

Reproductive rights of the disabled as public norms  
: new challenges, beyond rights

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# 1. Reproductive rights - brief history and definition

- 1994 ICPD (International Conference for Population and Development) in Cairo
- Beyond the population control paradigm(1954-1994)
- **"the basic rights of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health".**

# 1. Reproductive rights - brief history and definition

- ICPD “transformed the conversation, not only by delegitimizing top-down governmental efforts that ignored or violated women’s human rights, but also by recognizing that policies on development in fact could not succeed without ensuring human rights. The ICPD’s approach has been defined as horizontal, holistic, and **human rights-based**, contrary to the technical/vertical view of the population control paradigm” (Pizzarossa; 6, 2018)

# 1. Reproductive rights - brief history and definition

- Expanding the definition by feminist movement
- Engaging disability rights movement globally (especially women)

Reproductive rights “has been used very basically to refer to women’s right to be free of unwanted pregnancy - to obtain contraception and safe, legal abortion (...) disabled women agree on these issues, but for them **‘reproductive rights’ is broader, and includes the right to bear and raise children.**”(Kallianes & Rubenfeld; 204, 1997)

◆ **CRPD(Convention on the Rights of Persons with Disabilities) Article 23 (2006)**

**1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:**

- a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

## 2. Three paradigms in reproductive rights of the disabled

### (1) Protection for eugenics

In Korea, since the colonialism and the military regime, numerous forced abortions and sterilizations for the disabled have been reported

(only during 1949-1958, 1191 forced sterilization cases of Hansen disease, according to the official report by National human rights commission of Korea, 2005)

In 2017 the Korean Supreme Court ruled the government to compensate 19 people with Hansen's disease(leprosy) for their forced abortions and sterilizations in 1960s.



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## 2. Three paradigms in reproductive rights of the disabled

(2) Protection for cultural/social practice, discrimination(including accessibility issues)/institutionalization

- since the mid-20<sup>th</sup> century
- treating as asexual
- isolation from sexual information/education/health service
- non-private life

## 2. Three paradigms in reproductive rights of the disabled

### (3) Promoting for making relationship

- since the late-20<sup>th</sup> century
- less chance for sexual relationship
- less resources and support for having/nurturing children
- hard to get married (different ground from paradigm 2)

Hard to speak loudly in public...but the matters in reproduction 2020s

Is it possible? for the right to

- fostering/adoption
- promote opportunities of private sexual life
- sexual surrogacy, which is considered as a way to not just have sex, but get intimacy, empowerment and change self-image(Lawrence Shapiro, 2017)
- donating ovum/sperm
- surrogate mother
- **(more directly) have sex? make a lover? have a family?**

Are those issues able to be covered by the rights-based approach?

# Freya's case in Iceland

Freyja Haraldsdóttir, disabled rights activist, now has the right to be evaluated by Icelandic child protection agency to become a foster parent. Icelandic supreme court ruled against the agency who rejected her application and refused to evaluate her. (Iceland magazine, 2019)

## Disability campaigner wins fight to be foster parent

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After a seven-year battle, it is now clear Icelandic equality campaigner and former MP Freyja Haraldsdóttir will be allowed to become a foster parent.

She says she is excited and hopes her case will help other disabled people who want to become foster parents in the future.

## Ora Mor-Yosef's case in Israel



Ora Mor Yosef, a quadriplegic Israeli woman, had a surrogate child via a niece who underwent the procedure in India and gave birth in Israel. But Israeli authorities, including the High Court, ruled against Mor Yosef, and the baby has been in foster care for more than two years.

*Emily Harris/NPR*

Ora Mor Yosef, a disabled Israeli woman, challenged her country's rules about surrogate parenting and lost the baby.

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Beyond rights-based approach for reproduction