

Normative regulation of biotechnological processes in the context of women's reproductive rights in Kyrgyzstan

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Abstract: The development of the scientific and technical process, biomedicine, and biotechnology have opened up new facets of social relations. New terms have been introduced into scientific circulation, including reproduction and reproductive rights. These public relations require adequate regulatory regulation. Since these relations affect the priority area of human rights and freedoms. Reproductive human rights require not only subjective legal support, but also objective regulation of the emerging relations. The definition of qualitative and quantitative indicators of public relations contribute to effective legal regulation. Reproductive rights can be realized with the help of assisted reproductive technologies. Legislative regulation of assisted reproductive technologies contributes to the regulation of relations related to the realization of these rights. The purpose of the study is to develop objective and subjective needs for legislative regulation of assisted reproductive technologies. Since there is a need for domestic legislation to comprehensively study reproductive rights, which allows us to improve legal regulation in this area. Scientific novelty is determined by the fact that it is argued for the need to adopt a normative legal act regulating assisted reproductive technologies, its socio-legal significance in the regulation of public relations.

Keywords: *Assisted reproductive technologies, Human reproductive rights, Human rights and freedoms, Motherhood, Infertility, Women's reproductive rights.*

1. Introduction

In many cases, women are subjected to violence in various spheres of activity, although in a state governed by the rule of law, human rights and freedoms, including personal inviolability, are put in the foreground. It is also worrying that crimes against women predominate among violent acts. Official statistics confirm these circumstances (Men and women National Statistical Committee of the Kyrgyz Republic, 2020).

Thus, the need for the study is explained by objective problems in the field of protection, implementation, and provision of reproductive rights of a person and, above all, women in Kyrgyzstan.

According to the World Health Organization, the maternal mortality rate in Kyrgyzstan remains high among the Central Asian states, having decreased by only 5% since independence.

The lack of a unified research methodology in this area, the lack of conceptual theoretical views, the insufficient development of conceptual frameworks, the issues of the subject of regulation belonging to the legal branch, the legal status of surrogacy, the legal basis for the use of assisted reproductive technologies, the ethical aspects of using surrogacy determine its controversial nature and generate the need for a more detailed study.

Assisted reproductive technologies (ART) are a technology that has successfully cured millions of infertile couples around the world, but it has also given rise to a significant range of new social, ethical and legal problems. The embryo has become a very controversial organism, challenging traditional boundaries, as well as traditional scientific, legal and moral paradigms (Radončić, Erden 2023).

Recognition of these rights as an independent legal category, the formulation of its methodological and theoretical aspects are the most pressing issues of legal science. A significant factor in the need for research is the consolidation of women's reproductive rights in regulatory acts taking into account physiological characteristics. In Kyrgyzstan, relations in this area began to be regulated at the legislative level only in the second half of the 20th century, and are the youngest area of law. Kyrgyzstan is on the path to choosing a model for regulating reproductive rights that corresponds to its mentality.

Humanity has always tried to solve the issues of procreation. Modern scientific advances in medicine, including the use of assisted reproductive technologies, make it possible to solve problems of infertility.

Obviously, there is an ongoing debate about the “appropriate” use of these technologies of assistance where they are not considered “necessary” in narrow clinical terms or on the basis of some specific social conventions. This debate would benefit from convergence. In essence, these issues are essentially the same; we are talking about the rights to assistance during pregnancy, how this can be understood and formulated, as well as potential limitations (Romanis 2022).

The current socio-economic situation in Kyrgyzstan has a direct impact on the effectiveness of ensuring human rights and freedoms. Instability of the political situation, poor economic situation, insufficient efficiency of state bodies have an impact on the protection of human rights and freedoms, including the rights and freedoms of women. In a market economy, human values, including the values of family, motherhood, fatherhood, childhood, are subject to serious degradation.

In our opinion, this is due to several factors:

- Lack of advanced world experience in national legislation;
- Problems of ensuring human rights and freedoms in relations related to women's reproductive rights in law enforcement practice;
- Emergence of contradictions in regulatory acts;
- Lack of legal certainty in many regulatory acts;
- Achieving its effectiveness by eliminating bureaucratic mechanisms in law enforcement agencies;
- Suppression of corruption in law enforcement agencies. The state of women's reproductive rights in Kyrgyzstan directly affects the demographic processes in the country. Undoubtedly, reproductive health is the main component of women's reproductive rights.

The state needs to pay sufficient attention to maintaining women's reproductive health as an important social function.

According to the National Statistical Committee, the population of Kyrgyzstan is 7037.6 (National Statistical Committee of the Kyrgyz Republic, 2023) people, and the natural population growth in 2023 was 1.8%. Women make up 50.5 percent of the total population, that is, half.

Considering the age of the population, a third of the population of Kyrgyzstan is under 18 years old, and almost 60% of the population is under 29 years old, and it can be considered a young country.

2. Materials and Methods

The theoretical basis of the study was a number of scientific publications in this area, statistics, as well as regulatory legal acts in the field of reproductive rights, in particular, the Constitution of the Kyrgyz Republic and foreign countries, international acts, Conventions, charters of international organizations, as well as data from the National Statistical Committee of Kyrgyzstan.

The purpose of the study is to determine the role of assisted reproductive technologies in ensuring the reproductive rights of women in the system of human rights and freedoms, the trends in their formation and development, the level of consolidation in national and international legislation, the mechanisms for their implementation, as well as the improvement of legal regulation of the use of assisted reproductive technologies.

Today, according to official statistics, there is a bad situation in all indicators of health, and recently it has been recognized that even such bad situations cannot reflect the real situation.

Such indicators are confirmed by statistical data. There is no doubt that maternal morbidity and mortality, in particular, are of serious concern, have a stable trend and remain high. The structure of maternal mortality includes violations of the hypertensive form of pregnancy, obstetric hemorrhage, complications of anesthesia. It is worth noting that the emergence of these factors is explained by the low quality of prenatal care and the lack of high-quality medical institutions.

Another important factor is anemia of pregnant women (53%), diseases of the urinary tract (15%). In 2013, 131.9 thousand people died from diseases of the genitourinary system, in 2014 - 128.5 thousand people, in 2015 - 131.7 thousand people. In 2013, 48.5 thousand women suffered from diseases of pregnancy, childbirth and postpartum diseases, in 2014 - 46.5 thousand, in 2015 - 48.1 thousand (National Statistical Committee of the Kyrgyz Republic, 2023). Infant mortality is mainly due to untimely diagnosis of pregnancy complications.

According to many experts, the current method of termination of pregnancy remains a method of regulation. It is worth noting that a special study has shown the following situation: - the number of sufficient children in the family - 36.38% - financial difficulties - 30%, medical indicators - 11.7% (Kyrgyz Republic. Revealing the true frequency of abortions, the main factors and reasons that encourage surgical termination of pregnancy, 2004).

It is worth noting that the republic does not produce drugs and contraceptives used in the field of reproductive health. This, in turn, reduces the financial ability of the vulnerable population to access these funds. Important factors also have a significant impact on the reproductive health of minors. Because more than 7% of the population - this is 353.7 thousand people.

Table 1.
Incidence of women with individual diseases (Infertility).

Year	Study period			
	2018	2019	2020	2021
Number of women with certain diseases	1 074	941	762	982

The analysis of health statistics, morbidity and disability statistics of the population is carried out by gender, age and territorial breakdown.

When analyzing the data of morbidity statistics (morbidity) of the population, both absolute and relative indicators are used.

To characterize the change in morbidity over a certain period of time, it is necessary to calculate the percentage by relative morbidity indicators, and not by absolute data, since the percentage is affected not only by the change in the number of newly infected, but also by the change in the population size.

When analyzing the age and sex structure of morbidity, the size of the corresponding population (men or women, adults, adolescents or children) is used.

When calculating relative indicators in morbidity statistics and health statistics, the size of the permanent population is used (National Statistical Committee of the Kyrgyz Republic, 2023).

3. Results

Since assisted reproductive technologies are a new field of activity, its scope, technological methods of implementation, medical criteria, legal regulation, as well as social consequences of the use of these technologies are not fully regulated. In particular, there are no effective mechanisms for artificial insemination and embryo implantation.

At the dissertation level, the legal aspects of regulating assisted reproductive technologies were studied, some problems of regulating legal relations in this area were identified and evidence was provided to determine the ways to solve them. In particular, "Problems of legal regulation of assisted reproductive technologies" by O.Yu. Lebedeva (Lebedeva O.Yu.2012), A.F. Maifat (Maifat A.V., & Reznik E.S.2010) "The state of use of assisted reproductive technologies and ways of its development", Yu.A. Chistyakova (Chistyakova Yu.A.2006) "Artificial insemination, embryo implantation, protection of reproductive rights, terminological problems of legal regulation of artificial insemination and embryo", (Aivar L.K.2013) works of L.K. Aivar "Legal basis for the use of assisted reproductive

technologies", "Legal problems of the use of assisted reproductive technologies" research of Yu.D. Sergeev (Sergeev Yu.D., & Pavlova Yu.V.2006). Some aspects of reproductive technologies in the field of domestic science are considered in the medical aspect of G.D. Kadyrkulova "Formation of new approaches to ensuring reproductive health of the population in rural areas of Kyrgyzstan" (Kadyrkulova G.D.2005), "Reproductive health of women of socially vulnerable groups of the population of Kyrgyzstan" monograph by Beishenbieva G.D. (Beishenbieva G.D.2010), on legal aspects O.V. Podkorytova "Protection of personal non-property rights and legitimate interests of parents as participants in family relations" (Podkorytova O.D.2005), one can mention the work of J.Zh. Sabyrova "Constitutional and legal foundations for the protection of human reproductive rights" (Sabyrova J.J.2011).

The domestic legislation has not yet formed views on the social consequences of these relations, including the legal and ethical aspects. A special legal act in this area is the Law "On the reproductive rights of citizens of the Kyrgyz Republic and guarantees for their implementation" (Kyrgyz Republic Implementation of reproductive rights of citizens and guarantees, 2015).

Article 1 of this law provides that assisted reproductive technologies are a general name.

The conceptual framework plays a key role in the initial consideration of legislative issues related to reproductive rights. Reproductive rights are distinguished by the inclusion of conceptual categories in the legislative framework. This, in turn, means that the breadth and depth of disputes are significant (Zhusupov B.A., Tursunbayeva Ch.M., & Sulaimanova B. K. 2023).

The first normative act regulating the reproductive rights of people, including women, led to the legal regulation of a number of concepts. This law includes the concepts of "reproduction", "reproductive rights", "reproductive health", "family planning", "mother's uterus", "assisted reproductive technologies", "insemination". This law also provides for the right to free reproductive choice.

The right to motherhood, which occupies an important place in the system of women's reproductive rights, is enshrined in Article 12 of this law. At the same time, women's rights to artificial termination of pregnancy are established. This, in turn, is recognized as a fundamental law in regulating women's reproductive rights.

The rapid development of scientific research and its implementation in practice creates a number of problems. Many scientists believe that a more balanced approach to the use of reproductive technologies is needed.

That is why it is necessary to introduce a number of restrictions, in particular: defining the scope of application of assisted reproductive technologies, monitoring the health of children born as a result of the use of reproductive technologies, defining criteria for limiting the use of reproductive technologies, as well as defining mechanisms of legal liability for the consequences arising from the use of these technologies. It is appropriate to note that the legal field of application of assisted reproductive technologies is quite contradictory. I. F. Alexandrov believes that issues of human reproduction should be developed on the basis of mutual coordination and interaction of civil and family law (Alexandrov I. F.2004).

S.A. Korsakov (Korsakov S.A.2000) believes that legal regulation of assisted reproductive technologies should be governed by the Medical Code, which is a single source of data collection. A.V. Shibina does not agree with this idea. In her opinion, the field of medical law does not have a place in the legal system independently, and there is no consensus among scientists on the concept of medical law (Shibina A. V. (2012).

There is a significant preponderance of dissident scientists who are for the established traditions and values of the family.

The Law on the Reproductive Rights of Citizens in the Kyrgyz Republic and Guarantees for Their Implementation (Kyrgyz Republic. Implementation of Reproductive Rights of Citizens and Guarantees.2015) provides for the concept of fertilization.

It is appropriate to note that these concepts are a homogeneous concept. For example, T. N. Palkina believes that it is necessary to prohibit reproductive methods for persons who have changed their

gender, persons deprived of parental rights, alcoholics, drug addicts, criminals who have committed illegal acts against the rights of children" (Palkina T. N.2009).

4. Discussion

Each branch of law is accompanied by the regulation of social relations developing in society, as well as the regulation, protection and provision the main function of law. At the same time, each branch of law differs in its method of regulation and subject. It follows from this that not all social relations can be the object of legal influence. Some of them, in other words, are of a typical nature, are distinguished by potential reflection, and are also under state legal control. Among social relations, the regulation of relations arising from reproductive rights, which is one of them, determines the specifics of legal influence on these relations.

In the process of implementing surrogacy, biological kinship has priority, and the birth of a child automatically entails motherhood. The experience of using assisted reproductive technologies abroad shows that their use is not regulated by the demographic situation in the country, its growth or decline, but is regulated based on the legal traditions of the legal family, the rights and freedoms of a citizen.

The lack of legal regulation of reproductive technologies hinders the use of medical practice in this area and promotes the independent practice of doctors, putting the qualitative aspects of these technologies in a difficult position.

Currently, surrogacy, artificial insemination and donation create a number of problems in the field of reproductive technologies.

The concept of biolaw is a response to the formation of an economic approach to regulating reproductive technology, determining the ethical assessment of their priority. Being its element, bioethics has a significant number of supporters both in Russia and abroad. It should be taken into account that axiological requirements are formed at the stage of formation of a scientific idea preceding the development of technology subject to assessment (Romanovsky G., Romanovskaya O., & Artyomova D. 2022).

Among the reproductive rights of women, legal relations related to pregnancy, which belong only to women, are provided for by the Law of the Kyrgyz Republic "On the reproductive rights of citizens and guarantees for their implementation".

9 In accordance with Article 16 of this law, women are considered to have the right to artificial termination of pregnancy, and in case of violation of the rules for artificial termination of pregnancy, corresponding legal liability occurs.

In the area of human reproductive rights, the so-called counter-reproductive rights include surgical sterilization. In accordance with Article 22 of the Law, citizens of marriageable age have the right to voluntarily use a surgical method to prevent unwanted pregnancy (surgical sterilization).

5. Conclusion

According to the authors, assisted reproductive technologies serve as a mechanism for the implementation of human reproductive rights, including the implementation of women's reproductive rights.

Therefore, there is a need to adopt a special legislative act on the use of assisted reproductive technologies that will contribute to:

- Typology of relations in this area;
- Their uniform regulation;
- A complete definition of rights and responsibilities;
- The formation of the organizational and legal basis for institutional aspects;
- Determination of the responsibility of participants in these relations;
- Regulation of various collisions in the implementation of reproductive technologies;
- Protection of human rights and freedoms, and their reproductive health;
- Creation of a legal basis for the use of reproductive technologies;

- Improving the quality and efficiency of the use of reproductive technologies.

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