

Independent Study Paper Title : Protection on Human Rights of Gestational Surrogacy: Law of Thailand and International Covenant on Civil and Political Rights (ICCPR)

Author : Ms. Patcha Wittayarattanakun

Major : Master of Art International Law and Diplomacy

Advisor : Assoc. Prof. Dr. Kovit Wongsurawat

ABSTRACT

The objective of the independent study was to make a comparison between Law of Thailand and International Covenant Civil and Political Rights (ICCPR) in protection of human rights concerning gestational surrogacy of children who are born from gestational surrogacy, surrogate mothers, spouses who are likely to encounter difficulties of having children (Infertile couples, singles and homosexuals). This independent study would be analyzed and researched by the method of Documentary Research and Qualitative Research.

The results of the study are as follows: 1) The protection on rights of children who are born from gestational surrogacy on prohibition of a commercial purposes, the Act is consistent with ICCPR in Article 8 which determines on prohibiting to bring persons for the slave trade. 2) Rights to know genesis and psychological relationship between children and surrogate mother, the Act does not determine the mental condition of the child. It is inconsistent with the ICCPR in Article 24, which determines protection in many measures of children as well as the mental condition of children. 3) Problem of human trafficking in persons, if the surrogate mother have children, the intended mother will bring children away from her to go to aboard but it does not prove that children will be repatriated to the country of parents who hire Thai woman to pregnant. Thailand cannot examine those children to be having life or those children get human rights or not. This problem will bring to human trafficking in persons.

Recommendations for this study are as follows: 1) The Act could determine the features of the parties in surrogacy contract and rules that can be made for organizations to held a surrogate strictly not to be carried out in such a way that profit from operations provided happen. 2) The Act could identify the details of protection on children's rights. Namely, the children could know who are the parents and the origin when the children were out of the minor. 3) Thailand could provide the measures and organizations to take care of the gestational surrogate in order to report the living of children to be good or bad or the children have the right and freedom to live or not.

