

Legal Construction of Surrogacy in Indonesia Based on The Altruistic Regulation Model in Australia

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Abstract

Although Indonesia has regulated provisions regarding assisted reproductive technology, there are no regulations that explicitly regulate the legality, mechanisms, or legal consequences of surrogacy. This condition creates legal uncertainty that has various implications for the protection of parties involved in the practice of surrogacy. This study aims to analyze the implications of the legal vacuum of surrogacy in Indonesia and examine the principles of altruistic surrogacy regulation in the Australian legal system to serve as a basis for constructing Indonesian national law. This study uses a doctrinal (normative) legal research method with a statutory approach and a conceptual approach. The results show that the legal vacuum of surrogacy in Indonesia has implications for weak legal protection for parties involved in the practice of surrogacy, including surrogate mothers, couples using surrogacy services, and surrogacy-related children. In addition, this study found that the regulation of altruistic surrogacy in the Australian legal system contains several important principles, such as the prohibition of commercial surrogacy, the principle of the best interests of the child, free and informed consent of the parties, state supervision, and certainty of the child's legal status.

KEYWORDS

Legal Vacuum, Implications, Surrogacy, Legal Protection, Altruistic Surrogacy



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Introduction

As a nation governed by law based on Pancasila, Indonesia has the duty and authority to achieve its goals of national legal development. One manifestation of this national legal development is reflected in the marriage regulations that apply to all citizens, in accordance with the considerations in Law Number 1 of 1974 concerning Marriage (UU 1/1974).¹ Based on Article 1 of Law 1/1974, marriage is a physical and spiritual bond formed between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. This aim shows that forming a happy family is closely related to the offspring or children who are the result of the marriage. This is in line with what is stated in Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD 1945).² Also mentioned in Article 10 paragraph (1) of Law Number 39 of 1999 concerning Human Rights (Law 39/1999) states that everyone has the right to form a family and continue their lineage through legal marriage.³

The presence of children is often seen as a vital part of family formation in a marriage. However, in practice, not all marriages produce children naturally. Infertility is one of the main causes of this condition. *World Health Organization* In 2023, it was recorded that at least 17.5% of the world's adult population, 1 in 6, experienced infertility.⁴ Infertility in the Big Indonesian Dictionary is defined as "the inability to produce offspring".⁵ As

¹ Pemerintah Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan" (1974), 1, <https://peraturan.bpk.go.id/Details/47406/uu-no-1-tahun-1974>.

² Pemerintah Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945), <https://peraturan.bpk.go.id/Home/Details/101646/uud-no-->.

³ Pemerintah Indonesia, "Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia" (1999), 5, <https://peraturan.bpk.go.id/Details/45361/uu-no-39-tahun-1999>.

⁴ World Health Organization, *Infertility Prevalence Estimates, 1990-2021*, 2023, <https://www.who.int/publications/i/item/978920068315>.

⁵ Kementerian Pendidikan Dasar dan Menengah Republik Indonesia. (2016). "KBBI Daring,". Dikutip dari <https://kbbi.kemdikbud.go.id/entri/infertilitas>.

a result, it is not uncommon for them to choose alternative paths to have children (Brian in Alifia Qintarawati, 2023: 34).⁶

Advances in technology and medical knowledge have enabled various assisted reproduction methods to emerge as solutions for couples experiencing infertility. In the Indonesian legal system, assisted reproduction is regulated by Law Number 17 of 2023 concerning Health (Law 17/2023),⁷ and its implementing regulations, namely Government Regulation Number 28 of 2024 concerning the Implementing Regulations of the Health Law (PP 28/2024).⁸ These provisions basically stipulate that assisted reproduction can only be carried out using the results of fertilization of sperm and ovum originating from the husband and wife concerned and implanted in the uterus of the wife concerned.⁹ Services regarding assisted reproduction are also regulated in the Minister of Health Regulation Number 2 of 2025 concerning the Implementation of Reproductive Health Efforts (Permenkes 2/2025).¹⁰

Along with the development of reproductive technology, the practice of surrogacy has also emerged (*surrogacy*), namely the practice of pregnancy involving a woman *assurrogate mother*, to carry out a practice called surrogacy (*surrogacy*).¹¹ This effort is taken as a last resort when various methods have been tried by an infertile couple, whose condition no

⁶ “Perlindungan Terhadap Ibu Pengganti (Surrogate Mother) Dalam Prespektif Hukum Hak Asasi Manusia Di Indonesia,” *Birokrasi: JURNAL ILMU HUKUM DAN TATA NEGARA* 1, no. 4 (2023): 34, <https://doi.org/10.55606/birokrasi.vii4.655>.

⁷ Pemerintah Indonesia, “Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 Tentang Kesehatan” (2023), <https://peraturan.bpk.go.id/details/258028/uu-no-17-tahun-2023>.

⁸ Pemerintah Indonesia, “Peraturan Pemerintah Republik Indonesia Nomor 28 Tahun 2024 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan” (2024), <https://peraturan.bpk.go.id/details/294077/pp-no-28-tahun-2024>.

⁹ Indonesia, Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan, 33.

¹⁰ Pemerintah Indonesia, “Peraturan Menteri Kesehatan Nomor 2 Tahun 2025 Tentang Penyelenggaraan Upaya Kesehatan Reproduksi” (2025), <https://peraturan.bpk.go.id/Details/314518/permenkes-no-2-tahun-2025>.

¹¹ Muhammad Akbar, Muhammad Ali, & Dwi Pratiwi Markus. (2024). “Tinjauan Yuridis Perjanjian Sewa Rahim Ditinjau Dari Hukum Perdata,” *Judge : Jurnal Hukum*, 05(02), 109–110. Doi:10.54209/judge.v5i02.650.

longer allows for pregnancy (Koes in Husnul Arifin and Efrida Ratnawati Gultom, 2024: 21).¹² Surrogacy is a form of development of assisted reproduction or pregnancy outside of natural means which is carried out by manipulating oocytes before they are transferred as embryos.¹³ The practice of surrogacy is usually based on an agreement between a couple who wants a child and a woman who is willing to be a surrogate mother, which contains provisions regarding the rights and obligations of the parties during the pregnancy until the handover of the child after birth.

In its application, surrogacy can generally be divided into two (2) main forms, namely commercial surrogacy and altruistic surrogacy. Various countries in the world have different approaches in regulating the practice of surrogacy. In general, surrogacy regulations are grouped into four (4) typologies, namely countries that only allow commercial surrogacy, countries that only allow altruistic surrogacy, countries that prohibit all forms of surrogacy, and countries that allow all forms of surrogacy. These different approaches show that the practice of surrogacy is a complex issue and requires a clear regulatory framework to protect the parties involved, including women who become surrogates, couples who want children or use surrogacy services, and children resulting from surrogacy.

Unlike countries that have their own regulations regarding the practice of surrogacy, Indonesia itself currently does not have specific regulations on the matter. Current regulations only cover assisted reproduction in general and tend to be limited. This situation creates a legal vacuum regarding the practice of surrogacy and legal protection for the parties involved, which ultimately leads to conflicts of interest and violations of rights if the practice of surrogacy occurs in society without an adequate regulatory framework. In 2009, the practice of surrogacy occurred in Indonesia and made the news. The name that emerged from the news was an artist named Zarima

¹² "URGENCY TENTANG PERATURAN SURROGACY (SEWA RAHIM) DI INDONESIA," *Ensiklopedia Education Review* 6, no. 2 (2024): 21, <https://doi.org/10.33559/eer.v6i1.2574>.

¹³ Arifin and Gultom, 21.

Mirafsur who performed surrogacy or womb rental practices with a married couple from Surabaya. Zarima Mirafsur reportedly received compensation in the form of money, a car, and a house.¹⁴ One example highlighted is the practice of surrogacy in Kenya, reported in Finance Uncovered that a journalist, named Naipanoi Lepapa, who shared the story after an 18-month investigation into the murky world of surrogacy in Kenya in 2019.¹⁵ Naipanoi revealed that he found allegations ranging from coercion, exploitation and intimidation of surrogate mothers (*surrogate mother*), human trafficking of biological mothers and children, forced abortions, and identity fraud and fraud.¹⁶

One surrogate mother Naipanoi met said she was forced to have an abortion late in her pregnancy when the couple she had contracted with changed their minds.¹⁷ One of the causes of problems like this is that Kenya experiences a legal vacuum, especially in the legal framework of surrogacy, Kenyan legislators or lawmakers have failed to pass laws that provide protection to children resulting from surrogacy and surrogate mothers.¹⁸ A similar situation could potentially occur in Indonesia if the practice of surrogacy develops without definite and clear regulations.

Among these various regulatory models, Australia is one of the countries that regulates surrogacy practices relatively comprehensively by placing altruistic surrogacy as the only form of surrogacy practice permitted or permitted by the state, emphasizing the presence of law and legal certainty reflected in its regulations. The selection of Australia as a reference country in this study is based on several considerations. The Australian legal

¹⁴ Adinda Akhsanal Viqria, "ANALISIS SEWA RAHIM (SURROGATE MOTHER) MENURUT HUKUM PERDATA DAN HUKUM ISLAM Adinda," *Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 4 (2022): 1695, <https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/3/>.

¹⁵ Ted Jeory. (London, 2021), "Investigating Surrogacy in Kenya: Brave Journalist Tells of Dramatic Face-off with Agency Boss and the Police". Dikutip dari <https://www.financeuncovered.org/stories/investigating-surrogacy-in-kenya-brave-journalist-tells-of-dramatic-face-off-with-agency-boss-and-the-police>.

¹⁶ Jeory.

¹⁷ Jeory.

¹⁸ Jeory.

system consistently only allows altruistic surrogacy and prohibits commercial surrogacy with the aim of preventing the potential exploitation of women and the commercialization of bodies and children in assisted reproduction practices that often occur in commercial surrogacy practices.¹⁹ This principle aligns with Indonesia's moral and social values. Furthermore, the scope of legal protection in Australian regulations is quite broad and comprehensive, encompassing the rights of children, surrogate mothers, and couples who use surrogacy services. Therefore, Australia's altruistic surrogacy regulatory system is considered relevant for study as a conceptual basis for formulating national legal frameworks to address the gaps in Indonesian surrogacy law.

According to the author's research and findings, several previous studies have addressed the issue of surrogacy from various perspectives. 1. Research by Putu Nita Yulistian, I Nyoman Putu Budiarta, and I Wayan Arthanaya, published in the *Jurnal Interpretasi Hukum* in 2021, entitled "Hak Waris Anak yang Dilahirkan melalui Perjanjian Surogasi".²⁰ This study analyzes the existence of surrogacy agreements according to the Health Law and the Civil Code (KUHPerdota) and determines the inheritance rights of children resulting from surrogacy agreements. 2. Research by F. Ghodrati in the form of a journal in the journal *Ethics Medicine and Public Health* in 2023 with the title "A comparative study of surrogacy rights in Iran and European countries, a review article".²¹ This study analyzes the legal perspectives and types of legislation in thirteen European countries, twelve countries in the European Union (France, Germany, Italy, Spain, Greece,

¹⁹ Attorney-General Department of Australia, "Why Australia Prohibits Commercial Surrogacy," Australian Law Reform Commission (ALRC), 2024, <https://www.surrogacy.gov.au/human-rights-and-surrogacy/why-australia-prohibits-commercial-surrogacy>.

²⁰ Putu Nita Yulistian, I Nyoman Putu Budiarta, and I Wayan Arthanaya, "Hak Waris Anak Yang Dilahirkan Melalui Perjanjian Surogasi," *Jurnal Interpretasi Hukum* 2, no. 1 (2021): 200–206, <https://doi.org/10.22225/juinhum.2.1.3104.200-206>.

²¹ F. Ghodrati, "A Comparative Study of Surrogacy Rights in Iran and European Countries, a Review Article," *Ethics, Medicine and Public Health* 27 (2023): 1–10, <https://doi.org/10.1016/j.jemep.2023.100880>.

the Netherlands, Belgium, Denmark, Lithuania, the Czech Republic, and Portugal) and three countries outside the European Union (the United Kingdom, Ukraine, and Russia). 3. Research by Ni Nyoman Putri Purnama Santhi in the form of a Journal in the Journal *INNOVATIVE: Journal of Social Science Research* with the title “*Journal of Social Science Research* dengan judul “Surogasi Rahim: Perbandingan Praktik Hukum di Berbagai Negara yang Melegalkan – Implikasi Global dan Lokal”.²² This study aims to determine the legal practice of surrogacy in various countries that have legalized it, the main differences in the legal approach, and the global and local implications of the practice of surrogacy in various countries that have legalized it.

Based on previous research, it can be seen that studies on the practice of surrogacy have actually been conducted from various perspectives, such as the status of surrogacy, the legal status and inheritance rights of surrogacy children, and comparisons of surrogacy practices in various countries. However, these studies generally still focus on one particular aspect and have not specifically examined the implications of the legal vacuum of surrogacy in Indonesia for the protection of the parties involved in the practice in a comprehensive manner. In addition, studies on the possibility of using the principles of regulating altruistic surrogacy in other countries' legal systems, especially Australia, to be adopted as a basis for national legal construction in Indonesia are also still limited. Therefore, this study aims to analyze the implications of the legal vacuum of surrogacy in Indonesia for the protection of the parties involved in the practice of surrogacy, including surrogate mothers, couples using surrogacy services, and surrogacy children, and examine how the principles of regulating altruistic surrogacy in the Australian legal system can be used as a basis for

²² Ni Nyoman Putri Purnama Santhi, “Surrogasi Rahim : Perbandingan Praktik Hukum Di Berbagai Negara Yang Melegalkan - Implikasi Global Dan Lokal,” *INNOVATIVE: Journal Of Social Science Research* Volume 3, no. 6 (2023): 1046–61, <https://j-innovative.org/index.php/Innovative/article/view/6355/4454>.

national legal construction to fill the regulatory vacuum of surrogacy in Indonesia.

Methods

This research uses a doctrinal (normative) type of research, namely research on laws that are conceptualized and developed based on the doctrines adopted by the conceptualizer and/or developer (Soetandyo Wignjosoebroto in Bachtiar, 2019).²³ This type of doctrinal research was chosen because it allows the author to examine legal provisions related to surrogacy law and all its implications in legislation so that a legal construction can be found to provide an overview of the legal status of surrogacy practices in Indonesia and fill the existing legal gap. The research approach that will be used includes a statutory approach (*statute approach*) and conceptual approach (*conceptual approach*). The legislative approach is used to analyze various regulations related to non-natural reproductive technologies including surrogacy to the protection of parties involved in surrogacy practices, while the conceptual approach is used to examine the relevant legal concepts, principles, and doctrines in formulating the construction of surrogacy regulations in Indonesia.

The sources used in doctrinal research are legal materials, which are divided into primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include statutory regulations, official treatises, court decisions, and official state documents.²⁴ Secondary legal materials include textbooks or law books, research results in journals and magazines, and the opinions of legal experts.²⁵ Tertiary legal materials include legal dictionaries, language dictionaries, encyclopedias and legal encyclopedias.²⁶ Data collection was carried out through literature studies,

²³ *Metode Penelitian Hukum* (Sukoharjo: UNPAM PRESS, 2019).

²⁴ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

²⁵ Muhaimin.

²⁶ Muhaimin.

which were then analyzed qualitatively to obtain conclusions relevant to the research problem.

Result and Discussion

1. Implications of the Legal Vacuum of Surrogacy in Indonesia for Legal Protection for Surrogate Mothers, Couples Using Surrogacy Services, and Children Resulting from Surrogacy

Normatively, currently Indonesia only regulates non-natural or assisted pregnancy practices through several laws and regulations, including Law Number 17 of 2023 concerning Health (Law 17/2023), Government Regulation of the Republic of Indonesia Number 28 of 2024 concerning Implementing Regulations of Law Number 17 of 2023 concerning Health (PP 28/2024), and Regulation of the Minister of Health Number 2 of 2025 concerning the Implementation of Reproductive Health Efforts (Permenkes 2/2025).

1. Law 17/2023 contains provisions regarding restrictions on assisted reproduction practices (assisted reproduction) in Indonesia, both in terms of subjects, procedures, and implementation. In Article 58 letter a it is stated that assisted reproduction can only be carried out by legal married couples through the process of fertilization of sperm and ovum which is implanted into the wife's uterus which is the source of the ovum.²⁷ This provision indicates that the practice of using another woman's uterus as a surrogate mother is not included in the forms of assisted reproduction recognized by Indonesian health regulations.
2. PP 28/2024 further regulates the restrictions on assisted reproduction practices in Indonesia, as mandated in Article 59 of Law 17/2023. Article

²⁷ Indonesia, Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan, 33.

111 paragraphs (1) and (3) affirm that restrictions on assisted reproduction for married couples with medical indications of infertility are implemented in accordance with scientific and technological developments and do not conflict with religious norms.²⁸ Article 111 paragraph (2) reaffirms the limitation of assisted reproductive practices to only involve implantation of fertilization in the uterus of the wife concerned.²⁹ In addition, Article 734 paragraph (1) also emphasizes that medical personnel and health workers have the right to reject the wishes of patients and other parties that deviate from professional standards, service procedures, codes of ethics, or statutory regulations, including the practice of surrogacy.³⁰ This article grants medical and health professionals the right to refuse surrogacy. However, it does not specify the exact regulations governing surrogacy in Indonesia or the legal consequences.

3. Minister of Health Regulation 2/2025 provides more technical provisions regarding assisted reproduction. Article 45 paragraph (5) prohibits the selection of a child's gender and the use of donors, including the practice of womb borrowing.³¹ Essentially, these provisions are restrictive and prohibitive, not regulations governing the mechanisms, rights, and obligations of the parties involved in surrogacy. This prohibition actually emphasizes a legal vacuum, as surrogacy continues to occur in society and raises legal, ethical, and social issues that are not addressed normatively.

Based on the description of these regulations, it can be seen that Indonesian law does not clearly regulate the practice of surrogacy, either in terms of legal status, legality, implementation mechanisms, or limitations

²⁸ Indonesia, Peraturan Pemerintah Republik Indonesia Nomor 28 Tahun 2024 tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, 51.

²⁹ Indonesia, 51.

³⁰ Indonesia, 301.

³¹ Indonesia, Peraturan Menteri Kesehatan Nomor 2 Tahun 2025 tentang Penyelenggaraan Upaya Kesehatan Reproduksi, 18.

of surrogacy itself. Although various regulations regulate assisted reproduction and its limitations, there are no provisions that explicitly regulate the practice of surrogacy. This legal vacuum regarding surrogacy in Indonesia gives rise to various legal issues that have implications for the parties involved, both in terms of their status and civil legal relationships, rights and obligations therein, delegation of responsibilities, and protection of the parties, including surrogate mothers, couples who use surrogacy services, and children resulting from surrogacy.

When examined from the perspective of status and civil legal relations, Law Number 1 of 1974 concerning Marriage (Law 1/1974) states the status of children in Article 42 and Article 43. Article 42 contains the definition of legitimate children as children born in a legal marriage or as a consequence of such a legal marriage.³² Meanwhile, Article 43 paragraph (1) contains provisions stating that children born outside of marriage are legally only bound by civil relations with their mother and their mother's family.³³ A child is called an illegitimate child if he is born from a man and a woman who are outside of a legal marriage. In relation to the practice of surrogacy, even if the biological parents of the surrogacy child or the couple who use surrogacy services are in a legal marriage, this child will still be classified as an illegitimate child if the surrogate mother is a virgin or divorced. So, regardless of the status of the child's biological parents, the only person who has a civil relationship with him and is able to determine the status of the child resulting from the surrogacy practice is the woman who gave birth to him (the surrogate mother). Based on these provisions, in the context of children born from the practice of surrogacy, two (2) possible legal relationships can arise, including a child born from the surrogacy process will be a legitimate child from the womb of the woman who gave birth to him (the surrogate mother) if the surrogate mother is married in a legal

³² Indonesia, Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan, 16.

³³ Indonesia, 16.

marriage, or a child born from the surrogacy process will be an illegitimate child from the womb of the surrogate mother if the surrogate mother is still a virgin or has divorced (Viqria in Alexander Kevin Yang, Lauditta Humaira, and Nurul Elmiyah, 2025).³⁴

However, legal developments indicate a change in the dynamics of the regulation of civil relations between children born outside of marriage, in this case children resulting from surrogacy, and their biological father. When viewed from the Constitutional Court Decision Number 46/PUU-VIII/2010, there is an expansion of the meaning of the article in Article 43 paragraph (1) of Law 1/1974 which reads "Children born out of wedlock have a civil relationship with their mother and family and with the man as their father which can be proven based on science and technology and/or other evidence according to the law to have a blood relationship, including a civil relationship with their father's family."³⁵ The expanded meaning of this article allows the child's biological father to acknowledge and fulfill his obligations as a father if he can provide proof through a DNA test regarding blood relationship with the child. If the biological father or husband who uses surrogacy services acknowledges the child, the surrogated child can use the father's ancestral name. This is regulated in Article 5a of the Civil Code (KUHPerdata), which states, "Legitimate children, as well as illegitimate children who are recognized by their father, use the name of their father's descendant; illegitimate children who are not recognized by their father, use the name of their mother's descendant." In the context of surrogacy, this provision opens up space for biological fathers to obtain civil relations with surrogacy children, although the practice of surrogacy itself does not yet

³⁴ Alexander Kevin Yang, Lauditta Humaira, and Nurul Elmiyah, "Akibat Hukum Praktik Surogasi: Suatu Tinjauan Perbandingan," *Lex Patrimonium* 4, no. 3 (2025): 8, <https://scholarhub.ui.ac.id/lexpatri/vol4/iss3/9/>.

³⁵ Mahkamah Konstitusi Republik Indonesia, "Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010" (2010), <https://putusan3.mahkamahagung.go.id/peraturan/detail/11ead091b1782de09ff2313231373535.html>.

have clear and comprehensive regulations in the positive legal system of Indonesia.³⁶

In addition to the issue of the child's status and civil relationship, the legal vacuum surrounding surrogacy practices also creates ambiguity regarding rights and obligations within the practice of surrogacy or the delegation of responsibilities. In practice, the relationship between a couple using surrogacy services and a woman willing to become a surrogate mother is essentially an agreement, as each party has rights and obligations that must be fulfilled. Article 1233 of the Civil Code states that the birth of an agreement is caused by two (2) things, namely agreement or law.³⁷ In the practice of surrogacy, there is an obligation on the part of the surrogate mother to carry and give birth to the child, as well as on the part of the couple using the surrogacy service to accept and assume responsibility for the resulting child. However, the validity of surrogacy agreements under Indonesian law remains debated, as they must meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code.³⁸ The valid conditions for this agreement include an agreement between the parties, the capacity to make a contract, a certain thing, and a lawful cause.

Agreement between the parties and the capacity to enter into a contract are subjective requirements, while a specific matter and a lawful cause are objective requirements. In the context of surrogacy, the practice of surrogacy essentially takes the form of an agreement between the couple using surrogacy services and the surrogate mother, thus fulfilling the

³⁶ Nur Intan, Hulman Panjaitan, and L Elly AM Pandiangan, "Hak Waris Anak Yang Dilahirkan Dari Seorang Ibu Pengganti Menurut Kitab Undang-Undang Hukum Perdata," *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 8, no. 2 (2022): 221, <https://doi.org/10.55809/tora.v8i2.137>.

³⁷ Pemerintah Indonesia, "Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek Voor Indonesie)" (1848), 223, <https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-perdata/detail>.

³⁸ Indonesia, 236.

requirements for a binding agreement.³⁹ Article 1330 of the Civil Code stipulates that the couple using surrogacy services and the surrogate mother are both adults and not under guardianship. Also based on Article 330 of the Civil Code, the person must be at least 21 years old or have been married to meet the competency requirements.⁴⁰ Thus, the subjective conditions of the agreement for the practice of surrogacy have also been fulfilled.

However, the elements of a specific thing and a lawful cause are still debated. A specific thing is meant to be the object of the agreement (performance), which becomes the debtor's obligation and the creditor's right.⁴¹ In reality, the uterus as part of the human body cannot be treated as an "object" or subject matter of an agreement in Indonesian civil law, because Article 1332 of the Civil Code states that goods that can be the subject matter of an agreement are only goods that can be traded and it is further emphasized that objects or goods that can be the subject matter of an agreement must be able to be calculated and their type determined.⁴² The uterus is a part of a woman's body that is a legal subject.⁴³ As a result, the conditions for a particular matter are not fulfilled and the agreement no longer has force, as regulated in Article 1335 of the Civil Code.⁴⁴

Likewise, with a lawful cause, it is intended that the contents of the agreement do not conflict with law, morality and public order, this intention

³⁹ Indonesia, 237.

⁴⁰ Indonesia, 64.

⁴¹ Yudha Prasetyanov, "Tinjauan Yuridis Meterai Dalam Keabsahan Surat Perjanjian Terhadap Pembuktian Hukum Acara Perdata," *Ensiklopedia of Journal* 6, no. 2 (2024): 305, <https://doi.org/10.33559/eoj.v6i3.2217>.

⁴² Lintang Wisnu Malindi, "PERLINDUNGAN HUKUM TERHADAP IBU PENGANTI (SURROGATE MOTHER) YANG MENGIKATKAN DIRI DALAM PERJANJIAN SEWA RAHIM (SUROGASI) DI INDONESIA," *Jurnal Hukum Dan Pembangunan Ekonomi* 8, no. 1 (2020): 43-44, https://www.researchgate.net/publication/354110878_PERLINDUNGAN_HUKUM_TERHADAP_IBU_PENGANTI_SURROGATE_MOTHER_YANG_MENGIKATKAN DIRI_DALAM_PERJANJIAN_SEWA_RAHIM_SUROGASI_DI_INDONESIA.

⁴³ Ni Made Dwi Ananda Laksmi Wiharini and I Made Sarjana, "Keabsahan Perjanjian Sewa Rahim (Surrogate Mother) Ditinjau Dari Perspektif Hukum Perdata," *Jurnal Kertha Negara* 10, no. 7 (2022): 645, <https://ojs.unud.ac.id/index.php/kerthanegara/article/view/94589>.

⁴⁴ Indonesia, Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek voor Indonesie), 238.

is based on Article 1337 of the Civil Code.⁴⁵ In the context of surrogacy practice, fulfilling the element of lawful cause becomes quite complex because there is no normative rule that can truly measure whether an action is contrary to law, morality, and public order or not, due to its relative nature and dependence on prevailing values within society. Therefore, assessing the fulfillment of the element of lawful cause in an agreement often requires interpretation of applicable legal norms and consideration of moral, social, and public interest aspects that develop within society.

From the perspective of Indonesian positive law, the practice of surrogacy does not yet have legislation that explicitly regulates its legality or implementation mechanisms. Furthermore, from a moral perspective, the practice of surrogacy is often viewed as contrary to the moral, social, and cultural values developed in Indonesian society, due to its nature of "interfering" in the spiritual affairs of a process that should be natural for women, considered an act of adultery because the conception is outside of legal marriage (the womb of another woman).⁴⁶ The practice of surrogacy is also often considered to contain elements of commercialization of the human body.⁴⁷ Finally, from a public order perspective, the practice of surrogacy is often associated with stigma against women who become surrogates, who are considered to demean women by renting out their wombs for a fee. This view ultimately places the practice of surrogacy at the center of ethical and social debates, with surrogates becoming the subject of ridicule and ostracism within their communities.⁴⁸ Thus, if the practice of surrogacy is stated in the form of an agreement, then questions will arise

⁴⁵ Indonesia, 238.

⁴⁶ Yang, Humaira, and Elmiyah, "Akibat Hukum Praktik Surogasi : Suatu Tinjauan Perbandingan," 2.

⁴⁷ Anisa Ayu Martiana, "Asas Kebebasan Berkontrak Dalam Perjanjian Surogasi Di Indonesia Dari Perspektif Hukum Perdata Dan Etika," *Perspektif Hukum* 24, no. 2 (2024): 302, <https://doi.org/10.30649/ph.v24i2.317>.

⁴⁸ Wiharini and Sarjana, "Keabsahan Perjanjian Sewa Rahim (Surrogate Mother) Ditinjau Dari Perspektif Hukum Perdata," 647.

regarding the fulfillment of a certain thing and a lawful reason, and if it is proven that it has not been fulfilled, then the agreement will be null and void by law (null and void), is considered to have never been born or that there was never a contract.⁴⁹ Thus, this situation indicates a lack of legal regulations explicitly governing the practice of surrogacy in Indonesia. To understand the implications of this situation for the protection of the parties, an analysis from the perspective of legal certainty theory is necessary.

In the perspective of the theory of legal certainty by L. J. Van Apeldoorn as quoted by Shidarta in the book entitled "Morality of the Legal Profession: An Offering Framework for Thinking", legal certainty is a condition in which the law can be implemented and enforced against an act regardless of who does it.⁵⁰ Legal certainty has two dimensions, namely certainty regarding the form or legal rules that apply in concrete situations and legal certainty in the sense of providing a sense of security (safety) for the community against the possibility of disputes or legal ambiguity arising.⁵¹ In this case, the law is present to regulate various interests in society as reflected in the principles *ubi societas, ibi ius* (where there is society, there is law).⁵² In the context of surrogacy, the involvement of various parties, such as the woman acting as a surrogate mother, the couple using the surrogacy service, and the child born through the practice, demonstrates a complex interplay of interests that should be regulated by law. However, to date, the practice of surrogacy has not found clear regulation in the Indonesian legal system, creating a legal vacuum that then results in legal uncertainty regarding the status and legal relationships of the parties involved. This uncertainty then

⁴⁹ Prasetyanov, "Tinjauan Yuridis Meterai Dalam Keabsahan Surat Perjanjian Terhadap Pembuktian Hukum Acara Perdata," 305.

⁵⁰ Rodiyah Tangwun, *Pemaknaan Konsep Dan Teori Hukum Dalam Analisis Penelitian-Penulisan Hukum*, vol. 01 (Semarang: UNNES Press, 2023).

⁵¹ Tangwun.

⁵² Tangwun.

has implications for the lack of adequate legal protection for the parties involved.⁵³

The implications of this legal vacuum can be seen in the position of each party involved in the practice of surrogacy. First, for women who become surrogate mothers, the legal vacuum regarding surrogacy makes their legal position vulnerable before the law because they do not have a clear legal guarantee regarding protection for health conditions during pregnancy and childbirth, certainty regarding responsibility for compensation or costs, or protection in the event of a dispute. Disputes often arise due to several reasons, including the desire of the surrogacy couple to terminate the pregnancy due to certain medical indications for the fetus, the refusal of the surrogacy couple to accept the child resulting from surrogacy because the child's condition does not match their expectations, disagreements regarding the fulfillment of compensation or costs promised or agreed to the surrogate mother, disputes regarding the delegation of responsibility for health care costs during pregnancy and/or childbirth, exploitation of women who may be forced to become surrogates due to economic conditions, and differences of opinion regarding medical decisions that must be made during pregnancy and/or childbirth. In addition, disputes can also arise due to other changes in attitude from one of the parties involved in the practice of surrogacy who ultimately no longer wants to continue the previously made agreement. The legal vacuum surrounding surrogacy means that women who become surrogate mothers face various risks, including physical reproductive health risks, psychological stress, economic losses, social stigma in society, and the risk of exploitation.⁵⁴ In addition, the legal status of the child born is also a problem, opening up the possibility

⁵³ I Putu Sheva Korry Dafila Satria, "Kriminalisasi Sewa Rahim Di Indonesia : Suatu Perbandingan Dengan Amerika Serikat," *Jurnal Locus Delicti* 5, no. 2 (2024): 4, <https://doi.org/10.23887/jld.v5i2.5592>.

⁵⁴ Khairunnisa, Hamdani, and Arif Rahman, "Analisis Hukum Terhadap Perjanjian Sewa Rahim (Surrogate Mother) Ditinjau Berdasarkan Perspektif Hukum Perdata Indonesia," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 7, no. 3 (2024): 18, <https://doi.org/10.29103/jimfh.v7i3.15577>.

of separate legal issues if disputes regarding the custody or handover of the child resulting from surrogacy to the couple who used surrogacy services, default disputes, or inheritance disputes occur.

Second, for couples who use surrogacy services, the lack of surrogacy in Indonesia results in a lack of ability to assert their rights, uncertainty surrounding the implementation of surrogacy practices, which can lead to disputes and disagreements, difficulty understanding the dynamics of the legal relationship between the couple and the surrogate mother, difficulties in achieving social acceptance, and limited access to safe and reliable surrogacy services. The relationship status of the parties involved in surrogacy is also unclear.⁵⁵ In the Indonesian legal system, maternal status is generally determined by who gave birth to the child. As a result, couples who are biological parents of a child face difficulties in obtaining legal recognition as parents of a surrogated child.

Third, for children resulting from surrogacy, the legal vacuum has many implications, starting from legal status.⁵⁶ Civil relations, including the fulfillment of children's rights as regulated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (Law 35/2014) are also implicated.⁵⁷ Children are the most vulnerable parties in surrogacy practices, because they are basically born from a reproductive mechanism that does not yet have clear legal regulations in the Indonesian legal system, resulting in potential disputes that can affect the certainty of the child's identity, care, and civil rights in the future.

Thus, not only does the lack of legal regulation regarding surrogacy create legal uncertainty, it also poses a vulnerability to protection for all parties involved, including women who become surrogates, couples who

⁵⁵ Khairunnisa, Hamdani, and Rahman, 18.

⁵⁶ Khairunnisa, Hamdani, and Rahman, 18.

⁵⁷ Pemerintah Indonesia, "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (2014), <https://peraturan.bpk.go.id/Home/Details/38723/uu-no-35-tahun-2014>.

use surrogacy services, and children born through the practice. This situation highlights the need for a legal framework capable of filling the legal gap in surrogacy regulation in Indonesia.

2. Principles of Altruistic Surrogacy Regulation in the Australian Legal System as a Basis for National Legal Construction to Fill the Gaps in Surrogacy Regulation in Indonesia

In an effort to formulate a legal framework for surrogacy in Indonesia to fill the legal gap, it is necessary to examine how other countries regulate the practice more comprehensively as a reference. In this study, the country used as a reference is Australia, which regulates surrogacy through regulations based on an altruistic surrogacy model, with various principles of limitations and legal protections for the parties involved.

The practice of surrogacy in Australia is not regulated by national law, but rather falls under the jurisdiction of each Australian state and territory. Regulations regarding surrogacy in several Australian states include: *Family Relationships Act 1975 (South Australia (SA))*, *The Human Reproductive Technology Act 1991 (Western Australia (WA))*, *Parentage Act 2004 (Australian Capital Territory (ACT))*, *The Assisted Reproductive Technology Act 2007 (New South Wales (NSW))*, *The Surrogacy Act 2008 (Western Australia (WA))*, *The Assisted Reproductive Treatment Act 2008 (Victoria (Vic))*, *The Surrogacy Act 2010 (Queensland (Qld))*, *The Surrogacy Act 2010 (New South Wales (NSW))*, *The Surrogacy Act 2012 (Tasmania (Tas))*, *The Surrogacy Act 2019 (South Australia (SA))*, *The Surrogacy Act 2022 (Northern Territory (NT))*, and so on.⁵⁸

Although there are still differences in procedural aspects in each state, in general the Australian surrogacy regulations permit the practice of

⁵⁸ Attorney-General's Department of Australia, "Surrogacy in Australia," Australian Law Reform Commission (ALRC), 2026, <https://www.surrogacy.gov.au/surrogacy-in-australia>.

altruistic surrogacy and prohibit the practice of commercial surrogacy.⁵⁹ Australia has only legalized altruistic surrogacy, which is the practice of surrogacy without commercial purposes, where the woman who becomes a surrogate mother does not receive payment or compensation, thus minimizing the potential for commercialization of the woman's body.⁶⁰ The legality of altruistic surrogacy and the prohibition of commercial surrogacy are reflected in various state-level surrogacy regulations in Australia. One of these is regulated in *The Surrogacy Act 2010 (NSW)*, precisely on Section 6, States that "*Surrogacy arrangement must be altruistic*", then emphasized on Section 6(1) that "*the surrogacy arrangement must not be a commercial surrogacy arrangement*". *The Surrogacy Act 2010 (NSW)*, on Section 6(1)(a), Section 6(1)(b).⁶¹ Next on Section 6(1)(c) also further explains that "*A surrogacy arrangement is a commercial surrogacy arrangement if the arrangement involves the provision of a fee, reward or other material benefit or advantage to a person for the person or another person: (a) agreeing to enter into or entering into the surrogacy arrangement, or; (b) giving up a child of the surrogacy arrangement to be raised by the intended parent or intended parents, or; consenting to the making of a parentage order in relation to a child of the surrogacy arrangement*" and on Section 6(2) stated that "*a surrogacy arrangement is not a commercial surrogacy arrangement if the only fee, reward or other material benefit or advantage provided for is the reimbursement of a birth's mother's surrogacy costs*".⁶² Similar provisions are found in *The Surrogacy Act 2010 (Qld)*, precisely on Section 10, stating "*a surrogacy arrangement is a commercial surrogacy arrangement if a person receives a payment, reward, or other material benefit or advantage (other than the*

⁵⁹ Australia.

⁶⁰ Muhammad Reza Syariffudin Zaki and Alma Dwi Ramadiani, "Status Kewarganegaraan Anak Dari Hasil Ibu Pengganti (Surrogate Mother) Antara Amerika Serikat Dan India," *Res Nullius Law Journal* 4, no. 2 (2022): 133, <https://doi.org/10.34010/rnlj.v4i2.6660>.

⁶¹ Government of New South Wales, "Surrogacy Act 2010 (New South Wales)" (2010), 8, <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2010-102>.

⁶² Wales, 8.

reimbursement of the birth's mother's surrogacy costs) for the person or another person (a) agreeing to enter into or entering into the surrogacy arrangement; or permanent".⁶³

From the provisions above, it can be seen that in essence altruistic surrogacy is a surrogacy practice that does not include any element of payment, compensation, or material benefit other than reimbursement of costs for the surrogate mother during the surrogacy agreement, while commercial surrogacy is the opposite. The cost element in this cost reimbursement is intended to be the reasonable costs incurred by the surrogate mother in connection with the costs from the initial fertilization trial to pregnancy, the costs of pregnancy or birth, and the costs for the surrogate mother and her partner (if any) to become parties to the surrogacy agreement or legal process in connection with the determination of parental relationships (civil), this is stated in *The Surrogacy Act 2010 (Qld) Section 11(1)*, and explained further in *The Surrogacy Act 2010 (Qld) Section 11(2)* And *Section 11(3)*.⁶⁴

If we examine it, the regulation of altruistic surrogacy in the Australian legal system is generally based on a number of main principles, including the principle of non-commercialization of surrogacy, the principle of the best interests of the child, the principle of free and informed consent of the parties, the principle of state supervision, the principle of protection for surrogate mothers, and the principle of certainty of the legal status of children resulting from surrogacy.

The principle of non-commercialization of surrogacy is the most prominent principle in Australian surrogacy regulations, as it is repeatedly mentioned regarding the prohibition of surrogacy practices that contain commercial elements and is an alternative to the implementation of altruistic surrogacy that prioritizes humanitarian values and avoids

⁶³ Government of Queensland, "Surrogacy Act 2010 (Queensland)" (2010), 9, <http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2010/10AC002.pdf>.

⁶⁴ Queensland, 10.

exploitation of women's bodies. This principle essentially emphasizes that the practice of surrogacy should not be used as a means to exploit the bodies of women who become surrogates simply because they are "paid" or given financial benefits, in accordance with the framework of altruistic surrogacy which only allows for the acceptance of reimbursement of costs related to the pregnancy process from the beginning until birth.

In addition to the principle of non-commercialization, the regulation of altruistic surrogacy in the Australian legal system is also based on the principle of the best interests of the child (*best interest of the child*). This principle emphasizes that all arrangements and implementation of surrogacy practices must consider and even prioritize the welfare and interests of the surrogated child. In this context, the law not only regulates the relationship between the surrogate mother and the couple using the surrogacy service but also ensures adequate legal protection for the surrogated child. This principle is clearly stated in Australian surrogacy regulations, including: *The Surrogacy Act 2010 (Qld)* on Section 6,⁶⁵ And *The Surrogacy Act 2010 (NSW)* on Section 3,⁶⁶ which in essence the implementation of surrogacy laws must be based on the principle that the best interests of the child resulting from surrogacy, both during childhood and throughout his life, are paramount. In addition, this principle is also reflected in various provisions for granting *parentage order* by the court based on the altruistic surrogacy arrangements in the Australian legal system, which aim to establish the legal status of parents for a surrogacy child after their birth with certainty, as stated in *The Surrogacy Act 2010 (Qld)* on Section 12,⁶⁷ and *The Surrogacy Act 2010 (NSW)* on Section 12 And Section 22.⁶⁸

Parentage order's mechanism in the regulation of altruistic surrogacy in the Australian legal system, the role of the state is opened to supervise the

⁶⁵ Queensland, 6.

⁶⁶ Queensland, Surrogacy Act 2010 (Queensland), 6.

⁶⁷ Queensland, 11.

⁶⁸ Wales, Surrogacy Act 2010 (New South Wales), 11–15.

implementation of surrogacy agreements. This is based on the principle of state supervision, which is reflected in the involvement of the court in determining the legal status of children resulting from surrogacy.⁶⁹ Thus, the principle of state oversight is the state's effort to ensure that surrogacy practices are implemented in accordance with applicable law and do not result in practices that could potentially harm the parties involved. This demonstrates that the state conducts its oversight based on the principle of certainty of the child's legal status and the principle of protection for surrogate mothers as vulnerable parties in surrogacy practices.

From a normative perspective, Australia views the practice of surrogacy as a contract. In order to ensure that surrogacy agreements are carried out voluntarily and without coercion, the regulation of altruistic surrogacy in the Australian legal system also emphasizes the principle of free and informed consent (*informed consent*) of the parties involved in the surrogacy agreement. This principle emphasizes that the decision to practice surrogacy must be based on informed and voluntary consent given by the parties after obtaining adequate understanding of the legal, medical, and social consequences of the practice. This principle is reflected in *The Surrogacy Act 2010 (Qld)* on Section 10,⁷⁰ and *The Surrogacy Act 2010 (NSW)* on Section 17(3)(f).⁷¹ Therefore, various altruistic surrogacy arrangements in the Australian legal system require a process of counselling and providing legal advice to the parties involved before the surrogacy agreement is entered into, reflected in *The Surrogacy Act 2010 (Qld)* on Section 22(2)(e)(i),⁷² and *The Surrogacy Act 2010 (NSW)* on Section 35.⁷³

Based on an analysis of the principles governing altruistic surrogacy in the Australian legal system, the legal framework for surrogacy in Indonesia

⁶⁹ Ade Rahma Dini Chairunisah, Dian Adalia, and Ria Indah Sari, "Permasalahan Status Hukum Dan Kewarganegaraan Anak Hasil Surrogacy Di Luar Negeri : Tinjauan Hukum Perdata Internasional," *PESHUM : Jurnal Pendidikan, Sosial Dan Humaniora* 5, no. 2 (2026): 3489, <https://doi.org/10.56799/peshum.v5i2.13071>.

⁷⁰ Queensland, Surrogacy Act 2010 (Queensland), 9.

⁷¹ Wales, Surrogacy Act 2010 (New South Wales), 13.

⁷² Queensland, Surrogacy Act 2010 (Queensland), 17.

⁷³ Wales, Surrogacy Act 2010 (New South Wales), 18.

can be formulated by adopting a regulatory approach that emphasizes legal protection for the parties and the prevention of reproductive exploitation of women acting as surrogates. This legal framework can be realized through the following regulatory principles.

1. Implementation of the Altruistic Surrogacy Model and the Prohibition of Commercial Surrogacy

Adopting an altruistic surrogacy model and banning commercial surrogacy allows Indonesia to fill the legal gap while still limiting the forms of practice that can be carried out. Given that the purpose of surrogacy is essentially to help couples experiencing difficulties in conceiving children, without making the reproductive process an object of commercialization, this regulation of altruistic surrogacy does not conflict with the social, moral, and legal values developed in Indonesian society, and is even in line with the principle of protecting human dignity, one of the fundamental values in the Indonesian legal system. The prohibition on commercial surrogacy is not without reason, but is important in preventing the exploitation of women, especially those in vulnerable economic conditions.

2. Comprehensive Regulation of Requirements and Procedures for Surrogacy Practice

To ensure that surrogacy agreements are made consciously and without coercion and to prevent misuse of the practice, regulating the requirements and procedures for surrogacy is crucial. One such requirement is to restrict surrogacy to only legally married couples with specific medical indications that render them unable to conceive or bear children. Women who become surrogates must also meet strict requirements for surrogacy, including being of legal age, adequate health, and voluntary, uncoerced consent. Before entering into a surrogacy agreement, procedurally, they must first undergo medical, psychological, and legal counseling.

3. Strengthening the Role of the State in Supervising Surrogacy Practices

The legal framework for surrogacy in Indonesia also requires the state to play an active role in overseeing the implementation of surrogacy practices, through licensing mechanisms for healthcare facilities providing assisted reproductive technology, and through the involvement of judicial institutions in the process of determining the legal status of surrogates. This way, the state can ensure that surrogacy practices comply with applicable laws and do not potentially harm the parties involved.

4. Determination of Certainty of Legal Status of Children Resulting from Surrogacy

As the most vulnerable party in surrogacy practices and not the party who “actively” provides *consent* To be born under surrogacy, children need to receive special attention, especially regarding their legal status. The legal framework for surrogacy in Indonesia needs to clearly regulate the mechanism for establishing civil relations between the child, the surrogate mother, and the biological parents or the couple using surrogacy services. This mechanism can be realized through a court ruling that determines and establishes the legal subject as the legal parent of the surrogated child. By ensuring the child's legal status, the potential for disputes regarding the legal status of surrogated children can be minimized.

Thus, the legal construction of surrogacy regulations in Indonesia is not merely intended to legalize the practice, but rather to fill the existing legal vacuum by presenting a legal construction in the form of a regulatory framework that is able to provide legal certainty while guaranteeing protection for women who become surrogate mothers, couples who use surrogacy services, and children resulting from surrogacy by adopting the principles of legal protection that have developed in international practice, but still adjusted to the social values, morals, and the national legal system of Indonesia.

Conclusion

This research shows that the Indonesian legal system still experiences a regulatory gap regarding the practice of surrogacy. Although several laws and regulations regulate assisted reproductive technology, these provisions do not explicitly address the legality, mechanisms, or legal consequences of surrogacy. This legal vacuum regarding surrogacy in Indonesia has implications for weak legal protection for the parties involved in surrogacy: women who become surrogate mothers, couples who use surrogacy services, and the resulting children. Surrogates lack guaranteed protection regarding their health, rights, or potential disputes with their partners who use surrogacy services. Couples who use surrogacy services also face uncertainty in obtaining legal recognition as parents of their children. Meanwhile, children resulting from surrogacy are potentially unclear regarding their legal status, civil relations, and the fulfillment of their rights.

The regulation of altruistic surrogacy in the Australian legal system demonstrates the existence of principles that can serve as a basis for formulating the legal framework for surrogacy in Indonesia, such as the prohibition of commercial surrogacy, the best interests of the child, free and informed consent of the parties, state oversight, and certainty of the child's legal status. Therefore, clear regulations regarding surrogacy practices in Indonesia are needed, adopting these principles to provide legal certainty and protection for all parties involved in the practice.

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