



COMMERCIAL GESTATIONAL SURROGACY AND AFROCENTRISM: A DETERMINATION OF THE NIGERIAN DISPOSITION

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ABSTRACT: *This study surveys the disposition of Nigerians to commercial gestational surrogacy. It also examines the moral dilemma created by the fragmentation of motherhood into biological, gestational, and social motherhood that has created enormous conflicts over who should be considered a ‘mother’ and the concomitant parental rights and responsibilities for a child. The debates surrounding gestational surrogacy and its implications on existing reproductive rights raises most profound issues on the maternal roles which historically resided in one mother, and how this phenomenon can be situated within the African cultural milieu. While legislations exist in many countries on the permissibility or otherwise of commercial gestational surrogacy, there are no meaningful legislation specific to commercial gestational surrogacy in Nigeria. Therefore, the overall objective of this research is to determine the Nigerian disposition to commercial gestational surrogacy. To achieve this objective, a total sample size of two thousand (2000) questionnaires containing thirty items, aimed at capturing the subjectivity and phenomenology of this study, were randomly distributed amongst some selected Nigerians, and responses were collected and analyzed using simple percentages. Data collected indicates that 89.2% of the respondents were negatively disposed to commercial gestational surrogacy. Findings further show that gestational surrogacy presents challenges with some ethical and Afrocentric objections and unfavourable disposition. In conclusion, this study recognizes that gestational surrogacy has the potentials to adversely impact the value of human dignity and the family unit, and therefore a problem of public ethos. This study recommends that an authentic Afrocentric ethics should drive any legislation that might emanate from Nigeria concerning commercial gestational surrogacy, that Afrocentrism should be of paramount consideration in all gestational surrogacy engagements. Therefore, the Afrocentric import of gestational surrogacy should form a starting point of all engagements and actionable programmes in this novel emerging moral dilemma called “gestational surrogacy.”*

KEYWORDS: Commercial Gestational Surrogacy, Nigerian Disposition



INTRODUCTION

The role and the place of children in marriage have remained cardinal to many married couples in Africa and Nigeria in particular. In Africa, it is expected that couples should not only have children but should have plenty of them as a sign of God's blessing to the union. That children are the beautiful gifts of God in a conjugal union is axiomatic to many adherents of different religions, including African Traditional Religion. The biblical divine injunction of procreation, "multiply and fill the earth,"¹ is also an attestation of this divine mandate. This could account for why many married couples are ready to go any length in the ultimate search for offspring.

Childlessness and infertility is a global problem which dates back to primeval history. From current medical survey it is estimated that ten to fifteen percent of married couples are unable to have children on their own without assisted reproductive technology.² In Africa, the woman's place in marriage remains precarious till confirmed through child bearing. A woman has to prove her womanhood through motherhood. The man also has to confirm his manhood in the same fashion. Children are viewed as a source of pride, strength and economic fortune for the family; a man's wealth and strength is equated to his progeny. Therefore, the absence of children impacts negatively on a couple's mental and social well-being.³

A childless woman suffers discrimination, stigma and ostracism. The stigmatization can be extreme in some cases that the stigma extends to the wider family, including parents and in-laws, who are deeply disappointed for the loss of continuity of their family, and contribution to their community. This amplifies the guilt and shame felt by the infertile individual. The cultural misconceptions and the emotional burden, especially for women, are often unbearable as childlessness is often viewed as a curse from the gods for some evil deeds. Today, scientific certainty establishes the fact that the causes of childlessness in our contemporary era are multifactorial.

In an attempt at self-reinvention, therefore, modern science has developed means other than the ordination of natural human reproductive system (copulation) in order to give infertile couples the opportunity to enjoy the right of parenting. These extra-natural means of human reproduction include, amongst others, Intra-Uterine Insemination (IUI), In Vitro Fertilization (IVF) and most recently, Gestational Surrogacy (GS) or outsourcing of pregnancy. These new human reproductive technologies have spawned a new area of discourse in the field of bioethics which is very challenging, complex and fascinating to its proponents, ethicists and religionists. Gestational surrogacy or outsourcing pregnancy is one of these new human reproductive techniques whereby surrogates are implanted with foreign embryos and paid to carry the resultant babies to term.⁴

Gestational surrogacy is an arrangement in which one or more persons, typically a married infertile couple (the intended rearing parents), contract a woman to gestate a child for them and

¹ *The Jerusalem Bible*, Genesis 1:28

² Grayce Storey, *Ethical Problems Surrounding Surrogate Motherhood* (Connecticut: Yale-New Haven Teachers Institute, 2016), 15.

³ Erik Babatunde, *Culture, Religion and the Self: A Critic Study of Benin and Yoruba Value Systems in Change* (New York: Edwin Mellon Press, 1992), 245.

⁴ Rosemarie Tong, "Surrogate Parenting," *Internet Encyclopedia of Philosophy*, accessed 7th June 2018 <http://www.iep.utm.edu/surr-par>.



then to relinquish the child to them after birth.⁵ Gestational surrogacy is also sometimes referred to as “contract pregnancy.” It simply means that this mode of parenting allows a couple to have a child by involving a third party in their relationship who serves as birth mother or surrogate mother.⁶

India today is currently the world capital of outsourced pregnancies and has become a transnational hub for reproductive tourism. In 2002, the India government legalized commercial gestational surrogacy in an effort to promote medical tourism, a sector the confederation of Indian industry predicts will generate \$2.3 billion annually by 2012⁷. Indian surrogate mothers are readily available and cheap, unlike in most developed countries where surrogacy is lawful.⁸ According to Brenhouse, the entire process costs customers around \$23,000, less than one-fifth of the going rate in the United States of America, of which the surrogate mother usually receives about \$7,500 in installments. These women are implanted with embryos, using specimens from sperm or egg donors if necessary. Once pregnant, the surrogates are housed in a dormitory so that they can be supervised until delivery⁹. After delivery, the child is taken away from the surrogate mother and given to the would-be parents after final payment.

Gestational surrogacy or outsourcing of pregnancy is a new reproductive practice commonly accepted as an increasingly prevalent phenomenon. The recent report of the *Hague Conference on Private International Law* has documented a rise in the practice of outsourcing of pregnancy to include arrangements across international borders.¹⁰ However, precise statistics relating to surrogacy are hard to estimate for a number of key reasons. First, officially reported statistics do not necessarily record surrogacy arrangements, but often only the IVF procedures.¹¹ Second, in many countries, there is simply no legal provision, regulation or licensing regime for either fertility treatment and/or surrogacy. According to the Policy Department C of European Parliament, this means that there are no formal reporting mechanisms, which can lead to a rather ad hoc collection of statistics by individual organizations, if indeed they are available at all.¹² Finally, in countries where surrogacy is legally prohibited, those involved could potentially face criminal prosecution, thus exacerbating the difficulties of collecting relevant and accurate data.

Despite these problems, one can still point to a number of factors which signal a rise in the practice of gestational surrogacy. First, a simple internet search reveals a plethora of agencies and clinics that very explicitly seek to facilitate gestational surrogacy arrangements. Sometimes these are voluntary organizations like COTS (Childlessness Overcome through Surrogacy), which seek to match willing surrogate mothers and hopeful parents on a non-commercial

⁵ Tong, “Surrogate Parenting.”

⁶ Shein Chang, “Surrogate Motherhood,” *Formos Journal of Medicine and Humanity* 5 (2004): 456.

⁷ Hillary Brenhouse, “India’s Rent-a-Womb Industry Faces New Restrictions.” *TimeWorld*, 05, June 2010, 2.

⁸ Brenhouse, “India’s Rent” 4.

⁹ Brenhouse “India’s Rent” 3.

¹⁰ The Hague Conference on Private International Law. “*A Preliminary Report on the Issues Arising from International Surrogacy Arrangements*,” accessed on the 12th June 2018
<http://www.hcch.net/upload/wop/gap2012pd10en.pdf>

¹¹ Human Fertilization and Embryology Authority, accessed on the 13th of June 2018, <http://www.hfea.gov.uk>.

¹² The Policy Department C of European Parliament. “A Comparative Study on the Regime of Surrogacy in EU Member States,” accessed on the 2nd August 2015, <http://www.europarl.europa.eu>.



basis¹³, while others operate on a commercial basis either as part of a fertility clinic or in partnership with fertility clinics.¹⁴ Second, there are also increasingly frequent stories in the media about surrogacy arrangements—whether positive or negative, successful or unsuccessful—as well as references to gestational surrogacy in popular arenas, such as television shows. Finally, there has been a recent surge in reported law cases relating to surrogacy across a number of jurisdictions. Interestingly, while some of these law cases do involve private disputes between the parties to the arrangement, the primary thematic trend relates to arrangement with respect to the legal status and legal parenthood of the children involved.¹⁵

Some countries like Canada, the United Kingdom, France, Norway, and Italy do not allow commercial surrogacy and it is illegal for a woman to receive payment for her reproductive services specifically. But in the United States and India, commercial surrogacy is legal and remains a luxury of the wealthy.¹⁶ In Nigeria, there is no clear and well defined legislation on what constitutes gestational surrogacy as it is a new concept in Nigeria, and the country is yet to acknowledge and provide legislation to govern this emerging concept. According to Oluchi Azoro-Amadi, the need for gestational surrogacy legislation in Nigeria cannot be overstated as most countries have moved from acknowledging its existence to providing legislation to govern surrogacy contract.¹⁷ Azoro-Amadi further observes that it is pertinent that the issue of the legality or illegality of the concept of gestational surrogacy be put straight so that the Nigerian populace can understand their rights, if any, within a contract of gestational surrogacy.¹⁸ It is one line of reasoning that incidences of baby factories, illegal sale of babies, babies being swapped in hospitals, stolen from the arms of their mothers, amongst others, are direct results of the void created by the lack of any legislation or express legitimization of the concept of gestational surrogacy. This will probably continue until the issue of legalizing or non-legalizing surrogacy whether commercial or altruistic is properly addressed.¹⁹

On Wednesday June 1, 2011, the Nigerian police raided a home used by teenage girls to have babies that were then offered for sale. According to Bala Hassan, police commissioner for Abia State:

We stormed the premises of the Cross Foundation in Aba following a report that pregnant girls aged between 15 and 17 are being made to make babies for the proprietor. We rescued 32 pregnant girls and arrested the proprietor who is undergoing interrogation over allegations that he normally sells the babies. Some of the girls told the police they had been offered to sell their babies for between 25,000 and 30,000 naira (192 dollars) depending on the sex of the baby.

¹³ Childlessness Overcome Through Surrogacy (COTS). “*Help Childless Couples Through all Aspects of Surrogacy*,” accessed on the 14th December 2016, <http://www.surrogacy.org.uk>.

¹⁴ The Policy Department C of European Parliament.

¹⁵ The Policy Department C of European Parliament.

¹⁶ Karen Busby and Vun Delaney, “Revisiting the Handmaid’s Tale: Feminist Theory Meets Empirical Research on Surrogate Mothers,” *Canadian Journal of Family Law*. 26. No.1 (2010): 20.

¹⁷ Oluchi Azoro-Amadi, “The Concept of Surrogacy in Nigeria-A Call for Legislation in Nigerian”. *Institute of Advanced Legal Studies*, accessed on the 20th January 2015, <http://nials-nigeria.org/PDFs/SORROGATE.pdf>.

¹⁸ Azoro-Amadi, “The Concept of Surrogacy in Nigeria.”

¹⁹ Azoro-Amadi, “The Concept of Surrogacy in Nigeria.”



The babies would then be sold to buyers for anything from 300,000 naira to one million naira (1,920 and 6,400 dollars) each.²⁰

In 2007, Osato Giwa-Osagie (a renowned professor of obstetrics and gynaecology) announced to Nigerians that his team had successfully performed a surrogate pregnancy at the OMNI Advanced Medical Centre in Lagos with a little over ₦1 million. According to him, the pregnancy was outsourced to a single lady in her 30s who graciously carried the pregnancy at the cost of ₦200,000. The ₦200,000 was compensation for the lady that carried the pregnancy, while the balance was paid for the medical bills and the cost of In Vitro Fertilization.²¹ Interestingly, the lady that carried the pregnancy on behalf of the couple hailed from the South Western part of the country and lived in Lagos, while the couple from the South Eastern part of the country, resided in the East. But the hospital ensured anonymity between both parties. The carrying mother was referred to the hospital by somebody who had discussed it when they met and were talking socially about modern fertility. The person told her that people were doing it, and anyone who accepted the offer would be paid for it, so the lady took up the offer. Giwa-Osagie further maintained that in the last two years, over 20 Nigerian couples had approached the hospital for the same purpose, including three Nigerians resident abroad.²²

Proponents of gestational surrogacy see no problem with it. They consider it a win/win situation for all those involved. The infertile married couple gets a baby; the surrogate mother receives a huge sum of money. Proponents argue that fundamental human rights support commercial gestational surrogacy: the right to procreate and freedom of contract. The thinking is that fully informed autonomous adults should have the right to make whatever arrangement they wish for the use of their bodies and the reproduction of children so long as the children themselves are not harmed.²³

There is no gainsaying the fact that gestational surrogacy has brought joy to many infertile married couples. The question must however be asked whether commercial gestational surrogacy is morally defensible. It might be regarded as such by appeal to the liberal freedom of contract, which protects the rights of adults of sound mind and full information to contract for the performance of services they desire at a price they are willing to pay, or to offer services for a fee they find compensatory.²⁴ It might also be defended on the grounds that it provides a source of independent income to poor women whose economic options are otherwise quite limited. And also, it might be defended on the grounds that it satisfies the reproductive rights of richer women who have chosen to delay child-rearing to pursue a career or other projects of interest to them and who would otherwise be biologically, legally, and economically prevented from exercising that right.²⁵ But there is a decidedly more pressing reason to be concerned with the practice, namely, to examine if gestational surrogacy exploits the reproductive labour of

²⁰ David Smith, "Nigerian 'Baby Farm' Raided: 32 Pregnant Girls Rescued." *the guardian*, 2 June 2011, A6+.

²¹ Franca Omo, "IVF Success Story from Omni Fertility Center." *IVF Babies in Nigeria*, accessed on the 11th February 2015, <http://ivfbabiesnigeria.blogspot.com>.

²² Franca Omo, "IVF Success Story from Omni Fertility Center."

²³ Abigail Haworth, "Womb for Rent: Surrogate Mothers in India." *WebMd*. Accessed on the 26th July 2016 <http://www.webmd.com/womb-rent-surrogate-mothers-india>.

²⁴ Vida Panitch, "Global Surrogacy: Exploitation to Empowerment." *Journal of Global Ethics* 9. No. 3 (2013): 340.

²⁵ Panitch, "Global Surrogacy: Exploitation to Empowerment" 339.



poor women in developing countries like Nigeria and how gestational surrogacy can be situated within the African cultural milieu.

There is no doubt that gestational surrogacy is a highly controversial form of infertility treatment, with views varying widely between faiths, cultures, personal beliefs and national legislation. There is also a range of far more personal surrogacy issues to consider, such as whether the intended parents will bond with the child in the same way as would the parturition mother, as well as the difficulty of whether the child should be told about his or her origins.

The most worrisome dimension is the abdication of a woman's natural reproductive right for cosmetic reasons and outsourcing that same right to another woman. Ethical and cultural questions must therefore be asked as to the right for a woman to rent out her womb for a fee? Can the "womb" be subjected to the invisible hand of the market forces of demand and supply? Why are people apparently more willing to accept a practice that was once considered abnormal, immoral or distasteful? Are there some values that are higher than market values? Is paid gestational surrogacy ethical in African culture? Is outsourcing pregnancy by developed countries to underdeveloped and developing countries ethical? Although at the most fundamental level, paid gestational surrogate motherhood could be interpreted as an economic transaction, the reality is far more complex due to the degree of intimacy involved. Inclusive to the basic economics of the markets are layers of emotional complexity, rights of bodily autonomy, and the unaddressed questions of women's rights in developing countries. Furthermore, should legal motherhood be attributed on the basis of parturition or genetic make-up? Similar difficulties can arise in relation to legal fatherhood, as well as the recognition of two parents of the same sex.

Therefore, this study sets out to answer some basic hypothetical questions which include, among others: Is it morally justifiable to subject the gift of the womb to the market forces of demand and supply? What is the African traditional worldview on gestational surrogacy? What are the Afrocentric implications of gestational surrogacy? Are there African traditional practices that might provide the basis for commercial pregnancy? And what are the positives of gestational surrogacy in an age of growing childless couples?

Commercial Gestational Surrogacy

Gestational surrogacy is when a surrogate is implanted with an embryo created by IVF and the resulting child is genetically unrelated to the surrogate. There are several subtypes of gestational surrogacy: Gestational Surrogacy with Embryo from Both Intended Parents (GS/IP), Gestational Surrogacy with Egg Donation (GS/ED), Gestational Surrogacy with Donor Sperm (GS/DS), Gestational Surrogacy with Donor Embryo (GS/DE), Straight Traditional Surrogacy (TS), Altruistic or Non Commercial Surrogacy, and Commercial Surrogacy.

Some surrogacy arrangements are commercial while others are noncommercial. According to Tong, commercial surrogate parenting arrangements involve monetary payments both to the surrogate and to other third parties.²⁶ Tong states that depending on state laws regulating commercial surrogacy in the United States of America, surrogates typically received about

²⁶ Tong, "Surrogate Parenting,"



\$20,000 with the rest of the costs being paid out to healthcare professionals, counselors, screeners, lawyers, and surrogate brokers.²⁷

Tong further states that in an effort to hold their costs down, some intended parents have engaged in reproductive tourism, traveling to developing nations, where the total cost for a surrogate parenting arrangement ranges from \$5,000 to \$12,000 largely because women are willing to rent their wombs for a relatively low sum of money.²⁸ The implication of commercial gestational surrogacy is that the surrogate mother is rewarded and paid compensation fee for her involvement. This fee covers not only medical expenses but also miscellaneous expenses related to the pregnancy, including travel provisions and other expenses.²⁹

Commercial Gestational Surrogacy in Nigeria

Independent Communications Network reported that Nigerian ladies have devised another survival strategy by getting pregnant for childless couples for a fee. These ladies, called surrogate mothers, have even taken to the internet to advertise themselves to couples who are desperately in need of children. In Nigeria, willing ladies are contacted by either couples or fertility clinics to help carry pregnancies on behalf of childless couples. This often happens where married women find it difficult getting pregnant or where they have issues with their wombs.³⁰ Through medical science, a couple's sperm and egg are collected and fertilized and then implanted into the surrogate mother who in-turn carries the pregnancy till it is due for delivery. The surrogate mother may then be flown out of the country or kept away from prying eyes and monitored till she is delivered of the baby.³¹ Most of these Nigerian women, who registered on www.surrogatefinder.com and www.findsurrogatemother.com, have their photographs on the website with assurances to their prospective customers that they would offer effective service. The www.surrogatefinder.com website lists the surrogate mothers according to their states of residence and a breakdown of their data. It also has registered sperm and egg donors with their details. Lagos State has one hundred and three (103) registered surrogate mothers on the list and this is the highest. Lagos State is followed by Edo with fourteen (14). While Abuja, Nigeria's capital city has seven (7) of such registered surrogate mothers, Enugu, Rivers, and Ogun have five (5) each. The list further shows that Delta has four (4) surrogate mothers. Other states on the website include Anambra, Kaduna, Ondo and Cross River with two (2) each and Imo, Akwa-Ibom, Benue, Ekiti, Kwara and Oyo with one (1) each. In Lagos, Ipaja has the highest number at thirteen (13). This is closely followed by Ikeja, twelve (12); Lagos Island, eleven (11); Surulere, eight (8); Bariga and Eko with five (5) each; and Ikoyi, Isolo, Ikotun, Oshodi and Alimosho with four (4) each. Igando and Badagry areas of the state have three (3); Agege, Apapa, Isheri, and Ebute Metta have two (2) each; while Abule

²⁷ Tong, "Surrogate Parenting."

²⁸ Tong, "Surrogate Parenting."

²⁹ Teo Martinez, "Understanding Different Types of Surrogacy," *Growing Generations*, last modified April 23rd September 2014, <https://www.growinggenerations.com/news>.

³⁰ Independent Communications Network, accessed on the 12th of May 2017, <https://www.businesslist.com.ng/company/129754/independent-communication-network-ltd>.

³¹ P.M. News. "Nigerian Ladies Paid to Get Pregnant for Childless Couples" accessed on the 20 January 2015, <http://www.pmnewsnigeria.com>.



Ijesha, Ejigbo, Amuwo, Idi Oro, Oworonshoki, Maryland, Jibowu, Ifako and Egbe have one (1) each.³²

Temitayo, a 28-year old lady resident in Abuja, said she was willing to travel to any part of the world to have the baby for her customer. She said: “Since the death of my parents I have been working myself to death to take care of my kid sister. If I can be paid to put a smile on the face of a couple who cannot have children and also with the money to take care of myself and my sister, what more can I ask for?”³³

Another Nigerian surrogate mother, 28 year-old Joy, said she had seen a lot of couples in churches in search of babies and “I feel bad that some of us don’t want so much but have the ability to bring life when wanted while others do not.” The lady, who said she is only interested in rendering assistance in that regard, added: “with me and your promise to take care of the baby, your desires are only nine months away.”³⁴

Loveth, a 32-year old mother of three and resident of Ipaja, said she believes God could use her to answer people’s prayers since it is painful to live without children. Faith, a 30-year old resident of Abuja, in her message to couples who need her service said she was in the business to contribute to producing children for very desperate couples. “Children bring happiness to homes and since I am not married and cannot afford raising a child, I will be very happy to have that experience of carrying a child that will bring joy to a family,” she said.³⁵

According to Matron/Clinic Manager, Medical Assisted Reproductive Centre (MART), Abiola Adewusi, patients who come with various uterine disorders are the ones that are usually advised to consider using a surrogate. Adewusi maintains that, “even though the practice is new in Nigeria, clients have started embracing the idea and it is now creating hope for those couples who otherwise thought there was no other option for them.”³⁶

It is no longer news that former Miss Nigeria, Adenike Oshinowo, is a proud mother of a set of twins. Due to her long-term association with endometriosis (since age 13), 47-year-old Nike delivered the set of twins with the help of a surrogate gestational carrier in the United States. Expressing happiness and gratitude to God for making her a mother despite all odds, Nike said: “I am overwhelmed and humbled by the depth of my love for my children. God has been most gracious to me. I am beyond happy.”³⁷ Her open declaration can be said to be a giant stride to demystify surrogacy in Nigeria. Hitherto, the act had been ongoing in muted voices or concealed activities.

Worried by these developments, the Catholic Bishops Conference of Nigeria (CBCN), on June 7, 2014, alleged that some Nigerian women now sell their private parts, wombs, ovaries and human eggs as commodities in the global bio-technology market. The then president of

³² P.M. News, “Nigerian Ladies Paid to Get Pregnant for Childless Couples.”

³³ P.M. News, “Nigerian Ladies Paid to Get Pregnant for Childless Couples.”

³⁴ P.M. News, “Nigerian Ladies Paid to Get Pregnant for Childless Couples.”

³⁵ P.M. News, “Nigerian Ladies Paid to Get Pregnant for Childless Couples.”

³⁶ The Nation, “Surrogacy a Beacon of Hope for the Hopeless,” accessed on the 15th October, 2016
<http://thenationonlineng.net/surrogacy-a-beacon-of-hope-for-the-hopeless>.

³⁷ The Nation, “Surrogacy a Beacon of Hope for the Hopeless.”



conference, Archbishop of Jos, Most Rev. Ignatius Kaigama, disclosed this during the International Family and Pro-Life Conference tagged: “Witnesses to the Dignity of Every Human Life” in Abuja. Kaigama speaking on the topic: “The Catholic Church in Nigeria and the Imperative of Scaling Up Pro-Life Activities across the Country,” the Bishop revealed that most of the transactions were done with people who hold influential positions in the society. Kaigama said:

Some scientists and dubious businessmen use members of the National Assembly to gain legal access to the wombs and ovaries of women and young girls. It is becoming increasingly clear to us that even in Nigeria, our women have become the targets of all manners of intrigues, especially as their fertility is concerned. Personal private parts of women, ranging from wombs, ovaries and human eggs risk being put up as commodities for sale at the global biotechnology market-places.”³⁸

Determination of the Nigerian Deposition to Commercial Gestational Surrogacy

In order to determine the ethical disposition of Nigerians to gestational surrogacy or outsourcing pregnancy, a survey was carried out to answer the following research questions:

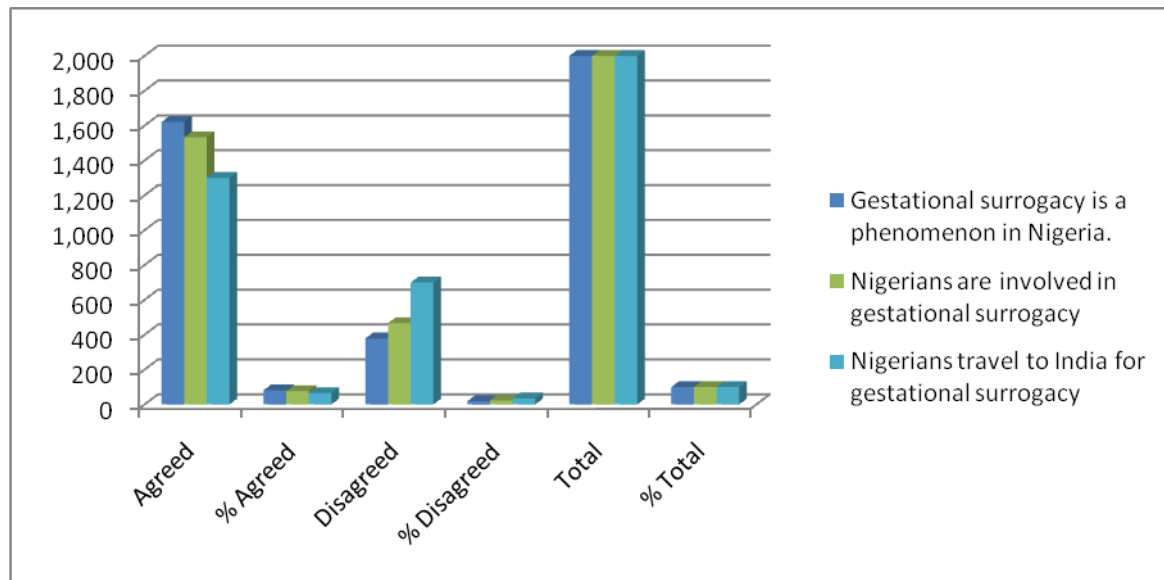
- (a) Is gestational surrogacy a phenomenon in Nigeria?
- (b) Is childlessness the principal reason for gestational surrogacy in Nigeria?
- (c) Is financial inducement the major reason why Nigerian women agree to become surrogate mothers?
- (d) What is the ethical disposition of Nigerians to gestational surrogacy?
- (e) Does Nigerian culture allow for gestational surrogacy?

This survey consisted of a total sample size of two thousand (2000) questionnaires containing thirty items, of which the most relevant questions were analyzed and presented. They were aimed at capturing the subjectivity and phenomenology of the subject matter, and were randomly distributed amongst some selected Nigerians. The questionnaires were stratified to elicit both ethical and Afrocentric dispositions. Because of the large nature of the study population, a sample size of two thousand (2000) respondents expected to give contrasting views on the same subject, was considered adequate. The responses were collected and analyzed using simple percentages and presented using 3-dimensional column charts.

³⁸ Caleb Ayansina, “Women Sell Body Parts in Bio-tech Market, Catholic Bishops Alleged”, *Vanguard Newspaper*, 6 June 2014, 14.

INTERPRETATION OF DATA

Research Question One: Is gestational surrogacy a phenomenon in Nigeria?

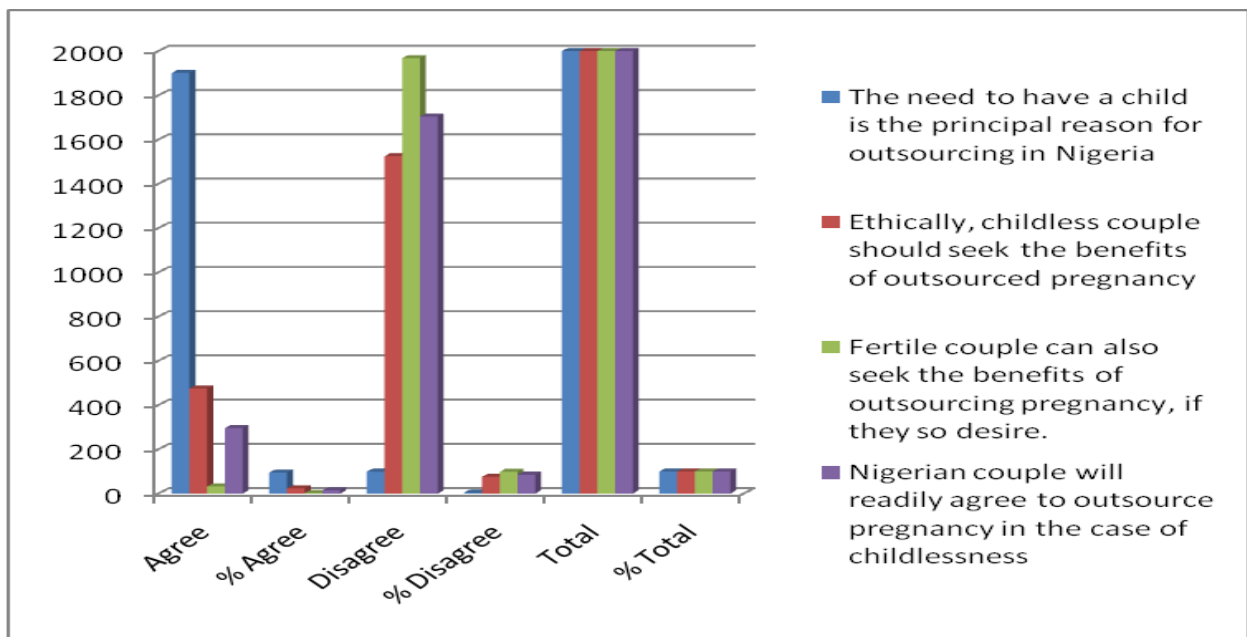


Data Description

Data collected indicates that 1,621 respondents, representing 81.05% of the sample size, agreed that gestational surrogacy is a phenomenon in Nigeria. However, 379 respondents, representing 18.95%, disagreed that gestational surrogacy is a phenomenon in Nigeria. Also, 1,533 respondents, representing 76.65%, agreed that Nigerians are involved in gestational surrogacy, while 467 respondents, representing 23.35% of the sample size, disagreed with the statement that Nigerians are involved in gestational surrogacy. Furthermore, 1,300 respondents, representing 65% of the sample size, agreed that Nigerians travel to India to outsource pregnancy, while 700 respondents, representing 35% of the sample size, disagreed that Nigerians travel to India to outsource pregnancy.



Research Question Two: Is childlessness the principal reason for gestational surrogacy?

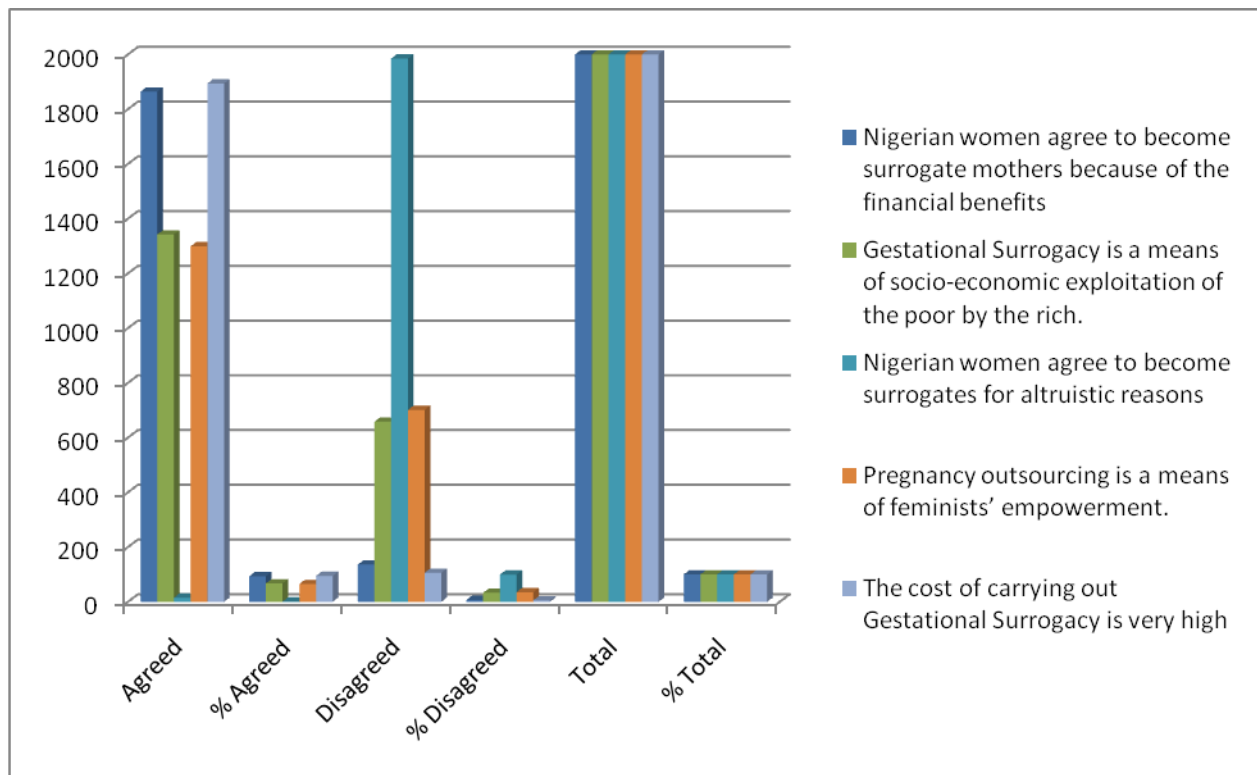


Data Description

Data collected indicates that 1,901 respondents, representing 95.05% of the sample size, agreed that childlessness is the principal reason for gestational surrogacy in Nigeria. However, 99 respondents, representing 4.95% of the sample size, disagreed that childlessness is the principal reason for gestational surrogacy in Nigeria. Only 475 respondents, representing 23.75%, agreed that it is ethically justifiable for childless couples to seek the benefits of outsourced pregnancy, while 1,525 respondents, representing 76.25% of the sample size, disagreed with the assertion that ethically, childless couples should seek the benefits of gestational surrogacy. Thirty-two (32) respondents, representing 1.6% of the sample size, agreed that fertile couples can also seek the benefits of gestational surrogacy, if they so desire, while 1,968 respondents, representing 98.4% of the sample size, disagreed. A total number of 296 respondents, representing 14.8% of the sampled population, agreed that Nigerian couples will readily agree to outsource pregnancy in the case of childlessness, while 1,704 respondents, representing 85.2% of the sampled population, disagreed that Nigerian couples will readily agree to gestational surrogacy in the case of childlessness.



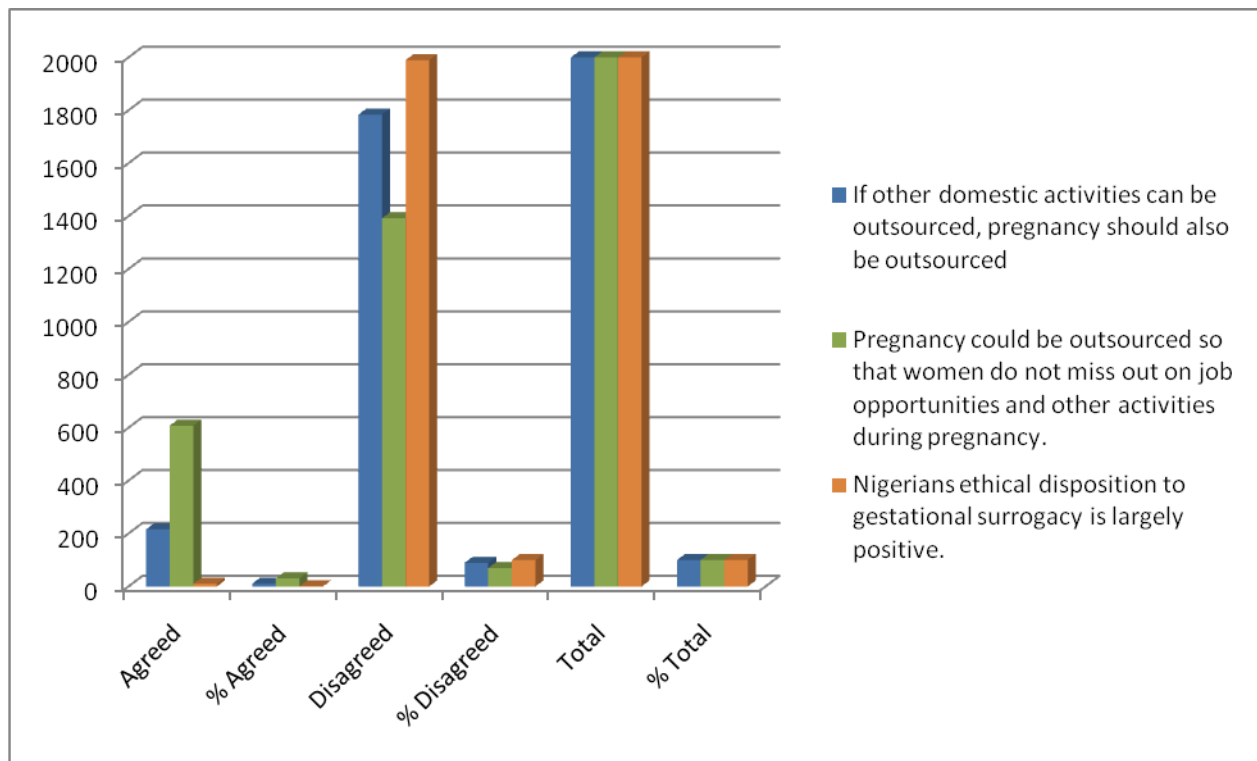
Research Question Three: Is financial inducement the major reason why Nigerian women agree to become surrogate mothers?



Data Description

Data collected indicates that 1,864 respondents, representing 93.2% of the sample size, agreed that financial inducement was the major reason why Nigerian women agree to become surrogate mothers. However, 136 respondents, representing 6.8%, disagreed that financial inducement is the major reason why Nigerian women could agree to become surrogate mothers. 1,342 respondents, representing 67.1%, agreed that gestational surrogacy is a means of socio-economic exploitation of the poor by the rich, while 658 respondents, representing 32.9% of the sample size, disagreed with the assertion that financial inducement is the major reason why Nigerian women agree to become surrogate mothers. Data collected further indicates that 15 respondents, representing 0.75% of the sample size, agreed that Nigerian women could become surrogates for altruistic reasons, while 1,985 respondents, representing 99.25% of the sample size, disagreed. Furthermore, 1,894 respondents, representing 94.7% of the sampled population, agreed that the cost of carrying out pregnancy outsourcing is very high, while 106 of the respondents, representing 5.3%, disagreed with this assertion.

Research Question Four: What is the ethical disposition of Nigerians to gestational surrogacy?

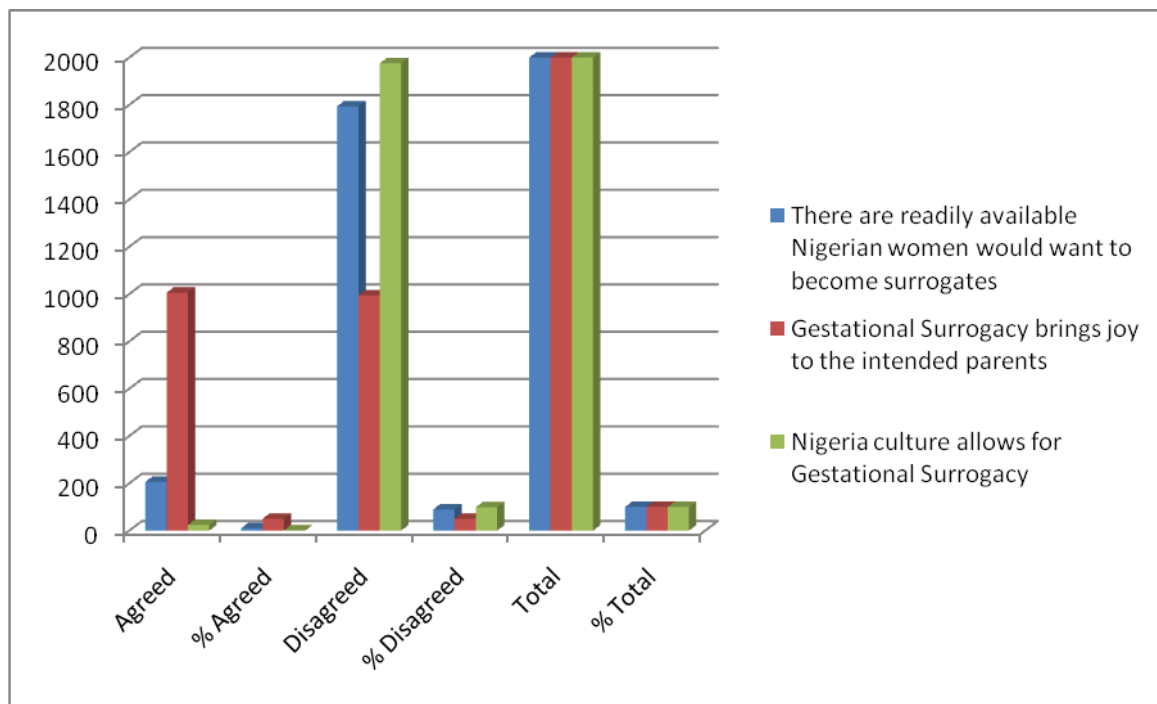


Data Description

Data collected indicates that 216 respondents, representing 10.8% of the sample size, agreed that if other domestic activities can be outsourced, pregnancy should also be outsourced. However, 1,784 respondents, representing 89.2%, disagreed with the statement that if other domestic activities can be outsourced, pregnancy should also be outsourced. Six hundred and eight (608) respondents, representing 30.4%, agreed that pregnancy should be outsourced so that women do not miss out on job opportunities and other activities during pregnancy, while 1,392 respondents, representing 69.6% of the sample size, disagreed with the assertion that pregnancy should be outsourced so that women do not miss out on job opportunities and other activities during pregnancy. Ten (10) respondents, representing 0.5% of the sample size, agreed that Nigerians ethical disposition to gestational surrogacy is largely positive, while 1,990 respondents, representing 99.5% of the sample size, disagreed.

Research Question Five: Does Nigerian culture allow for gestational s

urrogacy?



Data Description

Data collected indicates that 206 respondents, representing 10.5% of the sample size, agreed that there are readily available Nigerian women wanting to become surrogates. However, 1,794 respondents, representing 89.7%, disagreed. Data collected also shows that 1,006 respondents, representing 50.3%, agreed that gestational surrogacy brings joy to the intended parents, while 994 respondents, representing 49.7% of the sample size, disagreed with the assertion that gestational surrogacy brings joy to the intended parents. Data collected further indicates that 24 respondents, representing 1.2% of the sample size, agreed that Nigerian culture allows for gestational surrogacy, while 1,976 respondents, representing 98.8% of the sample size, disagreed.



DISCUSSION OF FINDINGS

Findings show that gestational surrogacy or outsourcing of pregnancy is a phenomenon in Nigeria, with a good number of Nigerians travelling to India for it. In the survey, the existence of gestational surrogacy in Nigeria was acknowledged and the need to have a child is the principal reason for gestational surrogacy in Nigeria. While it is ethically challenging to justify the action of the infertile childless couple in seeking the benefits of gestational surrogacy, it is far more difficult to ethically justify a fertile couple seeking these same benefits. Findings also show that gestational surrogacy may not be the very first option in the case of childlessness, despite the pains of childlessness. Many respondents agreed from the survey that gestational surrogacy might not be the ethically accepted option. In comparing the ethical challenge between infertile childless couples and fertile couples in their desire for gestational surrogacy, respondents were more ethically disposed to favouring gestational surrogacy for the infertile childless couples than for the fertile couples.

As the survey shows, the major reason why Nigerian women agree to become surrogate mothers is because of the financial benefits, as a higher percentage of those sampled considered pregnancy outsourcing as a means of empowerment and others considered it as a means of socio-economic exploitation of the poor by the rich. Financial inducement was said to be the major motivating factor for women who agree to become surrogate, while altruistic motive was not a dominant motivator.

Findings show that the disposition of Nigerians to gestational surrogacy is not largely positive. As shown in the survey, a higher percentage of Nigerians are not ethically disposed to the idea of gestational surrogacy because of women missing out on career opportunities and other activities during pregnancy. Equally, they are not ethically disposed to the idea of equating other domestic activities with pregnancy. Furthermore, findings show that despite the practice of gestational surrogacy in Nigeria, Nigerian surrogates are not readily available. From the survey, respondents agreed that gestational surrogacy is alien to the Nigerian culture of procreation, despite the fact that it does bring joy to the intended parents.

An Afrocentric Evaluation of Commercial Gestational Surrogacy

Scholars in Africa anthropology have generally argued from two perspectives: those who claim that pregnancy outsourcing is alien to African traditional practice and those who claim that pregnancy outsourcing has been an old cultural practice in traditional African society, though different from modern western operational procedures. Babatunde asserts that the Nigerian nation and African continent in general have rich cultural traditions relating to family issues. These cultural systems did not foresee births via surrogacy, hence, creating some discomfort at trying to situate such births in the family and society.³⁹ According to Babatunde, the African society has a vertical conception of family that dates back to ancestry and projects into the future. The family comprises ancestors, the present generation and the unborn, all blood related in an unbroken sequence. For Babatunde, therefore, commercial surrogacy threatens the sanctity of this lineage and changes the way children are valued, from being loved and valued

³⁹ Babatunde, "Culture, Religion and the Self: A Critic Study of Benin and Yoruba Value Systems," 248.



by their parents and others to being used as the case may be, as objects of commercial profit-making. Children are not treated as commodities in African culture.⁴⁰

Odidika Umeora, Maryjoanne Umeora, Nkechi Emma-Echiegu and Felix Chukwuneke, are of the opinion that pregnancy is celebrated in Nigeria, as much as in other African countries. Pregnant women move around with joy in the community displaying their fertility. Passively and actively, her delivery is awaited at the end of gestation by the community. There is no community where surrogacy is entrenched or accepted; it might be construed as an abomination to deliver a child and hand it over to “strangers” for money. The surrogate mother may be culturally and socially stigmatized and forced into social isolation to prevent future occurrence.⁴¹

Christianah Falana says that pregnancy outsourcing raises many ethical issues in African society, especially Yorúbá society. In Yorúbá culture, “motherhood”, “fatherhood” and the family carry different connotations from that of the Western culture. Falana further argues that reproduction through surrogate mothering is complicated by the possibility of a woman gestating a fetus genetically unrelated to her, a practice that deviates from African cultural norms. Falana draws his assertion from the Yorúbá culture which recognizes only one natural mother (the genetic mother) and one natural family (the nuclear family).⁴²

Opposing the above view, Susan Ziehl argues that despite the fact that the practice of surrogate motherhood has been the subject of a great deal of debate and controversy in recent times, it is, however, not a new phenomenon in traditional African societies. Ziehl however draws a distinction between surrogacy as it was practiced in former times and surrogacy as it is practiced today. Ziehl argues that within the traditional family institution, there was a trend away from the conventional nuclear family (characterized by the coincidence of biological and social parenthood) and that the practice of modern surrogate motherhood is in line with that trend.⁴³

Frans Mahlobogwane extends the frontiers of the argument of Ziehl maintaining that pregnancy outsourcing was an old cultural practice amongst Africans. According to Mahlobogwane, surrogacy has been practiced for centuries and yet it is still a subject that arouses passion and controversy. In African customary law (among the indigenous African people of South Africa), if a woman cannot give birth to any children, the husband’s family has the right to approach the woman’s family and ask that he be given a substitute⁴⁴. The substitute could be an unmarried sister or another female relative of the barren woman, to raise seed in his house.⁴⁵

⁴⁰ Babatunde, “Culture, Religion and the Self: A Critic Study of Benin and Yoruba Value Systems,” 249.

⁴¹ Odidika Umeora, Maryjoanne Umeora, Nkechi Emma-Echiegu, and Nzube Chukwuneke, “Surrogacy in Nigeria: Legal, Ethical, Socio Cultural, Psychological and Religious Musings,” *African Journal of Medical Health Science*, 13 (2014): 108.

⁴² Christianah Falana, “Surrogate Motherhood: A Philosophical Discourse” *Academic journal article Journal of Emerging Trends in Educational Research and Policy Studies*, accessed on the 26th August 2016 <https://www.questia.com/library/journal/1P3>

⁴³ Susan Ziehl, “Surrogacy: A Sociological Perspective With Reference to South Africa,” accessed on the 12th August 2016, <http://www.tandfonline.com/doi/abs/10.1080/>

⁴⁴ Frans Mahlobogwane, “Surrogate Motherhood Arrangements in South Africa: Changing Societal Norms” *Speculum Juris* 2 (2013): 12.

⁴⁵ Bennet Customary Law in South Africa (2008) 355.



This arrangement does not call for the return of the original wife, or for the conclusion of a separate marriage with the substitute.

The customary law position is that the substitute becomes an additional asset to the house of her sister. She has the rights and duties of an ordinary married wife (*Maqutu Contemporary Family Law of Lesotho* (1992) 156), but the children raised by her belong to the house of her sister. The arrangement is that the substitute is considered to be the womb of the childless wife, and because she is the womb, she has to raise up that house. The substitute wife is not given the rank or status of the original wife.⁴⁶ She virtually loses her personality and becomes absorbed by the house to which she is a seedraiser. She has no status but becomes the ‘body’ of the woman for whom she has to raise up seed, and the children born by her are regarded as being those of the woman to whom she is the seed bearer. The surrogate mother becomes a surrogate as long as her relationship with the “other” mother is intact; should she claim the child to be hers, she then seemingly takes the place of that other woman.⁴⁷

According to Mahlobogwane, in Africa custom, like in the biblical times,⁴⁸ the substitute wife and the original wife’s husband should “lie together” for the process of pregnancy to take place. In other words, surrogacy involves actual sexual intercourse with the husband of an infertile woman. The western approach is different from the customary approach in the sense that no actual sexual intercourse is involved in the current practice of commercial gestational surrogacy, as it is implemented through artificial techniques.

CONCLUSION AND RECOMMENDATION

This study discussed the concept of gestational surrogacy and its prevalence in Nigeria. The disposition of Nigerians to gestational surrogacy was surveyed, which was found to be largely negative. Gestational surrogacy was also examined within the ambience of Afrocentrism, which was found to be adversely against the culture and tradition of most Africans.

Despite the benefits of commercial gestational surrogacy to the infertile couple, the use of gestational surrogacy, especially the wide use, might lead to a depreciation of the idea of what it is to be a person, to a decline in self-respect. It might cause future generations to think of the human embryo or fetus as interchangeable parts, reproduction as a mechanical process, and wombs as organs for rent. The implication is that thinking of humans in this fashion would bring serious negative consequences.

In conclusion, this research recognized that gestational surrogacy has the potentials to adversely impact the value of human dignity and the family unit, and therefore a problem of public ethos. However, empathy and discernment is advocated for married couples struggling with infertility as care must be taken to pay greater attention to their sufferings.

⁴⁶ Mahlobogwane, “Surrogate Motherhood Arrangements in South Africa,” 3.

⁴⁷ Mahlobogwane, “Surrogate Motherhood Arrangements in South Africa,” 6.

⁴⁸ *The Jerusalem Bible* Genesis 16: 1ff.



The recommendations are: that an authentic Afrocentric ethics should drive any legislation that might emanate from Nigeria concerning commercial gestational surrogacy; that the Afrocentric import of gestational surrogacy should form a starting point of all engagements and actionable programmes concerning gestational surrogacy; that a detailed study of Afrocentrism and gestational surrogacy should be a major concern of scholars of African descent, in order to stimulate discussions, debate and enlightenment on the Afrocentric perspectives of gestational surrogacy at the national level; that unless the Afrocentric dimension is considered, the international community may choose responses that are ethically and religiously unsupportable or unjust; and that African theo-centric ethics should drive human reproductive scientific advancements.