



Centre for Health Ethics Law and Development  
(CHELD)

# **BRIEF:** **THE FUTURE OF SURROGACY IN NIGERIA – ARISING ISSUES AND THE SURROGACY BILLS**

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## Executive Summary

In Nigeria, surrogacy is increasingly being adopted as a solution for infertility, and is now a form of non-traditional family creation. However, it operates in a space marked by legal ambiguity, healthcare shortcomings and significant risks for human rights violations. This is in large part due to the absence of a legal framework that regulates the arrangement and clarity of necessary safeguards, parameters and obligations. This absence of regulatory oversight has left surrogates and intending parents at risk of exploitation, with limited access to safe, ethical surrogacy services.

At the Centre for Health Ethics Law and Development (CHELD), we recognise that comprehensive regulation of surrogacy is essential to protect health, rights, and dignity within Nigeria's socio-cultural context. We have noted that despite recent legislative efforts, including the proposed Surrogacy Bill 2024 and the Women's Health and Surrogacy Protection Bill, 2025, significant legal, ethical, and social issues remain unaddressed.

Given the urgent need to address these issues, particularly to stem the tide of exploitation in surrogacy arrangements and provide legal protections to all parties, we hosted a webinar where key experts explored the gaps in the Surrogacy Bills at the National Assembly, with the goal of facilitating the drafting of a robust surrogacy law.

This policy brief distills key insights and recommendations from the webinar to guide the drafting of a comprehensive legislation that safeguards the rights of all parties to the arrangement, while establishing regulatory oversight over activities of fertility clinics in the country.

## Introduction

On Tuesday, 15th July 2025, the Centre for Health Ethics, Law and Development (CHELD) hosted a webinar titled “The Future of Surrogacy in Nigeria – Arising Issues from the Surrogacy Bill 2024.” This brought together legislators, key government officials, healthcare professionals, legal experts, intending parent, surrogate, to dissect the implications of surrogacy and evaluate the two Surrogacy Bills currently before the National Assembly. Growing evidence from social media conversations, stakeholder forums and advocacy efforts point to the gaps in regulation and the attendant rights violations, particularly against surrogates.

The introduction of the Surrogacy Bills has intensified debate regarding the need for legal protections, standardised practices and government oversight. Thus, the session aimed to stimulate critical reflection on the ethical, legal and human rights dimensions of surrogacy, while also exploring regulatory gaps and the way forward in framing appropriate legislation and oversight in the Nigerian context.

To achieve this, CHELD assembled a varied but erudite panel of speakers from legislature, government, academia, reproductive health and humanitarian space, as follows:

- Honourable Olanijuwonlo Alao-Akala - Member of the House of Representative/Sponsor of Surrogacy Bill at the National Assembly of the Federal Republic of Nigeria;
- Honourable Uchenna Harris Okonkwo - Member of the House of Representative/Sponsor of Surrogacy Bill at the National Assembly of the Federal Republic of Nigeria;
- Hajiya Imaan Sulaiman-Ibrahim - Honourable Minister of Women Affairs, Federal Republic of Nigeria;
- Dr. Abiola Idowu – Permanent Secretary, Health Facilities Monitoring and Accreditation Agency (HEFAMMA), Lagos State;
- Dr. Abayomi Ajayi - Consultant Obstetrician, Gynecologist and Chief Executive Officer, Nordica Fertility Centre.
- Mrs. Hadiza Alao-Akala - Humanitarian & Parent.
- A Surrogate
- Prof. Cheluchi Onyemelukwe - Professor of Health Law, Founder/ Executive Director, Centre for Health Ethics, Law and Development

## Challenges Around Surrogacy Practice in Nigeria

Surrogacy in Nigeria, as repeatedly emphasised by panellists during the webinar, is riddled with practical, ethical, legal and emotional difficulties. These challenges were articulated across diverse perspectives by the panellists as follows:

### a. Absence of Legislation

There is currently no comprehensive federal law directly regulating surrogacy. This legal vacuum creates uncertainty around the enforceability of surrogacy contracts and leaves surrogate mothers, intending parents, and children exposed to risks. As a panellist noted, cases like the exposure of a baby factory posing as a maternity clinic reveal the unregulated realities which put women’s health and human rights at risk.

The Federal Ministry of Women Affairs, through its representative at the webinar, acknowledged the severity of the current situation around the absence of legislation, stating: “Across the country, we’ve seen real-life issues where surrogacy is left unregulated. We’ve seen stories of women coerced into surrogacy arrangements without consent or contract, of intending parents losing custody battles of children caught in legal limbo, and of rising incidents of exploitation and trafficking disguised as assisted reproduction.” This official recognition points out the urgent need for comprehensive regulatory intervention.

### b. Prohibition of Commercial Surrogacy

Two panellists reflected that attempts to strictly ban commercial surrogacy risk driving the practice underground, “turning it into something like a black market.” Doing so would provide an opportunity for the exploitation of vulnerable women. The challenge lies in balancing the prevention of commodification with the practical realities of the Nigerian situation.

### c. Inadequate Healthcare

A panellist’s testimony described being given insufficient follow-up care after her caesarean delivery by the fertility clinic. She said: “*When I went back, I was treated like ‘what are you coming back to do here?’ ...I was just given a prescription to go and buy the drugs myself, instead of them giving me medication.*” She further recalled that agreed-upon terms, including feeding allowance, compensation, and medical support, were arbitrarily altered by clinic staff.

#### d. Lack of Transparency and Mutual Trust

Surrogates often do not meet the intending parents and are excluded from transparent communication. One panellist noted that surrogates were not allowed to establish communication with the intending parents. Clinic policies that prevent contact and open dialogue, where possible, foster suspicion, manipulation and prevent collaborative decision-making.

#### e. Financial Exploitation

Compensation for surrogates is frequently arbitrary and poorly documented. A panellist commented on the exploitation of surrogates by fertility clinics through unaccounted deductions. In a particular instance, the initial agreement was for the surrogate to be paid 1.8 million naira. However, the surrogate was eventually paid the sum of 1.6 million naira. Upon seeking for clarification, the surrogate was informed that a ten percent deduction to be applied towards a particular payment on behalf of the surrogate.

#### f. Unregulated and Exploitative Practices

Fertility clinics and agencies often operate without oversight, leading to medical neglect, exploitative financial arrangements, and limited transparency. A panellist at the webinar shared how clinic staff withheld contact with intending parents and altered agreed compensation, while another panellist confirmed the activities of unscrupulous persons in the field.

#### g. Societal Stigma and Vulnerability

Nigerian cultural pressure to bear children soon after marriage compounds the emotional burden of infertility and surrogacy. Surrogates may face stigmatisation and isolation, sometimes being compelled to relocate to avoid judgment, as related by a panellist.

#### Specific Issues Raised by the Surrogate at the Webinar

The anonymous testimony of a surrogate who participated in the webinar provides a powerful firsthand account that shows the systemic vulnerabilities and exploitation inherent in Nigeria's unregulated surrogacy landscape.

The surrogate's journey began with altruistic intentions. *"When I decided to become a surrogate in 2022, I had two reasons," she explained.*

*"I had made up my mind to be a surrogate three times in my lifetime, because for my family, we don't have issues with conception and I thought since I personally don't want children, I'll help families who wanted children." Her motivation was educational advancement: "My first reason was because I wanted to go back to school, but didn't have the means. So I decided to do this, gather the money and use the balance to sponsor myself to school."*

A key challenge as extracted from the surrogate's testimony is the issue of inadequate healthcare from the fertility clinic she attended. Despite undergoing "invasive hormonal treatments and ultimately carrying a pregnancy to term," she received "limited medical attention from qualified professionals. Most concerning was the clinic's approach to healthcare complaints. The clinic appeared to minimise its investment in surrogate care, as she observed: *"Whenever the surrogate complains about certain feelings, they'd direct them to get medication, meanwhile they are supposed to be the ones to check them properly. It was as if they didn't want to spend energy, time, effort or money."*

Financial exploitation is another key challenge that featured in the surrogate's experience. Despite having "signed an agreement stipulating payment of ₦1.8 million," she ultimately "received ₦1.6 million after delivery. No justification was provided, except vague references to 'agent fees,' despite the absence of any third-party involvement on her part." When questioned about this discrepancy, clinic staff "claimed that I was paying 10% for something. Till today, I don't know what I paid that for. They claimed I had an agent, but I didn't, as I went to meet them myself." The pattern of arbitrary changes extended throughout the arrangement: "Things kept changing. The agreed price to be paid to me for feeding, and all of that kept changing, and when you try to say anything, they'll threaten you. If you think about it, it doesn't sound like a threat, but they made it seem like they were doing me a favour and so I should behave myself."

Her testimony further revealed issues affection surrogates who carry multiple pregnancies. She described how surrogates who were discovered to carry multiple pregnancies were denied increment of allowance. According to her, when these surrogates sought appropriate compensation adjustments, clinic staff responded callously: *"when they tried to ask for an increment since they were carrying more than one, they'd say 'is it not the same stomach that you use for one that you also use for two."*

This response demonstrates total disregard for the additional physical, emotional, and health burdens associated with multiple pregnancies.

The surrogate suspected that the clinic's policy of not allowing a meeting of the surrogate with the intending parents served to prevent discovery of their practices. **"These people ensured that the parents would not come in contact with the surrogate to avoid cross conversation from which they would realize that the clinic is not sticking with what was told them." She believed that "they would claim that the parents gave them limited money, so they should accept it like that,"** while simultaneously telling parents that surrogates were receiving proper care and compensation.

Perhaps most troubling was the shift in treatment following delivery. The birthing process itself was conducted with minimal consideration for the surrogate's experience: **"The day of the delivery, I got to the hospital and I was given a document to sign and I was giving full parental rights to the intending parents and after it was signed, the baby was taken out."** Post-delivery care, which had been contractually promised, was abandoned. "Initially, the agreement was that I have three months hospital care for checkup, because it was through a C-section. However, when I went back, I was treated like 'what are you coming back to do here?' It was a disgusting experience." When complications arose, the clinic's response was to blame the surrogate rather than provide appropriate medical care. **"I had an infection and they started blaming me asking me what I applied and all of that. I was like I've never had C-section, so I don't know what to do."** Instead of honouring their contractual obligations, **"I was just given a prescription to go and buy the drugs myself, instead of them giving me medication."** This treatment was in total contrast to her pre-birth treatment. **"The experience I had when I was going through antenatal was so different. It was like I was no longer their burden, so I should leave them... immediately, the child was taken, and I left the hospital, they treated me badly. No one called from the hospital to check on how I was faring."**

This firsthand account provides compelling evidence for the urgent need for comprehensive regulatory frameworks that ensure proper medical oversight, enforce transparent and binding financial agreements, protect surrogate rights and dignity, and maintain ethical standards throughout all phases of surrogacy arrangements.

Significantly, this testimony represents the first time the voice of surrogates has been heard clearly in Nigeria's legislative discussions on surrogacy regulation. This needs to be a practice as we move forward in developing legislation on surrogacy, to ensure that those most directly affected by these arrangements have meaningful input into the regulatory framework that will govern their experiences.

### Strategic Imperatives for Regulation of Surrogacy in Nigeria

#### 1. Establish a Robust, Comprehensive, Culturally Attuned Legal Framework

A robust legal framework is essential to clarify rights and obligations of surrogates, intending parents, and children. As a panellist shared from his personal fertility journey and legislative work, such law should protect vulnerable Nigerians from exploitation while supporting the joy of parenthood. Another panellist emphasised preventing abuses such as baby factories and trafficking by establishing clear protections and accountability.

Both panellists echoed the need for the law to thoughtfully balance ethical concerns around commercial surrogacy without pushing the practice underground. Drawing on global models, especially from countries like the UK, Australia, India, South Africa, and Rwanda as highlighted by a presentation at the webinar, the panellists noted the need for any proposed legislation to be aligned with Nigeria's socio-economic, cultural, and health context.

#### 2. Mandate Health and Psychosocial Support for Surrogates

Surrogacy entails profound physical and mental health demands. A panellist's testimony detailing neglect during and after pregnancy illustrates the critical need for statutory health protections. The law should require comprehensive health insurance from conception through at least 6 months postpartum, including mental health services and mandatory counseling sessions. Additionally, surrogates must have independent legal representation funded by intending parents and retain bodily autonomy in medical decisions.

#### 3. Establish a Dedicated Regulatory Authority

An effective legislation is one enforced by capable institutions. The draft Surrogacy Bill 2024 sponsored by one of the panellists already proposes a Nigeria Surrogacy Regulatory Commission (NSRC). Such a regulatory body is vital to oversee and license fertility clinics, surrogacy agencies, and intermediaries.

As highlighted by one of the panellists, Lagos State's proactive model through HEFAMAA's inspections, public sensitisation, and collaboration with the Association for Fertility and Reproductive Health (AFRH) provides a useful regulatory prototype. The national body should have enforcement powers to sanction non-compliance and ensure ethical compliance in surrogacy services.

#### 4. Protection and Support for Intending Parents

As advocated by two panellists, regulation must also shield intending parents from misinformation, exploitation, and emotional trauma. Given the emotional and financial investment in surrogacy, ensuring transparent contracts, legal backing, and access to credible counselling for intending parents, should be a key focus of any proposed legislation.

#### 5. Government Institutional Commitment and Gender-Responsive Approaches

At the webinar, the Federal Ministry of Women Affairs articulated a clear vision for surrogacy regulation that goes beyond legal technicalities. As stated by the ministry's representative: "Regulating surrogacy is not merely a legal exercise, it is a moral responsibility. We must ensure that surrogates are not commodified, that intending parents are not victimised and that all stakeholders operate within a transparent, ethical and rights-based system."

The ministry further emphasised that their "broader mandate includes the protection of vulnerable populations, promotion of gender equality, strengthening of family systems and advancing social justice and care architecture across the country."

This institutional commitment is important as the Federal Ministry of Women Affairs is a key stakeholder in this process of developing a legal framework to regulate the practice of surrogacy in the country.

#### Stakeholder Inclusion in Surrogacy Regulation

Effective regulation of surrogacy requires meaningful inclusion of all critical stakeholders to ensure a robust draft and balanced protections. The active inclusion of fertility practitioners including doctors, embryologists, clinical staff, and other assisted reproduction experts, is essential in the drafting of a surrogacy legislation.

As emphasised by a panellist at the webinar, these experts possess invaluable daily clinical experience and technical knowledge necessary to craft a realistic and effective surrogacy law. Excluding these stakeholders risks producing a law that is detached from the practical realities of assisted reproduction, potentially undermining compliance and implementation.

Coordination with fertility and reproductive health organisations enhances the capacity for monitoring, accreditation, and enforcement. Additionally, ensuring the inclusion of government ministries such as the Ministries of Women Affairs and Health fosters alignment with broader public health and human rights objectives. Such multi-stakeholder collaboration promotes transparent, ethical, and rights-based surrogacy practices that reflect the realities and protections needed within the Nigerian context.

#### Key Recommendations

Based on the webinar discussions and expert inputs, the following key recommendations are put forward to guide the development of a Nigerian surrogacy legislation:

- **Enact a Comprehensive National Surrogacy Legislation:** The National Assembly must prioritise the enactment of a robust and comprehensive surrogacy legislation that provides appropriate legal protections for all parties involved in surrogacy arrangements. As advocated at the webinar, the law should not outright prohibit commercial surrogacy but regulate it transparently, to avoid underground exploitation. For now, Lagos state is the only state with a modicum of regulation. It stands to reason that we should look to them. However, their guidelines do not address Surrogacy specifically thus creating a continuing gap. There is indeed the need to have a comprehensive legislation that addresses surrogacy and more broadly the use of assisted reproductive technologies as noted in the questions asked by participants at the webinar.
- The proposed legislation must establish a dedicated regulatory body, such as the Nigeria Surrogacy Regulatory Commission (NSRC) as proposed in the Surrogacy Bill 2024, tasked with the comprehensive oversight of fertility clinics and surrogacy agencies. This agency should be vested with the authority to design and implement a robust licensing regime and be authorised to develop enforceable mechanisms for sanctioning and addressing non-compliance by erring facilities.

- **The proposed legislation must include specific legal protections for surrogates:** Given the anonymous account of the surrogate, it is essential that Nigeria's surrogacy legislation incorporate clear and enforceable legal protections for surrogates. Specifically, surrogacy agreements must be legally binding and must outline the responsibilities and rights of all parties involved, including medical care obligations, financial compensation. Explicit prohibitions against coercion, trafficking, and exploitation are necessary to protect surrogates from undue pressure or arbitrary alterations to their agreements. Equally important are accessible legal avenues for surrogates to address grievances related to contract breaches, medical negligence, or unfair treatment.
- **Promote Public Awareness and Stakeholder Sensitisation:** Launch national campaigns educating the public, especially women, on their rights, the risks and responsibilities around the practice of surrogacy and how to access ethical services. Train judges, lawyers, healthcare workers, and law enforcement to recognise and address violations.
- **Facilitate Ongoing, Cross-sector Collaboration:** Convene regular forums, public hearings, and collaborative workshops, during the period of the development of the legal framework, to enable diverse professionals including fertility experts and lawyers harmonise the two bills into a holistic draft for a robust legislation.
- **Integrate Surrogacy into Broader Reproductive Health and Family Policy:** As emphasised by the Federal Ministry of Women Affairs at the webinar, surrogacy regulations should be integrated into broader national strategies on reproductive health, gender equality and child welfare. The ministry's commitment to "creating a Nigeria where every woman's body is respected, every child's future is protected and every family's hope is upheld" should guide the regulatory framework.
- **Mandate Health Insurance and Psychosocial Support for Surrogates:** Legislation should mandate that all surrogacy agreements include comprehensive health insurance and psychosocial support for surrogates throughout the pregnancy and postpartum period. Include provisions for minimum postnatal care and counselling sessions to address physical and emotional wellbeing.
- **Safeguard the Rights of Intending Parents:** Provide clear legal pathways for parentage recognition and contract enforcement to reduce trauma and uncertainty.
- **Ensure Government Multi-Ministry Coordination:** Establish formal coordination mechanisms between the Federal Ministry of Women Affairs, Federal Ministry of Health, and other relevant ministries to ensure comprehensive oversight that addresses both the medical and social justice dimensions of surrogacy regulation, as advocated by the Ministry of Women Affairs.

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