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Review article

EBCOG position statement on "Ethical analysis of cross-border reproductive care"

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ABSTRACT

Cross border movement of couples to seek assisted conception treatments which are not available in their own countries are creating lots of ethical issues. Eu countires should work together to deliver couple centered care within a legal framework.

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Cross-border reproductive care (CBRC) has been a growing phenomenon for at least 15 years, and describes the movements by candidate health care recipients from one country or jurisdiction where treatment is unavailable to another country or jurisdiction where they can obtain the treatment they need. This term is considered more neutral than "reproductive tourism" which is felt to penalise patients who usually engage in CBRC by necessity rather than choice [1]. The reasons for patients to seek fertility treatment abroad usually fall under one of two categories 'legal restrictions' and/or 'treatment availability'. Legal restrictions may mean a certain type of treatment is prohibited by law, such as egg donation or surrogacy, or some patients, such as same sex couple or single women, are not eligible for assisted reproduction in their own country. Interestingly, even among the various European countries there are differences in legislation [2,3]. Treatment availability may mean that a type of treatment, such as egg donation is not available at home or that the waiting lists are too long or that treatment it is too expensive at home.

Accurate data on the numbers of people travelling for reproductive care are not available, particularly for developing countries. The largest empirical study to date involved forty-six IVF clinics in six countries in Europe (Belgium, Czech Republic, Denmark, Slovenia, Spain, and Switzerland,) was undertaken by the European Society of Human Reproduction and Embryology (ESHRE) Taskforce on Cross Border Reproductive Care [4]. The study estimated a minimum of 24,000–30,000 cross-border cycles in Europe each year, involving between 11,000–14,000 patients. It also found that. women who undertake reproductive travel are older than those having ART at home, with subsequent higher maternity risks. Within Europe, Belgium provides a wide range of assisted reproductive treatments, and Spain and Czech Republic are popular destinations for oocyte donation. Denmark is notable as an international centre for sperm donation and export of semen.

An ethical analysis of CBRC involves the consideration of several principles, including respect of the patients' autonomy, the balance of beneficence and maleficence for the patients, the future child and the collaborators involved, and finally justice, the macro ethical or societal aspect.

Thus, it is a matter of balancing the pros and cons of increased patient's autonomy versus the burden of seeking treatment away from their local support network. Also, the possible burden of pressure on the "third parties collaborators", either gamete donors or surrogates, who may be enticed to collaborate by disproportionate compensation or payment, such as in the case of commercial surrogacy.

The balance of beneficence and maleficence is represented by the safety aspects, covered for instance in the Assisted Reproductive Technology (ART) laboratory by the European Union Tissue and Cells Directive (EUTCD), and the risks of being offered treatments which are not fully evidence based in countries with inadequate legal regulations. A main risk however is that of carrying a multiple pregnancy, which may affect the patient herself or the surrogate, and especially the wellbeing/ welfare of the future children, and which should be taken into account by all ART practitioners as the most vulnerable (future) party.

A further risk for the future offspring may result from legal complications and ambiguities involving the legal recognition of children born through international surrogacy arrangements (5)

Finally, equity and justice are essential societal ethical aspects, and apply both within and without national borders in high income areas or countries, but especially when travelling to low income/developing countries, where the potential economic exploitation of women as ova donors or surrogates is recognised. Furthermore, the displacement of already scarce health care resources to foreign patients specifically in low income countries is a specific concern [6].

The ESHRE has published a good practice guide [7] suggesting how to reduce risks and inequalities in reproductive travel through principles of equity, safety, efficiency, effectiveness, timeliness and patient-centredness. The guide also stresses the need for clear information of cross border patients concerning waiting lists, the time they will have to spend outside their own country and the availability of counselling, including legal aspects, in their own language. For the protection and prevention of exploitation of donors, the ESHRE guide recommends avoidance of intermediate agencies, as well as good provision of post-donation care. Collaboration and good communication between the home practitioner and the receiving centre regarding previous treatment and medical records provides the best chance of optimal care, while the continuation of data gathering is essential. Finally, for the protection of the future child, single embryo transfer is recommended in egg donation and surrogacy programmes.

The European Board and College of Obstetrics and Gynaecology (EBCOG) supports the right of the couple of having a family as a basic human right and also asks for calls the EU countries to work towards a unified policy on gamete donation and implement stringent rules to prevent multiple pregnancies in this group of vulnerable women. EBCOG endorses the good practice guidance issued by both the FIGO [5] and the ESHRE [7] on this sensitive issue.

The position statement was reviewed by Dr Martin Weiss, Tubingen Germany; Dr Goknur Topcu (on behalf of ENTOG) Istanbul, Turkey; Professor Basil Tarlatzis, Greece and Dr Sambit Mukhopadhyay, England.

The final version was approved at the EBCOG Council meeting in May 2020.

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