

A reproductive justice lens towards the reasons to be a surrogate mother in Romania

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Abstract: *The aim of the article is to investigate the extent to which women who decide to be surrogate mothers - of those that we could interview by telephone - are victims of injustice and whether the decision is related to any kind of socio-economical inequalities as the reproductive justice lens implies. As a starting point we analyze whether this type of concerns are taken into consideration when it comes to the legislative debate in Romania. In the first and second section we discuss the theoretical framework, by placing surrogacy in the gender studies field. In the third and fourth section we analyze the legislative framework regarding assisted human reproduction, with a focus on the regulation of surrogacy, arguing that the reproductive justice concerns are completely ignored in Romania. In the fifth and sixth section we describe the methodology we used in our research consisting of five telephonic interviews and we draw some preliminary findings that can offer an insights about how this matter is perceived in Romania..*

Keywords: surrogacy • reproductive justice • reproductive rights • gender studies • legal framework

Introduction

The practice of surrogate mothers is banned in most countries in Europe, the states that accept altruistic surrogacy are the United Kingdom, Netherlands, Denmark, Hungary, and the states that allow commercial surrogacy are the Russian Federation, Ukraine, Belarus, Georgia, Armenia, Cyprus¹.

Currently, in Romania, there is a legal gap on this issue although there were several attempts to legislate assisted human reproduction (AHR). Thus, the first time the subject of surrogate mothers came in the public discourse was in 2005, when the Parliament reviewed a first draft law on reproductive health that would have regulated non-commercial surrogacy (altruistic surrogacy). The President in office at the time (Traian

¹2012 Info graphic world map of surrogacy laws by country <http://www.surrogatebaby.com/blog/2012/11/27/surrogacy-laws-by-country/> - last accessed on 30.05.2016;

Bășescu) filed a complaint and the Constitutional Court of Romania declared the project unconstitutional, so the Parliament dropped the bill.

At the same time, on March 10, 2005, the European Parliament adopted a Resolution¹ that was generated by media reports on the existence of specialized clinics in Romania that facilitated egg donations in exchange for money, from Romanian women to other EU citizens, especially British citizens. The resolution states that harvesting reproductive cells from a woman involves serious risks to women's health and condemns the activity of the Romanian clinics. The resolution encourages the states to consider the prevention and treatment of infertility as an alternative to surrogacy and that any cell donation should be strictly regulate, in order to protect both the donor and the recipient. The European Parliament emphasized on the fact that the human body should not be a source of income and that vulnerable people are likely to become victims of trafficking (people or cells), if this matter is not regulated properly. In order to achieve the goal of eliminating all forms of human exploitation, the Parliament encourages the national legislators to create an effective means of prevention, control and regulation. The Resolution states that any woman forced, in any circumstances, to sell parts of her body, including reproductive cells, becomes a potential victim of human trafficking networks within organized crime.

A firm stand was taken recently by the European Parliament, on 17 December 2015, upon the approval of the „Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy on the matter“², which in paragraph 114 „condemns the practice of surrogacy, which undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of gestational surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in human rights instruments“.

In this context, we intend to analyze the extent to which the legal debate in Romania on the subject of surrogacy targets the particular features of reproductive justice (if the focus is on what this choice would entail, which would be the most targeted women). We

¹<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2005-0074&language=EN&ring=B6-2005-0202> - last accessed on 30.05.2016;

²<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A8-2015-0344&language=EN> - last accessed on 30.05.2016;;

propose an initial qualitative analysis, gain from the telephone interviews we conducted, on which we tried to understand the motivations the women in Romania have when deciding to be surrogate mothers. In our opinion, applying a reproductive justice framework is a good starting point for researching the surrogacy matter in our country.

The reasons we chose the theoretical framework of reproductive justice are related to the manner in which the issue of surrogate mothers is regulated in most national legal systems (Guțan S., 2011: 128-183) - it revolves more around concepts such as adoption, parenthood and filiation and less around the exploitation of women's bodies (their lack of autonomy). Thus, we wish to point out that the phrase `justice in the reproductive justice` refers to the fact that women who choose to be surrogate mothers can be victims of a series of injustices: poverty, part of an ethnic minority, political status etc.¹ In our opinion, the most important aspect on the matter is the choice to be a surrogate mother. From our point of view, only a lens of reproductive justice is comprehensive enough to address issues like the level of access to information, the barriers imposed by poverty which can represent a decisive factor in the choice or the external pressures to provide.

In the first section we discuss the issues of surrogacy (commercial and altruistic), how gender studies perceive it and how different types of feminism relate to this matter. In the second section we discuss the development of reproductive justice framework and its importance, regarding the fact that women may be at certain intersections that emphasize a situation of oppression. In the third section, we outline the debates in Romania, emphasizing the manner in which they were held at the legislative level. And in the fourth and fifth section we discuss the methodology of the article and the conclusions we have drawn from the analysis of legislation and the interviews taken with potential surrogate mothers.

Thus, the main purpose of this article is to investigate the extent to which women who decide to be surrogate mothers (of those that we could interview), are victims of injustice and if the decision itself is related less to empowerment, but more to the pressure of increasing income. Also we analyze whether this type of concerns are taken into consideration when it comes to the legislative debate in Romania.

¹<https://rewire.news/article/2010/02/23/surrogacy-next-frontier-reproductive-justice/> - last accessed on 30.05.2016;

What is surrogacy?

Surrogacy involves an agreement whereby a woman agrees to bear the child of another person or couple, after the implantation of an embryo, in vitro or in laboratory conditions (Moldovan, 2002: 245). In reality, the consent involves a series of legal relations that take place both during pregnancy and after the child's birth. According to a legal draft on AHR (assisted human reproduction)¹ from 2003², a surrogate mother is the woman who consents to the implantation into her uterus of embryos obtained through medical procedure and carry's the pregnancy to term, gives birth and voluntarily gives up her legal rights to that child, under the terms of a surrogate contract. This method is preferred to traditional surrogacy, which implies that the egg comes right from the carrier mother. Currently, the preferred method (gestational surrogacy) requires that an already fertilized egg is implanted in the womb carrier (Stark 2012: 1). So far, 95% of embryos created for surrogacy purposes are foreign genetic material that is implanted in a woman that has no genetic connection with the child (Busby et al. 2010: 8).

Commercial surrogacy differs from altruistic surrogacy by the fact that it involves payment and/or material advantages (Guțan, 2011: 33-34). Feminist critics oppose commercial surrogacy because it is equivalent to the sale of children and exploitation of women (Anleu 1993: 32). Supporters of altruistic surrogacy claim that such criticism can be reconciled by regulating a surrogacy contract that does not involve paying a price (Anleu 1993: 32). They argue that eliminating the payment clause from the surrogate contract, is enough to guarantee the parties protection from the negative effects of a market. But in reality, „the distinction between commercial and altruistic surrogacy is socially constructed rather than based on self-evident intrinsic differences,„ (Anleu 1993: 32). Anleu (1993) argues that the basic idea of altruistic surrogate is that women by nature are unselfish and are able to waive the financial benefits.

Since 1985 feminist authors (Corea 1985, Harding 1991 in Bailey 2011: 1-2) drew attention to the fact that commercial surrogacy is a potential way of arguing that the wombs of economically disadvantaged women can be leased by the rich people in America or Europe (Bailey 2011: 1-2). But this kind of thinking has not been

¹Also referred to as Medical Assisted Human Reproduction (MAHR), in romanian „Reproducere Umană Asistată Medical-RUAM”;

²One of the romanian draft law on reproductive health and medically assisted human reproduction: http://www.cdep.ro/proiecte/2003/200/10/7/cd217_03.pdf - last accessed on 30.05.2016;

unanimously accepted by the feminists. Thus, liberal feminists shared the view that „Surrogacy is a natural extension of women’s reproductive liberty and personal autonomy. If women could contract freely to sell their productive labor for wages, then they should be at liberty to sell their reproductive services.” (Bailey 2011: 8).

This type of argument is closely related to the kind of thinking that targets individual freedom. For example, the only reason Arneson (1992) considered banning commercial surrogacy is related to the effects of this practice on children (Arneson 1992: 148). The author argues in favor of commercial surrogacy saying it should be legalized (Arneson 1992: 133) based on some considerations Mill aimed at individual freedom (Arneson 1992: 133): "I suggest that proposed bans on the market exchange of goods and services should be evaluated according to the expected consequences of such bans. Consequences shall be evaluated according to an egalitarian welfares standard. In the context of public policy formation, welfares holds that the object of policy should be to advance the welfare or utility of those affected by it". (Arneson 1992: 133).

On the other hand, radical feminists advocating for banning surrogate base their arguments on the idea that „women’s oppression (is) directly (tied) to their reproductive capacities and roles” (Bailey 2011: 8). Another common argument against surrogate contracts is closely linked to a materialist approach to the practice, according to which „female poverty make women vulnerable to selling sexual and reproductive services. Contract motherhood is dehumanizing because it commodifies birthing, reduces women to incubators, and alienates surrogate mothers from their reproductive labor” (Bailey 2011: 9).

Phillips (2011) argues that banning commercial surrogacy should have at its starting point the duality of body and mind. Both in the case of prostitution, and in case of surrogacy, the woman cannot be removed from their body and the idea that the body is a distinct entity itself cannot be sustained. The experience of pregnancy is an experience that has profound implications (Phillips 2011:730). The author points out that there is an inherent inequality in terms of economic circumstances that make the difference between people who sell reproductive services and those who are forced to resort to such solutions (Phillips 2011: 741).

An important aspect which Bailey (2011) brings into discussion – and which we take into consideration in this article - is the dual perspective of western feminists: (1) discussing issues of morality and new reproductive technologies or (2) focusing on how

these experiences are lived (Bailey 2011: 2). The author argues that it is not a complex enough framework to point out the injustices behind the choice to be the surrogate mother in undeveloped countries, such as India¹ (Bailey 2011: 22). Based on this observation, we believe that only an approach that targets reproductive justice and includes an intersectional analysis may be right for Romania. Thus, variables like gender, education, financial status and others, can shape the experience of being a surrogate mother or trying to be a surrogate mother.

Although there is the danger of essentialism when referring to the portrait of a surrogate mother, we must keep in mind that many studies show common characteristics (Mohapatra 2012: 198). For example, in India, surrogate mothers are typically presented as poor, live in rural areas and are low educated (Pande in Mohapatra 2012: 198). Therefore, it is relevant that in most cases a disadvantaged woman becomes a surrogate mother for an advantaged one (Mohapatra 2012: 197) which indicates that there is an unequal ratio between the two sides. This can be caused by structural injustice at the level of societies from which surrogate mothers come. Therefore, the major problem is that a contract for commercial surrogacy appears as a way to solve the deepest problems of the community (Mohapatra 2012: 197).

Moreover, we must consider the fact that certain cities, that have major human reproductive clinics, create a venerable context for women living in those areas. Women who deal with poverty are encouraged and even pressured to turn to surrogacy, even though they do not want to sell reproductive services, because they are unable to find a decent paying job (Mohapatra 2012: 199-200). If in the case of India the surrogacy market is rapidly growing, in Eastern Europe, especially in Ukraine and Russia, the surrogacy market becomes more and more attractive to European citizens from countries where surrogacy is prohibited (Mohapatra 2012: 196).

The problem with applying a strictly legal framework to the issue of surrogacy – the reproductive right framework – is that it perceives women as being the same, without taking into consideration their differences and it promotes the idea that there is a common experience for all surrogate mothers (Mutcherson 2012: 194).

¹Her research is focused on the surrogacy market in India.

Surrogacy between a reproductive rights and a reproductive justice framework

If initially the rights framework was most used in discussions related to AHR, the intervention of women of color changed the rhetoric (Mutcherson 2013: 192). Thus it became insufficient in capturing oppression resulting from AHR (Mutcherson 2013: 192). The movement of reproductive justice is closely linked to the "SisterSong" organization of women of color, which emerged from the need to combat both reproductive rights and social justice, thus this new concept was built that represents a holistic view oriented towards the community (Mutcherson 2013: 195; London 2011: 74-5). According to Asian Communities for Reproductive Justice (2005), reproductive justice will be achieved only by achieving „the complete physical, mental, spiritual, political, economic, and social well-being of women and girls" (Mutcherson 2013: 194). It is important to note that this approach moves away from the liberal thinking and the idea of autonomy we have discussed previously. In the absence of empowering women, the choice may not be free of constraints (Mohapatra 2012: 192). The reproductive justice framework analyzes the situation in which the lack of access to economic resources makes women turn to selling reproductive services (Mutcherson 2013: 227). Thus, „Reproductive justice refers to the normative concept that all women, regardless of their ethnic, racial, national, social, or economic backgrounds, should be able to make healthy decisions about their bodies and their families" (Mohapatra 2012: 191). And referring strictly to the subject of surrogacy, by applying such a framework we take into account „the effect of power relations and differential resources of the parties to a surrogacy arrangement that opens potential for exploitation by powerful parties"¹

As London (2011) argues, we believe that a perspective that is strictly limited to reproductive rights is inadequate, because it does not consider how the parties to such contract differs in terms of resources, thus creating an unequal power report, in which surrogate mothers may become subjects of exploitation. The reproductive rights framework has four core principles: „choice, privacy, freedom from governmental interference and personal autonomy" (London, 2011: 76).

While these principles are important, the strictly legal approach is insufficient for two reasons (1) it does not handle matters that could limit access to such rights, issues related to injustices (racism, poverty, etc.) and (2) even their constitutional protection is insufficient because „it does not necessarily alter power relations or shift resources"

¹<http://rightnow.org.au/topics/womens-rights/surrogacy-whose-reproductive-liberty/>, last accessed on 30.05.2016;

(London, 2011: 77). As London (2011: 80) points out „rights do not alter the balance of power”.

Therefore we believe that regulation of AHR and the debates around this topic should consider addressing reproductive justice, as part of the social justice framework, and should not ignore the social conditions of potential surrogate mothers. Moreover, only an intersectional analysis, which considers race, class, gender, sexual orientation or other relevant categories can be complex enough for this topic (Mutcherson, 2013: 190). Thus, „The RJ movement applies an intersectional analysis to reproductive oppression, which allows advocates to <<recognize how each individual is uniquely affected by barriers to information, resources, health care, and social supports at different stages throughout (her) reproductive life” (Mutcherson, 2013: 194). And compared to the rights perspective, the reproductive justice framework has as central subjects - the people who are marginalized in the rights perspective (London 2011: 102).

Given the previous considerations, we tried to analyze both the Romanian debates on regulating medically assisted human reproduction and the discussions we had with women who want to become surrogate mothers, regarding the following aspects¹:

1. The fight against poverty and the fact that in Romania there is a phenomenon of feminization of poverty (Băluță et al. 2011), which would create unfavorable context in which the services of a surrogate mother can become an alternative to poverty.
2. The difference between a legal framework and effective access to it - these services can be of benefit only to certain people, given the high costs of surrogacy. The importance of distinguishing between informed consent and constraint consent, based on financial needs and poverty.
3. Non-comprehensive debates on choice, privacy and autonomy.
4. Regulating/legalizing surrogacy can create a system that permits the objectification of the female body, the uterus being a means to and end for surrogate contract that can benefit another person.

¹The matters listed can be found in „A reproductive justice analysis of genetic technologies” REPORT ON A NATIONAL CONVENING OF WOMEN OF COLOR AND INDIGENOUS WOMEN, 14 to 18 September 2008, Philadelphia, PA, the organization called Generation Ahead, p.11-12;
http://www.generations-ahead.org/files-for-download/articles/GenAheadReport_ReproductiveJustice.pdf ;

Applying the reproductive justice lens on the legal debates in Romania

Medically assisted human reproduction through surrogate mothers produces legal consequences, both at international level - fundamental rights and freedoms, such as the right over one's own body, the right to private life, the prevalence of the interests of the child etc. - and at national level - the national law of each state regarding public order, adoption, filiation etc. Given the effects of surrogacy on national law, the right to procreate or the right to access AHR are not subjects to international regulations or case law (Barac 2014). Thus, in order to regulate the issue of surrogacy, Romania has to enforce the principle of dignity and identity of the human being, to guarantee respect for the integrity and the fundamental rights and freedoms to the application of biology and medicine, for all persons without discrimination. Basically, there is no positive obligation of states to regulate people's right to procreate, each member state has a margin of appreciation (or margin of state discretion) ¹.

However, for developing countries such as Romania, a lack of regulation can mean a lack of protection and even exposure of potential surrogate mothers to unknown risks, caused by their position of vulnerability (poverty, access to information and resources etc.).

Reproductive rights have always been regulated on a national level according to the ideas generated by social institutions such as school, church, or family, but also taking into consideration the needs and interests promoted in the political or economic sphere. The woman's body has always been the object of regulation, even though she rarely was a participant in the regulation process, thus we agree with the argument that the woman as an individual was a subject to the external rules of thought and behaviors (Vincze 2012).

Until the enforcement of the new Civil Code², medically assisted human reproduction (AHR) was not regulated in any way by the Romanian legislation. These services were offered by medical laboratories/clinics all over the country, which took advantage of the lack of provisions, by developing internal regulations through which they provided services like in vitro fertilization (IVF) and others. Even with this elliptical regulatory framework, we believe that the procedures that are implied by surrogacy cannot be

¹Applies to state members of the European Convention of Human Right – Case law S.H. c. Austria, 2010;

²January 1, 2011 – Parliament of Romania enforced the new Civil Code – Law no. 287/2009;

interpreted as being legal, because they do not satisfy the mandatory condition of therapeutic purpose required by the Civil Code (Barac 2014).

However, there have been several legislative efforts to regulate medically assisted human reproduction, including surrogacy, but none of them materialized into an enforceable law.

The draft law from 2003 was declared unconstitutional¹ for the following rights violations: the special protection and assistance to children and youth people (Art. 49 (1) CR); a person's right to freely dispose of himself/herself, without violating the rights or freedoms of others, public order or morals (art. 26 (2) CR); right to one's own image - the clauses in the text of the law considered contrary to the moral order, that life and health of a conceived but not unborn yet child cannot be the subject of a transaction (art. 30 (6) CR); the respect and protection of intimate, family and private life (art. 26 (1) CR); right to life, physical and mental integrity (Art. 22 (1) CR); the principle of equality before the law and public authorities - on condition that the right of a person to resort to medically assisted human reproduction belonging to a couple is discriminatory for individuals (Art. 16 (1) CR). In 2009, there was another draft law on assisted human reproduction that was rejected by the Parliament because it had confusing terminology and other formal issues (Guțan 2011: 227).

The most recent draft law on assisted human reproduction was in 2013 and the legislative process is currently blocked by the debates on the proposal of expanding the regulatory framework created by the new Civil Code, including the legalization of surrogacy (Barac 2014). One of the heaviest critics of this draft law comes from the civil society. The European Center for Law and Justice² has issued a *Memorandum on the legislative proposal on medically assisted human reproduction* through which they require the Parliament to reject the proposal. This memorandum makes two important points: (1) it criticizes the lack of public debate on the issue of AHR, failing to implicate all the stakeholders of the matter and (2) it mentions that there might be certain categories of vulnerable people, highlighting the fact that poverty plays an important role in the decision making process of participating in any assisted human reproduction procedures – donation of gametes and embryos, uterus – without having the proper information of all the risks and implications (Popescu 2013: 5-6).

¹Constitutional Court of Romania – Decision no. 418/2005 based on the Constitution of Romania (CR) 2003;

²ECLJ is a Non-Governmental Organization dedicated to the promotion and protection of human rights in Europe and worldwide. The ECLJ holds special Consultative Status before the United Nations/ECOSOC since 2007.

Even though the legal debate in Romania has a pluralistic view on surrogacy, it focuses very little on the issue of guaranteeing informed choices and on the consequences any legislation on assisted human reproduction through surrogacy might have on the most vulnerable actor involved – the potential surrogate mother. Thus, we state that the reproductive justice framework is completely ignored in the Romanian legal debate on surrogacy not taking into account issues related to access to information, the barriers imposed by poverty which can represent a decisive factor in the choice, or external pressures to provide.

Methodology

Given that the matter of surrogacy is a sensitive topic, we found it difficult to contact people who can act as "gatekeepers", which is generally a requirement in health care research. Also, taking into consideration that in Romania the empirical research on surrogacy is very poor¹, we resorted to an exploratory research as a first attempt of exploring the subject. The only way we managed to contact potential surrogate mothers was through a wide search on the internet which finalized with finding a few phone numbers in the "comments" section of articles about surrogacy in Romania. Later in the research we learned that the main way in which women in Romania are "promoting" themselves in order to become surrogate mothers is through the internet.

Of the 15 people we managed to contact², only 5 of them agreed to grant us an interview through telephone. The research was qualitative and was conducted through a semi-structured telephone interview. Despite the fact that telephone interview is a qualitative research method that has multiple criticisms (lack of eye contact, reduces access to depth discussions, so the quality of the information obtained may be affected etc.) (in Novick 2008) in this research we used this method for the following reasons: a) given that this is an independent research that had no funding, the telephone interview was a cheaper option, especially because the people we contacted were geographically dispersed; b) given the research subject is taboo for the people involved (Novick 2008), in part because of the fact that surrogacy is in an unregulated, legal grey-area, certain information could be obtained more easily through phone interviews, due to the greater anonymity (most people we contacted and who agreed to answer our questions

¹Given the search engines which we had access to, we did not find any quantitative or qualitative data on surrogacy in Romania.

²Even though we found over 30 phone numbers, some of them were invalid or out of order.

reminded us the importance of fact that we did not know their identity (A. "I know that everything is anonymous, the name that I used on the web site is not real").

We emphasize on the aspect that we were constrained by the contact information we've found on the internet and the availability of the people contacted. We did not have the option of selecting our subjects, we had to try and gain as many information possible, from the few people that agreed to answer. We did not have access to database of clinics that offer AHR services that would have permitted us to interact more with the actual respondents (Einwohner 1989, Blyth 1993, Hohman and Hagan 2001).

The questions in the interviews aimed at finding out the motivations that women in Romania have for becoming potential surrogate mothers, the information that they hold about this procedure, the expectations they have from the potential parent/ parents, the advantages and disadvantages that they have considered in the decision making process, if and how the decision was or was not influenced by the husband or relatives and we also tried to collect some personal data, such as age, marital status, education, income, in order to sketch a their profile.

Discussion and preliminary remarks

Most studies done in countries like US or UK (Einwohner 1989, Blyth 1993, Hohman and Hagan 2001) have observed that surrogate mothers have, in general, a secondary education and their motivations for resorting to such a process were not linked only to a precarious financial situation (Busby et al. 2010: 19). Moreover, the profiles of mothers were not those that would be expected - not poor, not part of ethnic minorities, not pressured by family and had the necessary information about the surrogacy process. (Busby et al. 2010: 25). On the other hand, there are studies like the one conducted by Pande (2010) in India, that outlines a different world of surrogacy in which women perceive the idea of being a surrogate mother as labor and this work is heavily stigmatized in India and is often associated with prostitution (Pande 2010: 945). As noted above, there is a major discrepancy between studies done in Global North and the ones done in the Global South, there for any information regarding surrogacy should contextualized to the concrete situation.

In the 5 interviews that we conducted, 4 were with women who want to be surrogate mothers and one with a husband of a potential surrogate mothers. The data collected in the interviews contains aspects that appear both in the specific studies from the Global

North and the Global South. For example, the stated motivations for becoming a potential surrogate mother were many, but the most striking was that of financial need:

C. 23 years old: „If I do it, I'll do it for money! The criteria...I told you...the problem that I was facing...that I am facing now ... a bank debt which I could not honor ... I ran out of a job and so did my husband and now we are working on black labor market ... small jobs, when we can find them.”

A., 40 years old: „The advantages are financial...and a birth, from my point of view as medical staff member, is a benefit to a woman's body”.

On the other hand, we also had answers that referred to the desire to help an infertile couple or the aim of doing a good deed:

M., husband: "how to say thisand even though it would be legal or illegal, it is not just about money ... everyone has something in the past and you feel the need to do a good deed ... that my wife having some issues from the past that she wants to make up for... "

Only one woman was over 40 years old and, in the meantime, gave up the idea of being a surrogate mother („ Several people contacted me ... the problem with me is I am over 40, even though I am healthy, people think I am too old... although women used to have children past the age of 40.”) was also the only one who has a stable job, as a medical staff. The other women were between ages 20-29 and were currently without jobs or were working on the black labor market.

The only common characteristic to the 5 cases was that they all had children, and maximum education level was high school degree.

In most cases, the main source of information on surrogacy was the internet. They first heard about surrogacy in mass-media and they tried to gain more information online. What caught our attention was the fact that despite the briefings of what surrogacy means, they found out about the legal framework from the couples that contacted them or by contacting other women left their contact information in the comment section of various on-line articles.

A, 20: „One night I saw a movie about a surrogate mother and I said to myself to go and look it up on-line ... and I saw there many ads and said to myself I should put out an announcement ... and I did”.

A, 40: „Surrogate mother...legal or illegal, the line between legal and illegal can be crossed easily ... well ... it is neither legal nor illegal. You could not do anything wrong. You would not be putting your freedom in jeopardy.”

Although we did not set out to analyze this aspect, the interviews with potential surrogate mother have revealed that most of them have been contacted by couples from abroad and that although they would like to be surrogate mothers for Romanian women, because it would be easier, the costs are too high and the women in Romania cannot afford them:

A, 20 years old: "I talked with a lady from Spain ... I agreed, she agreed ... now I am waiting for my passport, I have to spend the first three months there. My husband does not agree with this (going to Spain), but he will leave for Italy soon".

A, 29 years old: „Initially I wanted to help a family from Romania and I am still willing to help a family here, not abroad, but unfortunately the costs are beyond expectations (...) and for those who want to have a baby the costs for treatment are very high ... and all procedures involve exorbitant amounts ”.

A 29 years old: "I shook hands with a French family, I was on the road for a good half year (...) And when I met with the biologist doctor he said that chances are approx. 20% per embryo ... it was a shock.”

Regarding the support from husbands/partners, family and close friends, except for one case in which the woman was single, the rest of women had husbands and claimed they feel supported by the husbands and the people that are involved in the process.

A, 29 years old: „ My husband supports me, he even went with me to the clinic when we did tests to see if everything is okay with me.”

The biggest fears that the people interviewed face is related to the possibility of remaining with the child or having legal problems.

M, husband: „The idea was a little crazy at first... but when we acknowledge what the implications were, we abandoned the idea ... we told ourselves that we had two small children to look after and the law is still uncertain on the matter”.

Conclusions

Having in mind the 4 aspects that we followed based on the reproductive justice lens, we can assume to say: (1) the financial aspect is certainly a very important decision making factor for the potential surrogate mothers interviewed, but unfortunately this is

not something that is taken into consideration in the legal debate in Romania. The legal framework is only discussing altruistic surrogacy, which in our opinion represents a dangerous gap between reality and the normative sphere. Taking into consideration that the women interviewed were willing to take on a major risk – even exposing themselves to a legal sanction – in our opinion an altruistic surrogacy law is not acceptable, given the fact that it would only offer the illusion of protection on reproductive rights. (2) There is an unequal position between the intended parents and the potential surrogate mothers. Only foreign westerners citizens can afford the surrogacy costs and the access to information is questionable, given the fact that most of the women absolutely rely on the information they gain from the people they were contact by, or from professionals – doctors, attorneys etc. – that are paid by the parental beneficiaries. (3) Even though aspects like choice, privacy and autonomy are vital for creating a comprehensive legal framework, the Romanian public debates lack of a contextualized approach of what it means for women in Romania to explore this option. (4) Even though the objectification of women is present, potential surrogate mothers accept the whole process by trying to detach themselves from the pregnancy and focusing on the initial motivation, proving there is a „duality of body and mind”.

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