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Children's Rights in International Commercial Surrogacy: Exploring the challenges from a child rights, public international human rights law perspective

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Propositions relating to the dissertation

CHILDREN'S RIGHTS IN INTERNATIONAL COMMERCIAL
SURROGACY

*Exploring the challenges from a child rights, public international
human rights law perspective*

by Claire Indrawati Achmad

1. International Commercial Surrogacy (ICS) is a method of family formation raising human rights challenges for many of the core parties involved, but the rights of children conceived and born through ICS are the human rights most at risk.
2. The United Nations Convention on the Rights of the Child (CRC) provides internationally agreed minimum standards and norms which should be implemented by CRC duty bearers (both States Parties as principal duty bearers, and secondary duty bearers such as parents), to protect and promote the rights of children in ICS.
3. Decisions and actions taken during the preconception, prenatal and post-birth phases of ICS regarding future children and children born through ICS should take a holistic and lifetime view of upholding the child's rights.
4. The concept of human dignity should guide the balancing of competing human rights in ICS, and wherever possible the child's rights and best interests should be protected as a matter of priority.
5. Given the broad international consensus on the minimum standards for promoting and protecting children's rights reflected in the CRC, international children's rights law is a subset of international human rights law which rests on strong foundations and is ripe for further development.
6. CRC States Parties still have a long way to go to ensure that children are active participants in the protection, promotion and monitoring of their rights; this is central to realising the promise of the CRC in practice.
7. As technological and scientific developments continue to outpace national laws, international human rights law is increasingly important to set standards and develop consensus; even soft law instruments and standards can send strong messages to guide and establish best practice.
8. As the treaty body responsible for overseeing and guiding the implementation of the CRC, the Committee on the Rights of the Child should take an increasingly active role in encouraging the protection and promotion of children's rights in the context of newly emerging children's rights challenges.
9. International human rights law and international environmental law are two branches of public international law which are complementary, and children's rights and the concept of intergenerational justice is cross-cutting between them.
10. Child rights scholars have a responsibility to ensure that their work can be translated into or influence positive developments for children's rights in practice.
11. The judiciary in Aotearoa New Zealand is yet to fully recognise the important role it can and should play in protecting and promoting the rights of children, consistent with the CRC.
12. Regional agreement on an Asia-Pacific Children's Rights Charter would be an important step forward in promoting and protecting children's rights in the Asia-Pacific region; in the context of the Sustainable Development Goals, a window of opportunity exists to progress this idea.