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## Long-awaited surrogacy draft law finalised

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*A surrogate mother in Cambodia, pictured at five months pregnant in 2016. A first draft of Cambodia's long-awaited surrogacy law has been completed by the Ministry of Justice. [Eliah Lillis](#)*

Cambodia's Justice Ministry has finished a first draft of the Kingdom's long-awaited surrogacy law, and is due to hand it over to the Ministry of Women's Affairs next week.

The law is expected to ban the commercial industry but permit altruistic surrogacy – a controversial subject given the latter's potential for abuse.

Justice Ministry spokesman Chin Malin said the topic of Cambodia's fraught commercial surrogacy industry was broached during a meeting with UN Special Rapporteur Rhona Smith and Justice Minister Ang Vong Vathana yesterday.

Smith has said that she would assist Cambodia in the formulation and review of the law, an offer she repeated yesterday.

Malin said the draft had nine chapters and 62 articles.

“If we don’t have the law to manage it, surrogacy could negatively affect women and children if it is done with the intention of business and human trafficking,” he said.

“If the surrogacy is for humanitarian reasons, like if they don’t have children and they ask someone to be a surrogate in order to have a baby for the next generation, it is just morality and humanitarian; it is not an issue.”

The concept of altruistic surrogacy has caused controversy, with surrogacy advocates arguing it often leaves surrogates out-of-pocket and exploited, and detractors saying it often amounts to commercial surrogacy in practice.

“Altruistic surrogacy does not exist, it is a euphemism,” said Rodrigo Montero, gender specialist at the UN Development Programme.

“In countries where ‘altruistic’ surrogacy is allowed we see that large amounts of money are always involved.”

UN Office of the High Commissioner of Human Rights (OHCHR) Country Representative Simon Walker confirmed the UN’s interest in helping to review the draft surrogacy law to ensure it aligned with human rights standards.

“In terms of the content of the law, OHCHR considers that the rights of all parties should be protected when examining cases of surrogacy, without discrimination,” he said. “From its monitoring worldwide, it has been noted that total bans do not work and can be more dangerous for all parties involved.”

Commercial surrogacy flooded into the Kingdom after bans on the fraught practice in Thailand, India and Nepal.

Despite the lack of an actual law against the practice, the Health Ministry issued a snap ban on commercial surrogacy in late 2016, and three people – Australian nurse Tammy Davis-Charles and two Cambodian associates, nurse Samrith Chakriya and Commerce Ministry official Penh Rithy – were jailed under existing human trafficking and fraud laws.

Since a January 8 amnesty deadline passed, Cambodian surrogates who give birth could face legal prosecution and jail time.

Montero added that the Cambodian government had taken “positive action” in prosecuting the surrogacy industry, and stressed that “having children with your own genetic material when it is biologically not possible is not a human right”.

“Legalisation of surrogacy is not justified in Cambodia,” he said in a message. “Here adoption of children by Cambodian couples is accessible and fast. In fact, surrogacy poses a threat to poor Cambodian children who are in need of adoptive parents.”