students and the public could all learn from him how to share wisdom from diverse fields of genomics, medicinal chemistry, history, philosophy, and cross-cultural communication and policy making.

Prof. Jenie’s service to UNESCO as a member of UNESCO’s Intergovernmental Committee on Bioethics, as well as in numerous roles as an international expert on science, was instrumental to the implementation of the Universal Declaration on the Human Genome and Human Rights into laws in Indonesia, ASEAN and globally. As former UNESCO Regional Adviser to Asia and the Pacific, and the former and founding member of UNESCO’s International Bioethics Committee from New Zealand, I had the pleasure to work with Umar on the translation of mere words of governments and the United Nations into practices that save the lives of vulnerable people, and protect our biodiversity and biosphere. Future generations will appreciate the foresight of policies that he helped formulate. He not only fought to protect people, but also animals and plants that our world is blessed with. Umar served us all, and may you rest in peace sure that your wisdom will continue to inspire others.

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**Risks Present in the Cambodian Surrogacy Business**

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**Abstract**

The Thai temporary National Assembly passed the Protection for Children Born through Assisted Reproductive Technologies Act, 2015 on February 19, 2015. The passing of Thailand’s law regulating reproductive medicine (surrogacy) was followed by an enactment with the approval of the cabinet and King Bhumibol Adulyadej in July 2015. Since then, some surrogacy mediation agencies based in Thailand, including Japanese surrogacy agencies, have shifted their attention from Thailand to other Asian countries, such as Cambodia, Georgia and others. This paper discusses the background of the rapid growth of the Cambodian surrogacy industry as well as the government’s announcement of a complete ban on commercial surrogacy, and also the risks inherent in Cambodian surrogacy business. This paper aims to provide related information to Japanese surrogacy patients and researchers in reproductive medicine.

**1. Introduction**

The New Life Global Network (NLGN) has been in the midst of international expansion since the passage of Thailand’s Protection for Children Born through Assisted Reproductive Technologies Act (พ.ร.บ.คุ้มครองเด็กที่เกิดโดยอาศัยเทคโนโลยีช่วยการเจริญพันธุ์ พ.ศ. 2558) on July 30, 2015 through the time of this writing (January 2017). Led by Mariam Kukunashvili (MD, PhD), the organization has spread its operations from Thailand, where it established its initial foothold, to the neighboring countries of Cambodia, Laos, and Myanmar.¹

Following being shut out of Thailand in 2015 due to national law, the first alternative host country to which NLGN expanded its operations was Cambodia, which lacked laws concerning reproductive medicine, in particular assisted

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¹ NLGN is a commercial organization that handles egg provision and surrogacy services. Headquartered in Georgia, this intermediary agency for reproductive medicine services also has offices in India, South Africa, Poland, Armenia, and Ukraine, Mexico, Kenya, and Southeast Asia, and claims on its website to have helped over 7000 couples and individuals to build their families. (https://www.newlifeasia.net/)
reproductive medicine (ART) or surrogacy. Already facing “more than 50 surrogacy brokers... advertising online for services in Cambodia” as of August 2016, the Cambodian government announced a complete ban on commercial surrogacy in November 2016.

Despite the proclamation, neither NLGN nor Japanese surrogacy brokers have suspended business operations in Cambodia as of the time of this writing (January 2017), instead waiting to see the government's next moves. Such businesses targeted by the complete ban on commercial surrogacy can still be easily accessed, but clients risk paying an extremely high price for contracting their services. To what risks are surrogacy patients exposed as a result of the business priorities of Cambodian surrogacy agencies? This manuscript aims to identify the risks inherent in surrogacy businesses that have spread from Thailand to other neighboring nations.


Thailand’s interim legislature passed the Protection for Children Born through Assisted Reproductive Technologies Act, 2015 on February 19, 2015. It was soon followed by the Nepalese government, which took the step of completely banning commercial surrogacy in the country in September 2015. Some surrogacy mediation agencies responded to these moves by considering alternative host countries to Thailand for surrogacy operations: one of these is neighboring Cambodia, which permits surrogacy treatment and lacks legislation regarding surrogacy and other forms of reproductive medicine (for example, the reproductive medicine agency NLGN, headquartered in Georgia and operating in Thailand, opened a Cambodian branch in March 2015). Following Dr. Sean Sokteang’s opening of the country’s first IVF clinic, Fertility Clinic of Cambodia, in September 2014, the country has experienced rapid growth in the field of reproductive medicine, and now has 16 surrogacy clinics. Concerned about the physical and mental health of Cambodian surrogate mothers and surrogate children, the Cambodian government announced a ban on surrogacy in November 2014, but the activities of surrogacy brokers have continued unabated.

In addition, the Indian government’s announcement of measures to completely ban commercial surrogacy drove an exodus of gay couples to Thailand in 2013. This triggered the interim military junta of Prayuth Chan-ocha to implement the Protection for Children Born Through Assisted Reproductive Technologies Act, 2015, whereupon the preferred destinations of gay surrogacy tourists changed to Nepal and the Mexican state of Tabasco. The authorities were bewildered by the legions of gay couples, driven out of country after country in their search for international surrogacy, and by the end of 2015 both Nepal and Mexico had adopted measures to ban commercial surrogacy by the end of 2015, ultimately leading these groups to Cambodia.

Two major home countries from which gay surrogacy tourists have flocked to Thailand since 2013 are Australia and Israel. In Australia, neither surrogacy nor adoption for gay couples is recognized. According to the Australian Department of Foreign Affairs and Trade documentation, the number of Indian-born children applying for citizenship rose rapidly from 126 in the 2008 financial year (2007-2008) to 519 in the 2012 financial year (2011-2012); among these, the number of Australians born in India averaged around 50 per year; similarly, Thai-born children applying for Australian citizenship jumped from 294 to 459. In the 2013 financial year, the number of Thai-born Australian citizenship applications increased even further. The proportion of gay and straight parents in these figures is estimated to be half and half. Even if they wanted

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2 As Surrogacy Trade Grows, Government Charts Course (The Cambodia Daily, August 27, 2016).

3 Cambodia bans commercial surrogacy by Xavier Symons (BioEdge, 5 Nov 2016).

4 Commercial surrogacy is banned in Australia, but altruistic surrogacy is permitted for both opposite-sex and same-sex couples. Passed in Tasmania in 2012, Surrogacy Act No. 34 and Surrogacy (Consequential Amendments) Act No. 31 permit same-sex couples to have surrogate children as well as opposite-sex couples. Tasmania passes gay, de facto surrogacy bill (ABC NEWS, August 30, 2012).

5 While compensated surrogacy has been legal in Israel following the 1996 enactment of the Embryo Carrying Agreements Law, applicants are restricted to opposite-sex couples. Moreover, religious law permits surrogacy only when the commissioning mother and father (whether married or not) as well as the surrogate mother are Jewish (80% of the Israeli population is Jewish). Israel lacks civil marriage: only religious marriage exists, which is ordained by rabbis based on religious law. As a result, there are many de facto married couples in the country who are not legally married. In January 2014, Israel’s High Court of Justice recognized a gay couple’s adoption of a surrogate child genetically related to one of the parents (High Court orders Israel to recognize gay adoption of child born through surrogacy; The Jerusalem Post, January 28, 2014). However, a 2014 amendment bill to the Embryo Carrying Agreements Law, intended to extend the ability to commission commercial surrogacy to same-sex and de facto married couples and single men and women, failed to pass.

6 More parents defy law with overseas surrogacy (The Sydney Morning Herald, September 14, 2013)
to, gay couples from Australia and Israel could not change course and commission surrogacy in Georgia (the location of NLGN headquarters), because Georgian law restricts those who can commission surrogacy to married heterosexual couples; instead, they headed to Thailand’s neighboring country of Cambodia.

Flooded with the influx of gay couples, the Cambodian government gave notice of a coming crackdown on commercial surrogacy in a November 11, 2015 article in the Khmer Times7, warning that “Government officials plan to classify surrogacy as a form of human trafficking”.8 Despite the announcement, the number of surrogacy brokers working clandestinely in Cambodia continued to increase. Concerned about the massive influx of not only opposite-sex couples, but also same-sex couples and single persons from foreign countries seeking surrogacy, the U.N. Population Fund’s representative to Cambodia warned in August 2016: "There is currently no legal framework regulating surrogacy in Cambodia, even though more than 50 surrogacy brokers are advertising online for services in Cambodia, and Australian couples are traveling here seeking surrogate services. They need at least a legal framework to avoid malpractices. In the absence of a legal framework, there is much more risk of having abuse and malpractice."9

In September 2016, the Ministry of Women’s Affairs in Cambodia held a conference about the effects of unregulated surrogacy, and announced it would take measure to protect the human rights of Cambodian women and children. On November 3, 2016, the Cambodian government subsequently notified all medical institutions in Phnom Penh of an impending complete ban on commercial surrogacy.

Despite this threat, NLGN claims that there are no laws related to ART or surrogacy regulations in Cambodia, and therefore surrogacy is not illegal in the country. Based on this determination, NLGN continues to recruit and manage surrogate mothers in Thailand and Cambodia, and to act as a mediator between Cambodian clinics and medical refugees from around the world. At the same time as it pays off authorities to defend itself from repeated investigations by the Cambodian socialist administration, NLGN is fostering new surrogacy markets in the cities of Vientiane (Laos) and Naypyidaw (Myanmar) as a back-up plan for its surrogacy program.

Despite their opaque future, parties seeking surrogacy are directed to these Cambodian surrogacy clinics by advertisements posted on the websites of some Japanese surrogacy agencies (Company A and Company B). NLGN transfers embryos fertilized via IVF and frozen in Thailand to Cambodian clinics, where they are implanted in Thai and Cambodian surrogate mothers.10 The Japanese surrogacy agencies work in a similar way: e.g. Company A inspects chromosomes from frozen embryos prepared in Japan at a partner Thai clinic using a next-generation sequencer (NGS).11 Only the healthy frozen embryos that pass inspection are then brought to a partner clinic in Cambodia by a Japanese surrogacy agent, where a local doctor implants them into surrogate mothers.

What are the risks to the patients of possible suffering due to the business priorities and attitudes of Cambodian surrogacy agents?

3. Risks Inherent in the Cambodian Surrogacy Business

While both Thailand and Cambodia are Theravada Buddhist countries, there are striking differences in their attitudes towards the surrogacy industry. In contrast to Thailand, where there is a strong tendency to view surrogacy as thanmboon (ทำบุญ) or ‘a pious act’ for extending a helping hand to people with reproductive disabilities, this way of thinking is rare in Cambodia. As a result, a married woman delivering a child belonging to someone other than her spouse appears quite abnormal to the average Cambodian. The national sentiment to stop the surrogacy industry as a form of prostitution or child trafficking (i.e. in violation of Article 332 of the Penal Code: Intermediary between an Adoptive Parent and a Pregnant Woman referring to “Ban on Human Trafficking”) has made searching for

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7 Gov’t to Crack Down on Surrogacy Clinics (Khmer Times, November 11, 2015)
8 The legal basis for this crackdown is Cambodian domestic law: specifically Article 332 of the Penal Code: Intermediary between an Adoptive Parent and a Pregnant Woman referring to “Ban on Human Trafficking”. In addition, Cambodia is party to the UN’s Trafficking Protocol, written in November 2000 to supplement the Convention against Transnational Organized Crime. However, the reality remains that impoverished Cambodian women and children still become victims of human trafficking.
9 As Surrogacy Trade Grows, Government Charts Course (The Cambodia Daily, August 27, 2016)
10 Some companies specialize in the transport of biological materials. For example, Cryoport, Inc. has recently expanded its business to not only the Czech Republic, a country with many egg donors, but also Cambodia, hailed as an alternative to Thailand for surrogacy tourists. The company uses specialized “cold chain” technology, a low-temperature distribution system for transporting gametes and fertilized eggs, whereby cells cryogenically frozen at −151 °C and a calcium silicate sponge soaked in liquid nitrogen are placed in a Dewar flask and transported to the destination.
11 The Japan Society of Obstetrics and Gynecology does not permit pre-implantation genetic screening (PGS) or whole-chromosome NGS.
surrogate mothers a more difficult task for brokers than in Thailand. Accordingly, the majority of women who undertake surrogate motherhood in Cambodian society are inevitably divorced women in financial distress or poor foreign women from neighboring countries.

Moreover, Cambodian law regards the woman who gives birth to a child as its legal mother. This means that when a surrogate mother gives birth to the child of a commissioning couple, she is recognized as the child’s legal mother simply by lending her uterus, even if she lacks a genetic relationship with the child. This legal situation means that commissioning couples from Japan must jump over several hurdles in order to bring home a surrogate child genetically related to them but born in Cambodia between a Japanese father and a Cambodian surrogate mother. First, the surrogate mother must undergo legal proceedings to relinquish her parental rights; second, the child must be recorded in the couple’s family registry, and obtain Japanese citizenship; and third, the child must be issued both a passport by the Japanese government and an exit visa by the Cambodian government. Are these expectations realistic?

Because of its November 3, 2016 announcement of a complete ban on commercial surrogacy to all medical institutions in Phnom Penh, the Cambodian government is unlikely to be able to publicly issue exit visas to surrogate children born in violation of it. More importantly, Japan lacks legislation regarding reproductive medicine, particularly surrogacy; therefore, the Embassy of Japan in Cambodia cannot issue a Japanese passport to a surrogate child born in Cambodia if it is to respect the official governmental positions of both countries. The legalization of an international adoption system in Cambodia notwithstanding, the announcement of a complete ban on commercial surrogacy makes it impossible not only for the Embassy of Japan in Cambodia to issue passports to surrogate children born in Cambodia, but also for the Cambodian government to grant exit visas to such children, since there is no legal system for transferring the surrogate child to a commissioning couple at present. In short, it will likely become impossible for a surrogate child to be transferred to a commissioning couple.

However, Cambodia is a country where one can purchase citizenship. Aware of the culture of “legal flexibility” in the country, surrogacy brokers have traditionally been able to resolve most issues by bribing authorities in secret. If citizenship can be purchased, certainly there is a chance that exit visas can be bought as well. A broker can bribe relevant Cambodian hospital officials to omit the surrogate mother’s name from the “Mother” field of a surrogate child’s birth certificate, thereby avoiding any trouble when the commissioning couple registers its birth at their city office upon returning to Japan. This workaround is made possible by a Ministry of Justice directive issued in 1961, which notes no special scrutiny for screening married couples upon their return home with a newborn child, assuming the women commissioning surrogacy is under 50 years old.

The hard reality is that bribery is widely tolerated in Cambodia, as it is in many poor socialist countries. This fact and the loophole above notwithstanding, voices such as the Ministry of Women’s Affairs are loudly calling for the protection of the human rights of women and children. Combined with the recent notification to ban commercial surrogacy, this trend suggests that the influence of bribery, traditionally effective in ages past, may lose some of its potency. In other words, the November 3, 2016 notification must be taken as a sign that with Cambodian medical institutions waiting for the government’s next moves, the ability of surrogate children born there to emigrate the country is in jeopardy.

4. Conclusion

Despite this, some surrogacy agencies in Japan have yet to withdraw their Cambodian surrogacy recruitment advertisements from their website as of the time of this writing (January 2017). Why is this?

On their websites, Company A and Company B claim to “perform surrogacy in Cambodia”, lay out the timeline of each Cambodian surrogacy program, and state that “the child is transferred to the married couple immediately upon delivery.”

However, even as the Cambodia government makes explicit its policies to ban commercial

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13 A surrogate child could potentially be granted Japanese citizenship and a passport through extra-legal measures, if the genetic relatedness of the child and its Japanese parent(s) (i.e., the commissioning couple) could be certified via DNA screening.

14 “[Authorities must] Check the facts of the birth when the mother is 50 years or older.” (Ministry of Justice directive, 1961)
surrogacy, the above-mentioned surrogacy agencies have maintained a uniform silence concerning the expected risks facing the return of the surrogate child to Japan. As of January 2017, Cambodia as a surrogacy destination exposes surrogate children born there to inherent risks. There is only one word for the behavior of these Japanese surrogacy agencies which send surrogacy-seeking couples to Cambodia while feigning ignorance of the risks involved: dishonest.

Note: This paper is based on a paper presented at the Tenth Kumamoto University International Bioethics Roundtable, November 2016.

Consideration of Appropriate Clinical Internships for Occupational Therapy Students in Japan

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1. Introduction
The purpose of this study was to determine the appropriate clinical internship for occupational therapy students by comparing two different styles: "in charge of client style and clinical clerkship".

All occupational therapy students in Japan must practice clinical internship for more than 1000 hours in order to qualify for the national exam for occupational therapists. Since 1965, a physical and occupational therapist law has been established in Japan stipulating that students practice an internship where they are in charge of clients and write case reports under a supervisor’s guidance. However, a number of occupational therapists have been practicing clinical clerkship from the 2000s onward.

In the clinical education for occupational therapy students, it is important to compare in charge of client style with the clinical clerkship style and to consider which of these two styles of clinical internship appropriately.

2. Occupational therapy process in Japan
Occupational therapists in Japan need prescriptions from a physician to practice therapy in order to have compliance with the law. Once they have prescriptions, occupational therapists complete the following steps: 1. Evaluate the clients using a variety of methods. 2. Determine the state of functioning and the real problem. 3. Plan an occupational therapy intervention, set long-term and short-term goals, and select and establish the course for occupational therapy. 4. Practice occupational therapy. Most of the therapy sessions range from 20 minutes to an hour. 5. Therapists routinely reevaluate the client (Table 1).

Occupational therapists assess the effect of therapy by comparing previous and current evaluation data results. If the client completes the goal, it may be the end of therapy depending on the assessment by the physician. If not, therapists repeat the process by practicing steps 1 to 5 again.

Table 1: Occupational Therapy Process in Japan

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<th>Description</th>
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<tr>
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<td>Prescription by physician</td>
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<td>1</td>
<td>Evaluation: interview, observation, collecting information, and measurement for clients</td>
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<td>2</td>
<td>Problem definition: International Classification of Functioning (ICF) is used to assess the results of evaluation and define problems that are to be targeted through occupational therapy interventions</td>
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<td>3</td>
<td>Intervention planning: goal (long or short-term) setting; select and establish the course of therapy.</td>
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<td>4</td>
<td>Intervention implementation: verification of the effects every therapy</td>
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<td>5</td>
<td>Re-evaluation: systematically re-collect initial evaluation data and compare evaluation and re-evaluation data to determine if outcomes have been met and if discontinuation is appropriate; if not, determine subsequent action.</td>
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<td>6</td>
<td>Completion</td>
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3. Legal regulations for clinical internship in occupational therapy in Japan
The rules for educational facilities of physical and occupational therapists (universities and vocational colleges offering a major in physical and occupational therapy) are outlined in Article 3-2, notified by the Ministry of Education, Culture, Sports, Science and Technology and by the Ministry of Health, Labour and Welfare and stipulate that physical and occupational therapy students must practice a clinical internship of more than 25 credits (810 hours: 45 hours per credit) and complete more than two-thirds of the credits in a medical setting (the Ministry of Education, Culture, Sports, Science and Technology and The Ministry of Health, Labour and Welfare, 1966).
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