Survey of Third-Party Parenting Options Associated With Fertility Preservation Available to Patients With Cancer Around the Globe

Alexandra S. Rashedi
Saskia F. de Roo
Lauren M. Ataman
Maxwell E. Edmonds
Adelino Amaral Silva
Anibal Scarella
Anna Horbaczewska
Antoinette Anazodo
Ayse Arvas
Bruno Ramalho de Carvalho
Cassio Sartorio
Catharina C.M. Beerendonk
Cesar Díaz-Garcia
Chang Suk Suh
Cláudia Melo
Claus Yding Andersen
Eduardo Motta
Ellen M. Greenblatt
Ellen Van Moer
Elnaz Zand
Fernando M. Reis
Flor Sánchez
Guillermo Terrado
Jhenifer K. Rodrigues
Joao Marcos de Meneses e Silva
Johan Smitz
Jose Medrano
Jung Ryeol Lee
Katharina Winkler-Crepaz
Kristin Smith

INTRODUCTION

Fertility management in the cancer setting (ie, oncofertility) is challenging for a variety of technical reasons that are associated with timing of cancer treatment, the invasive nature of some options, and the required links between cancer and fertility care. In addition to these practice management and biologic hurdles, we identified the legal status of adoption and third-party reproduction as a barrier. We then assessed the specific roadblocks that exist in surveyed countries. The goal of this analysis is to deliver authoritative information to emerging practices that may receive information about the field from a variety of Web resources and that may be unaware of local barriers to the spectrum of options.

RESULTS

A significant barrier to oncofertility care noted in the survey responses was the presence of legal, cultural, and regulatory restrictions. Adoption and third-party assisted reproductive technology (ART), including surrogacy and egg, sperm, and embryo donation, were consistently identified as associated with these restrictions. We assessed the prevailing laws in each country with regard to surrogacy, adoption, and egg, sperm, and embryo donation (Data Supplement).
Surrogacy (Gestational)
Of the 28 countries surveyed, altruistic surrogacy is explicitly legal in 12, whereas nine outlaw it. Specific restrictions apply to whom may access surrogacy in six countries, whereas in six other countries, all people may access it no matter their sexual orientation or marital status. Surrogacy is unregulated by law in 19 countries (Data Supplement), and altruistic surrogacy arrangements occur in nine of these countries without regulation. Commercial surrogacy is explicitly prohibited in 11 countries. In Iran, for example, both altruistic and commercial surrogacy are practiced, but no regulation of these arrangements exists. In the United Kingdom and Australia, advertisement for surrogacy is illegal, which is also true in Canada where brokers and advertisement are illegal. In four countries, surrogacy is accessible to both citizens and foreigners (Iran, Belgium, Russia, and Canada). The laws that govern the practice of surrogacy greatly differ among states in Mexico, the United States, and Australia.

Adoption
In almost all countries surveyed, adoption is explicitly legal, except in Egypt, where it is prohibited (Data Supplement). In six of these countries, legislation allows homosexual married couples to adopt. In other countries, such as Chile, adoption for homosexual couples is illegal; however, because single persons may adopt, homosexual couples may apply, but only one person is recognized as the legal parent. In India, Iran, Turkey, Denmark, Portugal, the Netherlands, and Argentina, couples (either heterosexual or homosexual) must have lived together for a certain number of years at the time of adoption. In four countries, adoption is only available to heterosexual married couples. In some countries, adoption is highly restricted; in Iran, for example, neither person in a couple who seeks to adopt can have a chronic, contagious, or terminal disease.

Egg, Sperm, and Embryo Donation
Egg donation is legal in 19 of the 28 countries surveyed (Data Supplement). In four countries, egg donation is illegal, and in five countries, it is unregulated. In a majority of countries (n = 22), egg donation is accessible to heterosexual married couples. In 12 countries, it is also accessible to homosexual married couples, and in 17 countries, it is accessible to unmarried persons.

Similar results are reported for sperm donation, which is legal in 20 of the countries surveyed, illegal in three, and unregulated in five. Sperm donation is accessible to heterosexual married couples in 23 countries, to homosexual married couples in 12, and to unmarried couples in 18. In some countries, such as Iran, sperm donation is only available when medically necessary (in cases of infertility).

Embryo donation is explicitly legal in 13 countries surveyed but is illegal in nine and unregulated in six. Embryo donation is accessible to heterosexual couples in 17 countries, to homosexual married couples in seven, and to unmarried couples in 12. In 10 countries, anonymous gamete or embryo donation is permitted. In South Korea, embryo donation is only permitted for research purposes, and such research studies must be approved by the institutional review board and related to certain disease categories, such as infertility, contraception, and certain rare or incurable diseases. In Belgium and Denmark, both anonymous and non-anonymous donations of gametes and embryos are legal, but non-anonymous embryo donation is illegal in Belgium.

DISCUSSION
The survey responses indicated various legal challenges about specific procedures. One notable cultural and legal barrier to oncofertility care was related to the use of surrogacy. The survey findings agree with those reported in a study by Wennberg et al in Sweden in which women’s attitudes toward ARTs were neutral or favorable, except for surrogacy. In addition, we found significant hurdles to third-party procedures, such as age restrictions and requirements of medical indications to allow treatment, which also proves consistent with previous studies. These data highlight the importance of more-explicit investigations into these questions, particularly their sociologic etiologies, legal implications, and variations among world countries and regions.

During the development of the survey questions, we believed it crucial to ask about third-party ARTs, namely surrogacy and adoption, along with egg, sperm, and embryo donation. The rationale for including surrogacy early in the initial fertility consultation is that women who are sterile as a result of cancer may also have uterine dysfunction and a higher risk of recurrent miscarriage. Thus, providers should consider a conversation with patients about their ability to carry offspring after cancer treatment, including the possibility that third-party alternatives might be necessary in the setting of uterine dysfunction.
possibilities that they may pursue after treatment, regardless of their remaining fertility function. For patients who did not preserve fertility before treatment, adoption is another option for family building.

India is a prime example of the potential negative impact of regional differences in laws and social restrictions with regard to surrogacy, particularly with surrogacy tourism. Before commercial surrogacy was banned countrywide for foreigners in 2016, profits often were collected by middle men and agencies rather than by the women who worked as surrogates, which supports the argument for a standard set of policies to favor altruistic surrogacy and adoption and to prevent exploitation of surrogates. Such a policy might be recommended by global health organizations, such as the WHO. In addition, surrogacy customs and laws should be made comprehensive, easily interpretable, and translational to avoid exploitive surrogacy tourism in poorer communities where women may be willing to compromise their beliefs and health for monetary gain or are pressured to do so by others.

Adoption is another service the survey identified to be associated with cultural and legal barriers. At first glance, adoption is legal in most countries, but couples do not often pursue it, as indicated in the open-ended survey responses. The Hague Adoption Convention, an international agreement that established the ethics and proper practices for intercountry adoption, has been upheld by 98 countries since its founding in 1993. This agreement provides the legal precedent for providers to begin the conversation with young patients or families. A similar convention was recently convened by the Hague Conference on Private International Law on the private international legal issues that surround the status of children, including issues that arise from international surrogacy arrangements. This meeting established that contemporary global standards should be developed to avoid the exploitation of vulnerable populations and will reconvene to discuss the development of these standards.

Individuals who survive cancer are not specifically legally prohibited from adoption; however, patients with cancer have documented difficulty in adopting. When evaluating this issue formally, we found that adoption services were not up to date on the latest survivorship data. Thus, perception rather than legal issues may remain the greatest barrier to adoption for this cohort.

In conclusion, tremendous differences in cultural norms; legislation; and accessibility of surrogacy, adoption, and ART options exist around the world. Even between neighboring countries, differences are apparent. These variations point to the need for consolidating this information; clarification of the governing laws and attitudes in oncology-practicing countries thereby will help both providers and patients to provide global understanding about third-party parenting options for patients who have undergone gonadotoxic cancer treatment and have compromised fertility as a result.

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Almeida Campos-Junior, Peter Mallmann, Ricardo Azambuja, Ricardo M. Marinho, Richard A. Anderson, Robert Jach, Roberto de A. Antunes, Satish Kumar Adiga, Seido Takae, Seok Hyun Kim, Silvana Chedid Grieco, Tatsuro Furui, Teresa Almeida-Santos, Willianne Nelen, Yasmin Jayasinghe, Yodo Sugishita, Teresa K. Woodruff

**Provision of study materials or patients:** Teresa K. Woodruff

**Administrative support:** Alexandra S. Rashedi, Lauren M. Ataman


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**Alexandra S. Rashedi**

**Employment:** Cigna (I)

**Stock or Other Ownership:** Cigna (I)

**Saskia F. de Roo**

No relationship to disclose

**Lauren M. Ataman**

No relationship to disclose

**Maxwell E. Edmonds**

No relationship to disclose

**Adelino Amaral Silva**

No relationship to disclose

**Aníbal Scarella**

No relationship to disclose

**Anna Horbachewska**

No relationship to disclose

**Antoinette Anazodo**

Research Funding: Merck Serono

**Ayse Arvas**

No relationship to disclose

**Bruno Ramalho de Carvalho**

No relationship to disclose

**Cassio Sartorio**

Employment: Vida Centro de Fertilidade
Leadership: Vida Centro de Fertilidade
Stock or Other Ownership: Vida Centro de Fertilidade

**Catharina C.M. Beerendonk**

Travel, Accommodations, Expenses: Goodlife

**Cesar Diaz-Garcia**

No relationship to disclose

**Chang Suk Suh**

No relationship to disclose

**Cláudia Melo**

No relationship to disclose

**Claus Yding Andersen**

No relationship to disclose

**Eduardo Motta**

No relationship to disclose

**Ellen M. Greenblatt**

Consulting or Advisory Role: Ferring Pharmaceuticals, EMD Serono

**Travel, Accommodations, Expenses:** EMD Serono

**Ellen Van Moer**

No relationship to disclose

**Einaz Zand**

No relationship to disclose

**Fernando M. Reis**

**Honoraria:** Politec Saúde (I)

**Consulting or Advisory Role:** Politec Saúde (I)

**Speakers’ Bureau:** UCB (I)

**Travel, Accommodations, Expenses:** Abbott Laboratories (I)

**Flor Sánchez**

Patents, Royalties, Other Intellectual Property: patent pending

**Guillermo Terrado**

No relationship to disclose
Jhenifer K. Rodrigues  
No relationship to disclose  
Joao Marcos de Meneses e Silva  
No relationship to disclose  
Johan Smitz  
Speakers’ Bureau: Ferring Pharmaceuticals  
Travel, Accommodations, Expenses: Ferring Pharmaceuticals  
Jose Medrano  
No relationship to disclose  
Jung Ryeol Lee  
No relationship to disclose  
Katharina Winkler-Crepaz  
No relationship to disclose  
Kristin Smith  
No relationship to disclose  
Ligia Helena Ferreira Melo e Silva  
No relationship to disclose  
Ludwig Wildt  
No relationship to disclose  
Mahmoud Salama  
No relationship to disclose  
Maria del Mar Andrés  
No relationship to disclose  
Maria T. Bourlon  
Leadership: Medivation, Astellas Pharma  
Honoraria: Medivation, Astellas Pharma  
Mario Vega  
No relationship to disclose  
Mauricio Barbour Chehin  
No relationship to disclose  
Michel De Vos  
No relationship to disclose  
Mohamed Khrouf  
No relationship to disclose  
Nao Suzuki  
No relationship to disclose  
Osama Azmy  
No relationship to disclose  
Paula Fontoura  
No relationship to disclose  
Paulo Henrique Almeida Campos-Junior  
No relationship to disclose  
Peter Mallmann  
No relationship to disclose  
Ricardo Azambuja  
No relationship to disclose  
Ricardo M. Marinho  
No relationship to disclose  
Richard A. Anderson  
Consulting or Advisory Role: Roche, HRA Pharma, NeRe Pharmaceuticals  
Speakers’ Bureau: Roche, Beckman Coulter, IBSA Institut Biochimque  
Research Funding: Ferring Pharmaceuticals  
Travel, Accommodations, Expenses: IBSA Institut Biochimque  
Robert Jach  
No relationship to disclose  
Roberto de A. Antunes  
Consulting or Advisory Role: Merck Serono  
Travel, Accommodations, Expenses: Merck Serono, MSD  
Rod Mitchell  
No relationship to disclose  
Rouhollah Fathi  
No relationship to disclose  
Satish Kumar Adiga  
No relationship to disclose  
Seido Takae  
No relationship to disclose  
Seok Hyun Kim  
No relationship to disclose  
Sergio Romero  
Patents, Royalties, Other Intellectual Property: patent pending  
Silvana Chedid Grieco  
No relationship to disclose  
Talya Shaulov  
No relationship to disclose  
Tatsuro Furui  
No relationship to disclose  
Teresa Almeida-Santos  
Consulting or Advisory Role: Merck, MSD  
Research Funding: Merck Serono  
Willianne Nelen  
No relationship to disclose  
Yasmin Jayasinghe  
No relationship to disclose  
Yodo Sugishita  
No relationship to disclose  
Teresa K. Woodruff  
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REFERENCES


