brought to justice. In the case of *Prosecutor v. Jean-Paul Akayesu*, the International Criminal Tribunal for Rwanda (ICTR) recognised rape and other forms of sexual violence not only as crimes against humanity, but also as elements of genocide if committed with the relevant intent (International Justice Resource Centre, 2025a). A similar practice was observed in the International Criminal Tribunal for the former Yugoslavia (ICTY). In the *Kunarac, Kovač, Vuković* trial, the tribunal for the first time classified sexual enslavement as a separate crime against humanity, which included the systematic rape of women and girls during the conflict in Bosnia (International Justice Resource Centre, 2025b).

The experience of European Union countries in regulating surrogacy is viewed in two ways: either a complete ban or partial permission for its use. The dual or even completely opposite attitude, compared to Ukraine, to the issue of legal regulation of surrogacy in international legal acts of European states creates certain loopholes for criminal intentions when using this method of assisted reproductive technology.

In European Union countries, issues related to the use of surrogacy as a method for obtaining a genetic child and

establishing paternity and maternity are regulated at the level of their national legislation, which often leads to conflicts and lengthy court proceedings and debates. It should be noted that all this is due to the fact that such surrogacy relationships usually involve citizens of different countries, stateless persons, citizens of third countries, etc.

Many aspects of surrogacy remain unregulated, which encourages its illegal use, including forced surrogacy. Along with this, there is a significant scientific and social debate about the legal use of this reproductive method, as well as the legal status of children born abroad in this way (since most countries still do not have clear legislation on their registration and recognition of paternity). Proponents of surrogacy argue that, with clear legal regulation, this reproductive method can be a safe and ethically acceptable form of assistance for childless couples or single people (Andala, 2023). Legislative safeguards protect the rights of all parties (biological parents, surrogate mother and child), reduce the risks of exploitation, and prevent legal conflicts and abuse (Humanium, n.d.; UNICEF & ISS, 2021). In addition, surrogacy can be an opportunity for many families to have a genetically related child (UNICEF & ISS, 2021).

Critics of surrogacy emphasise the high risks of exploitation of women, especially vulnerable social groups, and the danger of commercialisation of the human body (China Society for Human Rights Studies, 2025; Insights Medical Tourism, n.d.). They believe that this process can turn into a form of reproductive slavery and also creates complex legal situations for children born in international programmes (Rajan, 2017). From a moral and ethical point of view, surrogacy is seen as an artificial intervention in the natural and spiritual essence of motherhood (Insights Medical Tourism, n.d.).

The International Coalition to Abolish Surrogacy (CIA-MA-ICASM) and the European Network of Migrant Women (ENoMW) report on the existence of practices that constitute human trafficking, particularly of women, for the purpose of exploitation in the reproductive industry. The situations they describe are fundamentally incompatible with human dignity and equality between women and men, as they involve the exploitation of women's bodies. These organisations have conducted research into cases where women are forced to perform these roles in countries other than their country of origin or in the interests of foreign individuals. The aim of the survey and their research was to uncover these shameful facts, as well as to inform and raise awareness among states, competent authorities and partner organisations about how these cases and negative practices can arise in conditions of war and migration (voluntary and forced), and, most importantly, that they (these practices of exploitation) pose a threat to the fundamental rights and dignity of women. The ENoMW and CIAMS-ICASM study covered 72 countries through expert and media monitoring, and the survey was sent to government structures in 115 countries and the EU, as well as to 2,613 individuals and 288 organisations in 37 countries. Sixty-one questionnaires were returned, of which five individuals and six organisations reported known cases of surrogacy involving migrant women; six respondents also reported practices of forced pregnancy and three reported egg donation. In addition, 7 organisations and 1 individual confirmed that such cases had occurred in their country. A total of 46 cases were documented through open sources (media, academic

research, etc.) and another 8 through questionnaires (European Network of Migrant..., 2022).

The main negative international practices of exploiting women through surrogacy are highlighted below. First and foremost is the exploitation of migrant women for reproductive purposes (egg harvesting, forced pregnancy, forced surrogacy). Next is the organisation of a network for trafficking women for the purpose of making them surrogate mothers against their will (including even the forced transfer of women from their country of origin to another country to carry a pregnancy, forced pregnancy). It also includes the transfer of surrogate mothers for the purpose of giving birth in a country other than their country of origin, in other words, for the convenience of the client (the buyers of the child) or to avoid the legality of such actions (for example, so that the child is born in the country of the client, thus facilitating the legal formalisation of parenthood or even “circumventing” the law).

The exploitation of women in the context of surrogacy, particularly migrant women, violates key norms of international law, including the Protocol to the United Nations Convention against Transnational Organised Crime (Palermo Protocol), which prohibits trafficking in persons for any purpose, including forced use in the reproductive sphere. Such actions also violate articles of CEDAW (1979), which obliges states to protect women from violence, exploitation and coercion, ensuring their autonomy and equality in the medical sphere. In addition, forced surrogacy may violate the prohibition of inhuman and degrading treatment provided for in the International Covenant on Civil and Political Rights (1966).

States are obliged to take preventive measures that include criminalising human trafficking in the form of forced surrogacy, regulating medical services and agencies, and ensuring the protection of victims, particularly migrant women who may not have access to legal assistance. It is important to implement informed consent procedures that comply with international law standards and to establish mechanisms for identifying and supporting victims of human trafficking. International cooperation is necessary to investigate transnational networks and ensure justice, as well as to resolve issues related to citizenship and recognition of parenthood in accordance with the Convention on the Rights of the Child (1989).

The lack of uniform international regulation of surrogacy and discrepancies in national legislation create conditions for abuse and human rights violations. This leads to legal conflicts, especially in cases where surrogate mothers are moved between countries to facilitate the registration of paternity or to circumvent national prohibitions, which is contrary to the principles of protecting the rights of the child and preventing child trafficking. Thus, a comprehensive combination of criminal prosecution, social protection of victims and strict regulation of medical practices is necessary to effectively combat such violations and ensure compliance with international human rights standards.

Conclusions

The article examines the phenomenon of forced surrogacy as a background phenomenon of human trafficking, which in modern conditions poses a serious threat to the rights and freedoms of women. The aim of the study was to clarify the legal nature, causes and consequences of this phenomenon, as well as to analyse its manifestations in the context of international and national legal regulation. Despite certain limitations, in particular the lack of official statistics and open court decisions on the classification of forced surrogacy as a form of exploitation, the set goal was achieved.

It was found that forced surrogacy is complex and interdisciplinary in nature, combining legal, ethical, social and medical aspects. An analysis of the legislation helped to establish that Ukraine lacks a clear definition of the terms “surrogacy” and “forced surrogacy,” which creates conditions for abuse and unscrupulous practices. The results of the study showed that the current regulatory framework does not provide an adequate level of protection for women participating in surrogacy programmes, especially in conditions of social instability and martial law.

The analysis revealed direct and indirect links between the practice of forced surrogacy and human trafficking. It was argued that, in essence, coercion to carry a child in the interests of third parties can be considered a form of exploitation that violates fundamental human rights. These data indicate the need to improve the legal mechanism for controlling the activities of medical and intermediary institutions, as well as to create a system of social and legal protection for women involved in such programmes.

Summarising the results, it can be noted that the phenomenon of forced surrogacy is not only a manifestation of gender inequality, but also an integral part of the global problem of human trafficking. All of the above suggests that effective counteraction to this phenomenon is only possible with a comprehensive approach that combines legal, ethical, social and educational tools. Conceptually, the above indicates the need to rethink surrogacy as an institution that should be based on the principles of dignity, voluntariness and equal rights for all its participants.

Promising areas for further research in this field include the development of effective models for the legal regulation of reproductive technologies, a comparative analysis of judicial practice in different countries, and research into the impact of international ethical standards on the formation of national policy in the field of preventing the exploitation of women.

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Примусове сурогатне материнство як фонове явище торгівлі людьми

Олена Савайда

Кандидат юридичних наук, доцент
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
<https://orcid.org/0000-0003-2035-2604>

Уляна Цмоць

Старший науковий співробітник
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
<https://orcid.org/0000-0002-8423-8272>

Анотація. У статті розглянуто примусове сурогатне материнство як латентний прояв торгівлі людьми, що становить загрозу для демократичних та правових засад суспільства, особливо в умовах збройних конфліктів, що зумовлює актуальність дослідження. Метою роботи було з'ясування правової природи, причин і наслідків примусового сурогатного материнства як форми експлуатації та формування етичних і правових орієнтирів для запобігання цьому явищу. Методологія ґрунтувалась на застосуванні формально-юридичного, порівняльно-правового, проблемного, системно-структурного, логіко-юридичного методів та методу узагальнення, що дозволило комплексно проаналізувати нормативні акти, підходи різних країн і ключові суперечності у сфері репродуктивних практик. У ході дослідження встановлено, що примусове сурогатне материнство, попри формальну подібність до легальної медичної послуги, фактично містить ознаки експлуатації та може кваліфікуватися як форма торгівлі людьми відповідно до міжнародного права. Показано, що соціально-економічна нестабільність, недосконалість регулювання та відсутність ефективного контролю за діяльністю медичних і посередницьких структур створюють підґрунтя для зловживань, комерційного примусу та порушення прав жінок. Проаналізовано міжнародні документи та законодавство України, що дало змогу виявити прогалини в регулюванні, серед яких відсутність чіткої правової дефініції, єдиних стандартів захисту жінок і дієвих механізмів державного контролю. Запропоновано етичні та правові орієнтири, спрямовані на мінімізацію ризиків експлуатації через зміцнення гарантій гідності, рівності та посилення міжнародної співпраці у сфері протидії торгівлі людьми. Практичне значення отриманих результатів полягає у можливості використання сформульованих рекомендацій для вдосконалення національної та міжнародної політики у сфері репродуктивних технологій і захисту прав жінок

Ключові слова: експлуатація; права людини; жертва; порушення прав жінок; насилля; примус