

SURROGACY, IN VITRO FERTILISATION AND CONTEMPORARY FAMILY LAW REGIME*

Abstract

The challenges of infertility and convenience of parents have brought about practices like surrogacy and IVF. The associated ethical and legal issues are the major concern in the contemporary law regime. Therefore, this article focused on examination of the challenges and prospects for the contemporary family law with respect to surrogacy and IVF in Nigeria. The research methodology was doctrinal using content analysis. The sources of data collection were literatures from physical library and e-library. This article found that Nigerian government is not practically committed to legalization, accessibility and affordability of surrogacy and IVF. The recommendation, among others, was that the Nigerian government should be practically committed to the issue of legalization, accessibility and affordability of surrogacy and IVF in line with the contemporary family law regime. The significance has enriched stakeholders with informed approach and relevant literature in family law, human rights, as well as policy and strategic studies.

Keywords: Artificial Insemination, Infertility, In Vitro Fertilisation, Surrogacy and Woman.

1. Introduction

In Africa, incidents of fertility and parenthood are highly valued as proliferation is usually considered the most important purpose of marriage.¹ The burden of infertility as shown by its prevalence varies across the world. Studies from Nigeria and Ghana recorded the prevalence of 30.3% and 11.8%, respectively, while a study involving 27 African countries found a range of between 10% and 20%.² These values are higher when compared with results from studies carried out in developed nations like in Scotland (UK) and the USA with prevalence of 9.1% and 10%, respectively.³ Apart from infertility, the practice is embibed by some individuals on personal reasons. Several factors may lead to this quandary and could be major concern in public health. In an attempt to address this worrisome problem among couples, Assisted Reproductive Technology (ART) in surrogacy and IVF has been invented and reportedly found to be a commendable antidote.⁴ However, the evolution of ART has presented countless ethical, legal, and social challenges resulting in a tectonic shift in the way medical personnel, jurisprudence scholars and moral philosophers and jurists perceive infertility and ethics. Hence, these stakeholders are duty bound to formulate principles cognizance of cultural and context-specific guidelines to help address some of these ethical dilemmas.⁵ Sequel to these, this article critically examines the challenges and prospects for the contemporary family law with respect to surrogacy and IVF in Nigeria.

2. Conceptual Clarification of Key Terms

Assisted Reproductive Technology (ART)

ART is the non-coital techniques used to achieve pregnancy among persons and couples who experienced problems with conception and child birth.⁶ Some ART techniques are Intra Uterine Insemination (IUI), Artificial Insemination (AI), In vitro Fertilization (IVF), Intracytoplasmic Sperm Injection (ICSI), and Surrogacy.⁷

In Vitro Fertilization (IVF)

IVF is a form of ART which involve the use of special medical techniques to help a woman become pregnant.⁸ It is most often tried when other, less expensive fertility techniques have failed.⁹ The five major steps to IVF are

*By Chinwe Patricia ILOKA, BA(ED), LLB, BL, LLM, PhD, Lecturer, Faculty of Law, Chukwuemeka Odumegwu Ojukwu University, Anambra State, Nigeria. Email: chypat4@gmail.com, cp.iloka@coou.edu.ng. Telephone: 08035696281. This paper was originally presented by the author at the Family Law Conference held at Faculty of Law, University of Nigeria Nsukka Enugu Campus Nigeria, on 28th June, 2023.

¹ J I Aremo & O E Bolanle. 'Assisted Reproductive Technology (ART) Within the Family Law Dynamics: Imperatives for a Legal Framework' (2020) (9) (6), *International Journal of Innovative Research & Development*. Pp 93-99.

² J O Fadare & A A Adeniyi, 'Ethical Issues in Newer Assisted Reproductive Technologies: A View from Nigeria' (1998) (18) *Niger J Clin Pract*. Pp 57-61.

³ S Bhattacharya & others. 'The Epidemiology of Infertility in the North East of Scotland' (2009) (24) (30) *Human Reproduction*. Pp 96-107.

⁴ *Ibid*.

⁵ E A Osian & J A Afemikhe, 'Knowledge and Perception of Assisted Reproductive Technology among Women Attending the University of Benin Teaching Hospital' (2019) (6) *J Nurs Midwifery Sci*. Pp 125-30.

⁶ C A Ekechi-Agwu, 'Regulating Assisted Reproductive Technologies (ART) in Nigeria: Lessons from Australia and the United Kingdom. (2020) (24) (4) *African Journal of Reproductive Health December*. Pp 82.

⁷ 'The International Committee for monitoring Assisted Reproductive Technology (ICMART) and the World Health Organization (WHO) Revised Glossary on ART Terminology' *Online Database* <<https://academic.oup.com/humrep/article/24/11/2683/629168:2019>> accessed 30th May, 2023.

stimulation, also called super ovulation, egg retrieval, insemination and fertilization, embryo culture, and embryo transfer.¹⁰

Surrogacy/Gestational Carrier

Surrogacy is an arrangement through which a surrogate mother bears and delivers a child for another couple or person¹¹. Surrogacy is a form of third-party reproduction in which a woman consents to carry a pregnancy for intended parent(s) who cannot conceive for medical reasons.¹² Surrogacy may also be defined as an arrangement (often backed by law) in which a woman (the surrogate) agrees to assume responsibility for the pregnancy-related labour and delivery of a child on behalf of another person or couple (the intended or commissioning parent(s)).¹³ Traditional surrogacy is a pregnancy in which a woman provides her own egg, which is fertilized by artificial insemination, and carries the foetus and gives birth to a child for another person.¹⁴ Here, the surrogate mother contributes genetically to the conception, and is both the biological and gestational mother of the child. On the other hand, gestational surrogacy which is also referred to as host surrogacy is a pregnancy in which one woman (the genetic mother) provides the egg, which is fertilized, and another woman (the surrogate mother) carries the foetus and gives birth to the child.¹⁵ Women with ovaries but no uterus may be able to use a gestational carrier. This may also be an option for women who should not become pregnant because of a serious health problem. In this case, a woman uses her own egg. It is fertilized by her partner's sperm and the embryo is placed inside the carrier's uterus. In this instance, the surrogate mother does not contribute genetically to the conception of the child and is strictly the carrier of the pregnancy i.e., gestational mother. Both types of surrogacy are now common place in Nigeria, though gestational surrogacies are becoming the more popular option due to legal challenges such as the identity of the rightful mother often arising in traditional surrogacy.¹⁶

It allows couples and individuals from a variety of backgrounds, ages and sexual orientations to build their families. Intended parents who use surrogacy include: 'Heterosexual couples who have struggled with infertility; intended mothers who are unable to carry a child; intended parents who have a genetic defect or health condition they don't want to pass onto the child; and Gay and Trans intended parents who want to have a genetic link to their baby'.¹⁷ In addition, surrogacy may be commercial or altruistic, depending on whether the surrogate receives financial reward for her pregnancy or not. In case of altruistic surrogacy, a surrogate does not receive any monetary compensation and majority of these agreements often involve close relatives of the intended parents.¹⁸ Many countries frown upon commercial surrogacy, and only permit altruistic surrogacy arrangements.¹⁹

3. Examination of Legal Status of Surrogacy and IVF in Nigerian Contemporary Family Law

Surrogacy is not expressly prohibited in Nigeria, it is also not legally acknowledged, IVF. Thus, there is currently no legal framework regulating surrogacy in Nigeria, unlike other countries. The closest Nigeria has come to regulation of surrogacy is the presentation of the Assistive Reproductive Technology (Regulation) Bill 2016.²⁰ Regrettably, till date, that Bill has not been passed into law. Only Lagos State has passed guidelines on Assisted Reproductive Technology in 2019.²¹

Surrogacy is abhorred in certain parts of Nigeria and leveraging on section 30 of the Child's Rights Act which provides that: 'No person shall buy, sell, hire, let on hire, dispose of or obtain possession of or otherwise deal in

⁸ O Giwa-Osagie & others. 'Human Oocyte Recovery for In Vitro Fertilisation: The Use of Cervical Mucus and Plasma Oestradiol as Indices of Follicular Development' (2017) (17) *West African Journal of medicine*. Pp 136 – 9.

⁹ M D Bethesda, 'National Library of Medicine' <[https://medlineplus\(us\)gov2020/](https://medlineplus(us)gov2020/)> accessed on 12th June, 2023.

¹⁰ L C Tsen, 'In Vitro Fertilization and other Assisted Reproductive Technology' In: D H Chestnut, C A Wong, L C Tsen (eds.) *Chestnut's Obstetrics Anesthesia* (6th ed., Elsevier PA Publishers, 2020) 15.

¹¹ K P Anu & others, 'Surrogacy and Women's Right to Health in India: Issues and Perspective' (2013) (57) *Indian J Public Health*. pp 65–70.

¹² *Encyclopedia of Reproduction* (2nd edition, Vol. 5, N.P., 2018).

¹³ D Davis, 'Embryos Created for Research Purposes' (1995) (5) (1) *Kennedy Institute of Ethics Journal*, P 95.

¹⁴ B A Garner (Ed.), *Black's Law Dictionary* (9th Edition, Thomson West, 2004).

¹⁵ *Ibid*

¹⁶ E G Peter, 'A Phenomenological Study into Infertility and ART' <file:///C:/Users/HP/Downloads/Grinion_Peter_Edward_2007.pdf> accessed on 12th June, 2023.

¹⁷ *Ibid*.

¹⁸ 'Surrogacy Market 2021: Forecast to 2027' Online Database <<https://www.taiwannews.com.tw/en/news /4384986>> Accessed 20th May, 2023.

¹⁹ Commercial surrogacy is prohibited in Belgium, Netherlands, and UK. Conversely, France, Italy and Germany completely prohibit surrogacy.

²⁰ 'Time to Regulate Fertility Medicine', *This Day Live* (23rd November, 2021).

²¹ *Ibid*.

a child'. However, there is no court decision enforcing this provision.²² As such, if a person engages in surrogate motherhood or enters into a surrogate contract in Nigeria, such a person cannot be said to have committed a crime. The underlying problem, however, is in terms of legally defining the legal parentage of the child as well as the contractual rights and duties of parties to the surrogate agreement.²³ In April 2022, a National Daily carried the story of a US-based couple who had accused their Nigerian surrogate of absconding with twin baby boys, who were the products of their surrogacy agreement. The surrogate, through her lawyer, however narrated a different tale, alleging that the couple had abandoned her during her pregnancy, causing her to be unable to foot the medical bills of the babies. This motivated her decision not to handover the babies to the couple after their birth.²⁴ Thus, parties to surrogacy must be in agreement, as per offer and acceptance and something of value must be exchanged to serve as a consideration. Like most jurisdictions, in Nigeria, once a contract satisfies the required elements, it becomes enforceable. Thus, although there is no law or statute regulating the act of surrogacy in Nigeria, surrogacy contracts and agreements remain enforceable.²⁵ However, a major concern is whether surrogacy contracts can be enforced in the Nigerian courts, based on public morality and policy grounds. However, it has been asserted that while the standpoint of morality and public policy may present a contrary view on the enforcement of surrogacy contracts. It does not change the fact that surrogacy contracts fall under legally enforceable agreements.²⁶ Some perennial questions are bordered on why, what, how and who in respect to the expected regulation in this milieu.²⁷ Action has been taken by the Lagos State Government to formally regulate this area of medico-legal i.e. 'ART Practice in Lagos State: Regulations and Guidelines', unveiled in May 2019 by its Ministry of Health in conjunction with the Health Facilities Monitoring and Accreditation Agency (HEFAMAA) and the Association for Fertility and Reproductive Health (AFRH) and other stakeholders. The Lagos State guidelines deal with both clinical and ethical issues. It provides guidance on maximum number of embryos, cryopreservation, cross-border treatment, counseling, and confidentiality for special cases, donation of gametes and embryo, posthumous use of gametes, surrogacy, pre-implantation genetic testing, record keeping, clinical best practices, research and even sanctions. It also delegates HEFAMAA as the regulatory agency in charge of ART Practice in Lagos State. However, legislation and policies regulating the practice vary among states, making it imperative for national enactment.

Insight into the Constitution of the Federal Republic of Nigeria, 1999 (as altered), provides under Chapters II and IV a touch of legal framework on ART in Nigeria. Section 15(3)(c) provides: 'For the purpose of promoting national integration, it shall be the duty of State to: (c) encourage intermarriage among persons from different places of origin, or different religious, ethnic or linguistic association or ties'.²⁸ It further provides: 'In furtherance of the social order: (b) the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.'²⁹ Section 17(3) makes provision for adequate medical and health facilities for all persons as follows:

(d) the State shall direct its policy towards ensuring that there are adequate medical and health facilities for all persons;³⁰

(g) provision is made for public assistance in deserving cases or other conditions of need;³¹

(h) the evolution and promotion of family life is encouraged'.³²

Section 17(2) (b) of the constitution provides for social order for dignity and sanctity to Nigerians. However, where infertile couples in the quest to have their own child are stigmatized, ridiculed and dehumanized by members of the public and randy medical personnel, the above provision becomes meaningless for lack of national legislation to regulate the practice of ART in Nigeria.³³ Thus, in the context of this study it is submitted that in the absence of legislation regulating the practice of Art in the country, infertile couples will scuffle in the constitutional provisions. Chapter IV of the Nigerian Constitution provides for fundamental rights. Which include the right to life,³⁴ the prohibition against torture, inhuman and degrading treatment and punishment,³⁵

²² CFRN, 1999, as altered, section 36(12).

²³ O S Adedokun, 'The Concept of Surrogacy in Nigeria: Issues, Prospects and Challenges' (2018) (18) *African Human Rights Law Journal*. Pp. 605-24.

²⁴ 'US Couple Accuses Nigerian Surrogate Mother of Absconding with Twins', *Premium Times* (8th April, 2022).

²⁵ S Sanni, 'Legal Approach to Surrogacy in Nigeria' *Online Data* <<https://www.mondaq.com/nigeria/family-law/840674/legal-approach-to-surrogacy-in-nigeria>> Accessed 26th May, 2023.

²⁶ *Ibid*.

²⁷ D Adamson, 'Regulation of Assisted Reproductive Technologies in the United States' (2002) (7) (3) *Fertil Steril*. Pp 932-42.

²⁸ CFRN, 1999, as altered, s. 15(3)(c).

²⁹ *Ibid*, 17(2)(b).

³⁰ *Ibid*, s.17(3)(d).

³¹ *Ibid*, s.17(3)(g).

³² *Ibid*, s.17(3)(h).

³³ U C Abugu, *Principles and Practice of Medical Law and Ethics* (P-Link Nigeria Limited, 2018) 320.

³⁴ CFRN, s. 33.

the right to liberty,³⁶ the right to privacy and confidentiality³⁷ and the prohibition against discrimination.³⁸ The Fundamental Rights can be enforced through the instrumentality of the Fundamental Rights Enforcement Procedure Rules provided for in the Constitution of Nigeria, 1999 (as amended).³⁹ Whereas, all of the rights are relevant to infertile couples the fundamental right to family life stands out. In this regard, infertile couples can exercise their reproductive rights to find a family either through intercourse or the use of the Surrogacy or IVF.

Additionally, there is the National Health Act of 2014. This was enacted as principal legislation after the successful birth of the first baby by the Oladapo Ashiru team in 1986 through ART in Nigeria.⁴⁰ The Act provides a framework for regulating, developing and managing the national health system, and sets standards for rendering healthcare services in the federation and for related matters. The provisions in the Act are complemented by the Code of Medical Ethics in Nigeria⁴¹ which principally deals with ethical issues relating to medical practice. There are very scanty glimpses of provisions in both the legislation and the Code that could impact on assisted reproductive technologies in Nigeria.⁴² For instance: Section 26 of the National Health Act protects a patient's confidentiality. Section 64 defines a 'user' as the person receiving treatment in a health establishment, including receiving blood or blood products, or using a health service, and if the person receiving treatment or using a health service. The clarity embedded in the statutory definition of 'user' under the Act, would ensure optimal protection of patient's information even in those exceptional cases of a patient's physical or mental incapacity.⁴³ Although there are exceptions to this general rule which provide that disclosure of health information cannot be made in Nigeria at the request of a donor-conceived child even when the child is of age as under section 24 of the HFE Act.⁴⁴ Such a child does not fall within the definition of 'user' under section 64 of the Nigerian Act which refers primarily to the person that received treatment and does not include the product of that treatment when such a person is of the requisite physical and mental capacity.⁴⁵

The inevitable negative consequence of the absence of legislation authorizing disclosure in Nigeria at the request of a donor conceived child is that babies born through assisted reproductive technologies could fall into such social and family relationships which the laws in the other jurisdictions have taken steps to prevent by authorizing a disclosure of information. Such information gives the child an identity as emphasized by the English court in Rose's case.⁴⁶ The none inclusion of a donor conceived child in section 26 of the Nigerian National Health Act, or in any other provision for that matter, can only be attributed to the fact that, that piece of legislation does not have the interest of such child within its contemplation. Manipulation of gametes including embryo splitting and cloning of human being is prohibited in other jurisdictions as matters of ethics. Otherwise there could be the urge through medical science and technology to create human beings from animal gametes and vice versa.⁴⁷ Lord Phillips of Worth Matravers MR in the case of *R (Quintavalle) v Secretary of State for Health*⁴⁸, described the parliamentary policy on the UK Act that seeks to bring the creation and use of embryos under strict regulatory control as being for ethical reasons, thus:

To the question of whether it is necessary to bring embryos created by cell nuclear replacement within the regulatory regime created by the Act in order to give effect to the intention of Parliament, there can only be one answer, it is essential. There is no factor that takes embryos created by cell nuclear replacement outside the need, recognized by Parliament, to control the creation and use of human organisms.⁴⁹

Unfortunately, the regulatory regime referred to by the court in the UK has not been provided for in Nigeria. The HFE Act of 2008 licenses and monitors all issues relating to ART, while the Nigerian law is yet to create a similar body. However, there is the National Council on Health mentioned in section 4 of the Act, but the functions of the Council are merely advisory. The only deterrence for a person engaging in such an unethical conduct would be the fear of five years imprisonment as provided in subsection (2) of section 50.

³⁵ *Ibid*, s. 34.

³⁶ *Ibid*, s. 35.

³⁷ *Ibid*, s. 37.

³⁸ *Ibid*, s. 42.

³⁹ Fundamental Rights (Enforcement Procedure) Rules, 2009.

⁴⁰ F O Emir, *Medical Law and Ethics in Nigeria* (2nd ed., Malthouse Press Limited, 2012).

⁴¹ Code of Medical Ethics in Nigeria, 2014.

⁴² *Ibid*, 110.

⁴³ *Ibid*, 113.

⁴⁴ Human Fertilization and Embryology (HFE) Act (2008), s. 24.

⁴⁵ *Ibid*.

⁴⁶ *Rose & Anor. v Secretary of State for Health Human Fertilization and Embryology Authority* [2002] EWHC 1593.

⁴⁷ *Ibid*, 123.

⁴⁸ *R (Quintavalle) v. Secretary of State for Health* [2002] EWCA Civ 29 paras 36-8.

⁴⁹ *Ibid*.

4. Examination of Ethical Issues in Surrogacy and IVF in Nigerian Contemporary Family Law

The national ethical framework for the regulation of Surrogacy and IVF include Code of Medical, Ethics in Nigeria 2008, Code of Nursing and Midwifery Council of Nigeria, Code of Medical Laboratory Science Council of Nigeria (MLSCN), and Code of Pharmaceutical Council of Nigeria. Note, the issues surrounding individual rights, commodification, exploitation, citizenship of the offspring of ART and even fair trade and patency are largely unresolved. As with donor gametes, surrogates and gestational carriers are subject to significant medical and emotional risks from carrying a pregnancy and undergoing a delivery. Additionally, the rights of the surrogate or gestational carrier to not relinquish the infant following delivery are not well described. Financial pressures could lead to exploitation and commodification of the service. Some have expressed concern that financial compensation of oocyte donors may lead to exploitation as women may proceed with oocyte donation against their own best interests, given the inherent medical risks involved. The concept of commodification, that any 'buying or selling' of human gametes is inherently immoral, is an additional argument used against remunerating women serving as oocyte donors. Another ethical and legal issue surrounding the use of donated gametes is to what extent the anonymity of the donor should be preserved. In the British case of *Rose v Secretary of State for Health*⁵⁰ the court ruled that based on the Human Rights Act, donor offspring could obtain information about their genetic parents despite previously established anonymity.⁵¹ The development of IVF techniques enabled surrogacy whilst opening a floodgate of ethical questions such as:

- (a) Issues of embryonic gender selection
- (b) Donor selection criteria
- (c) Potential abuse of the technology by the human trafficking industry
- (d) The father and fatherhood ethical question.⁵²

Lord Patten was driven to complain that this is a difficult ethical issue to settle.⁵³ It can be described as 'a radical and dangerous new departure in family law'.⁵⁴

5. Prospect for effective Regulation of Surrogacy and IVF in the Nigerian Contemporary Family Law

Despite the challenges, many developing countries have seen the introduction of new reproductive technologies through a global transfer of technology.⁵⁵ The expected roles of Government should include proper financing, while NGOs work to safeguard and expand the human rights, equality and preventive health of men and women. In addition, if health providers and program managers help clients safeguard their health by providing education on the biological causes of infertility and properly treat STIs, it would lessen the malaise propelling ART. For example, an intervention in Nigeria utilized peer educators, school-based health clubs, and provider training to increase youth knowledge of STIs and STI treatment-seeking behavior.⁵⁶ It is expected of public health policy-makers to invest in preventing the causes of infertility and leave the establishment of new assisted reproductive technologies to the private sectors since it is unlikely to be cost-effective in the public sector.⁵⁷ Researchers are hoping on governments to invest in more quality-control and regulatory policies to help prevent exploitation of patients in low-resource settings.⁵⁸ By offering infertility education and services, family planning programs can build a positive result and meet a widespread health need.⁵⁹ It can help prevent infertility by reducing STI and PID risks among their clientele.⁶⁰ In an effort towards accessible and affordable technologies, some researchers are looking at public-private partnerships. These partnerships can bring technical expertise, research, equipment, and supplies to low-resource settings. At the same time, public-private partnerships can offer services at lower costs that are more realistic in developing countries like Nigeria. In addition, public-private partnerships can

⁵⁰ (2002) EWHC 1593.

⁵¹ J Burr, 'To Name or not to Name? An Overview of the Social Ethical Issues Raised by Removing Anonymity from Sperm Donors' (2010) (12) (6) *Asian Journal of Andrology*. Pp.801-6.

⁵² *Ibid*.

⁵³ P L Patten, *Medico-Legal Practice* (vol. 6, Col Pub, 2007).

⁵⁴ T Callus, *Family Law: First Designer Babies* (N.P., 2008).

⁵⁵ F V Balen & M C Inhorn, 'Introduction: Interpreting Infertility: A View from the Social Sciences,' In: F V Balen and M C Inhorn (Eds.) *Infertility around the Globe: New Thinking on Childlessness, Gender and Reproductive Technologies* (University of California Press, 2002) 23.

⁵⁶ J E Stern & others, 'Access to Services at Assisted Reproductive Technology Clinics: A Survey of Policies and Practices' (2019) (18) (4) *Obstetric Gynecol Journal*. Pp.591-7.

⁵⁷ F E Okonofua, 'New Reproductive Technologies and Infertility Treatment in Africa' (2003) (7) *Afr. J. Reprod. Health*. Pp. 7-11.

⁵⁸ H V Zandvoort & others, 'Viewpoint: Medical Infertility Care in Low Income Countries: The Case for Concern in Policy and Practice' (2001) (6) *Trop. Med. Int. Health*. Pp. 563-9.

⁵⁹ A J Singh, 'Support for Infertile Couples' (17) (1996) *World Health Forum*. Pp.176-7.

⁶⁰ R A Hatcher, 'C D C Infertility' In: R A Hatcher (Ed.), *Family Planning: Methods and Practice in Africa* (Atlanta Center for Disease Control and Prevention, 2000).

help influence the establishment of standards, regulations, and policies to safeguard the health of couples undergoing treatment.⁶¹

6. Conclusion and Recommendations

From the foregoing, this research makes the following recommendations, inter alia:

- (1) Legislators and professional bodies should often make clear distinction between surrogacy and IVF in the family planning milieu and ensure persons in patronage are well informed of which ART practice they get involved and their challenges and legal implications.
- (2) The judiciary should consistently review the decisions of professional bodies which may be unethical or illegal and against human rights.
- (3) The legislature should take a bold step in making *sui generis* laws to adequately regulate the practice of surrogacy and IVF in Nigeria.
- (4) The executive arm of government should ensure the enforcement of the laws made by the legislature and accordingly impose punishment on violators.
- (5) Finally, the federal and state government should make the issue of legalization, affordability, accessibility, management guidelines, licensing, and reporting systems a priority on their agenda.

Succinctly put, these recommendations would address the findings of this article which revealed that Nigerian government and stakeholders in family law parlance are not practically committed to legalization, accessibility and affordability of surrogacy and IVF. Therefore, a decisive approach to this enriches stakeholders with informed approach and relevant literature in family law, human rights, as well as policy and strategic studies.

⁶¹ A S Daar & Z Merali, 'Infertility and Social Suffering: The Case of ART in Developing Countries' In: V E Rowe and P D Griffin (Eds.) *Current Practices and Controversies in Assisted Reproduction: Report of a WHO Meeting* (WHO, 2002).