Comments on the paper “The new Portuguese law on surrogacy – The story of how a promising law does not really regulate surrogacy arrangements”

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Papers of this sort are indeed very interesting, and I believe they bring relevant contributions to the discussions on surrogacy. I would like to congratulate the authors and recommend this paper to my fellow specialists and legal experts working in this area.

Brazil was one of the first countries to allow surrogacy procedures, as described in Resolution 1358/1992 of the Federal Board of Medicine. The mother-to-be had to present a well-defined medical condition to be eligible to surrogacy, while the surrogate mother had to be related to the genetic mother by no more than two degrees of kinship. All other cases required the authorization of the Regional Board of Medicine. Surrogacy could never be the object of a commercial transaction. The first Brazilian paper on the matter was published in 1997 (Souza *et al.*, 1997).

The Federal Board of Medicine (Resolution 2121/2015) currently states that although there cannot be direct payment to the surrogate mother, she is entitled to receiving care in the prenatal period, at childbirth, and in puerperium. The persons involved, regardless of their marital statuses, are required to undergo psychological evaluation and produce a document prepared by a lawyer and signed by the biological parents and the surrogate mother describing the arrangements pertaining to their decision.

Female same-sex couples can use anonymous sperm donors to have their oocytes fertilized and implanted in their wombs.

Male same-sex couples can fertilize oocytes from anonymous donors and have them implanted in the womb of a recipient relative. If no relatives are available for the procedure, they have to apply for a permit with the Regional Board of Medicine before the procedure is performed.

REFERENCES

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