

SOUTHEAST ASIA

Human rights alarm, surrogacy is back in Thailand

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Thailand's intentions to restart the practice of commercial surrogacy, after the latter was prohibited almost ten years ago, are igniting concerns regarding potential human rights abuses including the trafficking of women and children.

Dr Panuwat Panket, director-general of the Department of Health Service Support (DHSS), disclosed details regarding revisions being made to the [Protection for Children Born through Assisted Reproductive Technologies Act](#)

, as per The Bangkok Post.

The Bangkok Post reported that the amended revised draft has been submitted to the Minister of Public Health for review before it will be sent to the cabinet for consideration. Major revisions include substituting the terms "husband" and "wife" with "spouses" as outlined by the [Marriage Equality Act](#) and permitting same-sex couples to resort to surrogacy. In context, Thailand's Parliament overwhelmingly voted in favor of the Marriage Equality Act last June. Subsequently, Thai King Maha Vajiralongkorn [ratified](#) the Act in October 2024.

Nonetheless, Dr Panuwat was quick to highlight worries and the need for more evaluation regarding child custody and guardianship, especially in cases of separation. Adding, Dr Panuwat said that once the amendments materialize, foreign couples can resort to surrogacy, including taking foreign surrogates to Thailand. As per [Thai law at the moment](#), only foreigners who marry Thais can seek surrogacy, *The Bangkok Post reported*.

Moreover, the amended law will enable the export of embryos, sperm or eggs back to the foreign couple's home country as per conditions stipulated by a special committee on the Protection of Children Born Using Medical Assisted Reproductive Technology under the Surrogacy Act.

In response to worries about the risks surrogacy entails for human trafficking and illegal surrogacy, Dr Panuwat claimed that the amended bill would give rise to more transparency and accountability, such as stating that the revised bill will permit only relatives of the intended parents to be surrogates.

Besides, harsher penalties will be mooted for offences linked to unlawful surrogacy activities or human trafficking, including more prison sentences and higher fines, as well as how offences perpetrated abroad will be regarded as if they were committed in Thailand.

For the moment, commercial surrogacy remains outlawed in Thailand, a situation that has been the order of the day [since 2015](#).

In 2014, an Australian couple was [slammed](#) for abandoning a baby boy with Down Syndrome and leaving him with his surrogate mother in Thailand. The same year saw Thai police probe the case of a [Japanese man](#) who had 13 children with various Thai surrogates. After a high-profile court case, the man was eventually granted custody of his children.

Fears over the legalization of surrogacy continue to linger, however. For one, Sanphasit Koompraphant, an adviser on anti-trafficking tactics, told the Voice of America (VOA) his fears about how medical professionals could try to reap financial benefits from surrogacy. Koompraphant articulated his concern that such moves could divert Thailand's health resources to surrogacy, when they could be channeled to other more important causes.

"We [will] have to divert medical doctors from health care service into surrogacy," Koompraphant admitted. "That means that many people who are poorer or have a lower economic status from the ones who employ the doctors to do surrogacy will not have any good ... medical service," he continued.

Koompraphant added that he fears legalizing commercial surrogacy could lead to increased human trafficking.

If some types of surrogacy were to be legalized, illegal practices could be camouflaged among legal ones, Koompraphant stated. "Nowadays they can do [surrogacy] already, but it's very difficult to do because we can control a little bit. ... But if you open [the service] to be commercial, you cannot control [it so] easily," he said, in remarks cited by VOA.

The kingdom's decision to resurrect the practice of commercial surrogacy goes hand in hand with a series of other policies intended to boost its status as a medical tourism hub, including for same-sex couples. Arkhom Praditsuwan, deputy director-general for the ministry's Department of Health Services Support stated that once the Thai parliament approves amendments to existing surrogacy laws, Thai LGBTQ couples will be able to seek surrogacy.

"It's not an easy job to draft up rules for foreign couples as they involve a lot of complicated issues as well as laws in other countries that the babies will live in later," Arkhom said. "The main objective of the law is to protect the babies. We can't let them come to this world without any rights. They are human-beings, not dolls for their parents."

For the record, Arkhom is right that babies are human beings, and "not dolls". Still, his government's move to legalize surrogacy and promote surrogacy even within the context of same-sex unions undermines the dignity of any child to be conceived in the womb of his biological mother, as well as glosses over the importance of both fathers and mothers in the context of a healthy heterosexual marriage for the overall development of children. The irony in Arkhom's claim is that, while children are clearly not playthings of adults, their needs seem to be regarded as secondary to adults', in the

context of surrogacy, especially same-sex surrogacy.