
CROSS-BORDER FERTILITY TOURISM: FRAGMENTED SOVEREIGNTY, PRIVATE INTERNATIONAL LAW, AND THE QUEST FOR CHILD-CENTRED TRANSNATIONAL REPRODUCTIVE JUSTICE

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ABSTRACT

Cross-border fertility tourism, or cross-border reproductive care (CBRC), has emerged as a significant legal and regulatory challenge in the era of globalised healthcare. It refers to the movement of individuals or couples across national borders to access assisted reproductive technologies (ART), including in vitro fertilisation, gamete donation, and surrogacy, in jurisdictions where such services are legally available, affordable, or less restrictive. While this mobility reflects the exercise of reproductive autonomy, it simultaneously exposes deep fragmentation in domestic legal systems concerning parentage, citizenship, contractual enforceability, and the protection of vulnerable parties.

This article critically examines cross-border fertility tourism through the lens of private international law, constitutional principles, feminist jurisprudence, and international human rights norms. It analyses the divergent regulatory approaches adopted by states ranging from prohibition to regulated altruistic models and commercial frameworks and evaluates the resulting conflicts of law, particularly in the recognition of legal parentage and nationality of children born through transnational arrangements. The jurisprudence of the European Court of Human Rights, constitutional developments in India and the United States, and harmonisation efforts under the Hague Conference on Private International Law are examined to assess evolving global standards.

The article argues that the absence of coordinated international regulation generates legal uncertainty that disproportionately burdens children and economically vulnerable surrogates. Although states retain sovereign authority to regulate reproduction within their territories, the transnational character of assisted reproduction necessitates child-centred recognition mechanisms, enforceable procedural safeguards, and structured international cooperation. A balanced regulatory framework grounded in dignity, autonomy, equality, and the best interests of the child is essential to reconcile reproductive freedom with ethical accountability in the global reproductive marketplace.

I. Introduction

Technological advancements in assisted reproduction have transformed the possibilities of family formation. Procedures such as in vitro fertilisation, gestational surrogacy, cryopreservation, and gamete donation have decoupled reproduction from traditional biological and marital paradigms. Yet while reproductive technologies have globalised, regulatory regimes remain territorially bounded and morally diverse. This disjunction has given rise to cross-border fertility tourism the transnational movement of intended parents seeking reproductive services in jurisdictions offering legal, economic, or procedural advantages.

Cross-border reproductive care is not merely an extension of medical tourism. It represents a structural challenge to legal systems grounded in territorial sovereignty and traditional parentage doctrines. Unlike cosmetic surgery or elective medical travel, reproductive mobility results in the creation of children whose legal status must be recognised across jurisdictions. Consequently, the issue implicates not only adult autonomy but also child welfare, nationality law, constitutional privacy, public policy exceptions, and human rights obligations.

This article argues that cross-border fertility tourism exposes a crisis of legal fragmentation in global reproductive governance. Domestic regulatory asymmetries generate private international law conflicts that disproportionately affect children. The absence of harmonised recognition mechanisms produces uncertainty regarding parentage and citizenship, thereby undermining identity and stability. The law must therefore move beyond purely domestic regulation and adopt a transnational, childcentred framework capable of reconciling sovereignty with justice.

II. Conceptualising Cross-Border Reproductive Care

Cross-border reproductive care has emerged as a defining feature of contemporary assisted reproductive practices, reflecting the increasing mobility of individuals and the globalisation of healthcare services. It arises when intended parents travel outside their home jurisdiction to access reproductive technologies and medical interventions that may be legally restricted, socially stigmatized, prohibitively expensive, or practically unavailable domestically. Such services typically include in vitro fertilisation (IVF), egg or sperm donation, pre-implantation genetic testing, gestational surrogacy, and embryo preservation. The transnationalisation of reproductive healthcare has significantly expanded reproductive choice, yet it has also

intensified regulatory fragmentation, ethical contestation, and legal uncertainty, particularly for children born through such arrangements.

The primary drivers of cross-border reproductive mobility are deeply embedded within the legal, economic, and social disparities that exist across jurisdictions. In many states, restrictive legislation either prohibits or severely limits access to assisted reproductive technologies. Common regulatory constraints include bans on commercial surrogacy, restrictions on gamete donation, and exclusions based on marital status, sexual orientation, age, or gender identity. Single individuals, same-sex couples, and transgender persons often encounter systemic barriers within domestic reproductive frameworks, compelling them to seek reproductive services abroad. Additionally, stringent eligibility criteria and burdensome bureaucratic procedures frequently result in prolonged waiting periods, further incentivising transnational travel.

Economic considerations constitute another significant motivating factor. The high cost of fertility treatments in certain jurisdictions, particularly in developed countries, places assisted reproduction beyond the financial reach of many individuals and couples. In contrast, countries with lower medical costs and permissive regulatory environments offer comparatively affordable access, creating reproductive tourism hubs. Similarly, scarcity of donors and surrogates in some regions exacerbates delays and drives demand toward jurisdictions with established donor networks and commercial surrogacy infrastructures. Collectively, these factors generate a transnational reproductive marketplace in which intended parents strategically navigate regulatory landscapes to fulfil their reproductive aspirations.

Legal scholars have conceptualised this phenomenon through the lens of “regulatory arbitrage,” wherein individuals select jurisdictions that provide the most favourable legal conditions for achieving their reproductive objectives. Regulatory arbitrage reflects a rational response to fragmented sovereignty, allowing intended parents to bypass restrictive domestic laws by relocating temporarily to permissive jurisdictions. This strategic selection, however, raises profound concerns regarding legal coherence, ethical consistency, and regulatory accountability. By exploiting discrepancies among national legal regimes, regulatory arbitrage exposes the inadequacy of territorially bounded legal frameworks in governing inherently transnational biomedical practices.

The legal consequences of regulatory arbitrage become particularly acute upon the return of

intended parents to their home jurisdictions with a child born through surrogacy or assisted reproductive technologies. Domestic authorities may refuse to recognise legal parentage, deny citizenship, or invalidate birth registrations if the underlying arrangement contravenes local public policy or statutory prohibitions. Such refusals frequently result in protracted litigation, bureaucratic delays, and prolonged uncertainty regarding the child's legal status. In extreme cases, children are rendered stateless or left in legal limbo, deprived of nationality, identity documentation, and secure familial bonds. These outcomes starkly illustrate how regulatory fragmentation disproportionately burdens children, transforming them into unintended casualties of jurisdictional conflict.

The fragmentation of legal responses to cross-border reproductive care reflects deeper normative divergences and moral pluralism in reproductive governance. States adopt fundamentally different ethical, cultural, and philosophical frameworks in regulating reproduction, informed by religious beliefs, societal values, historical traditions, and political ideologies. In liberal jurisdictions, reproduction is often framed as an intimate domain of personal autonomy, closely linked to rights of privacy, bodily integrity, and family life. Legal frameworks grounded in liberal constitutionalism emphasise reproductive freedom, equality, and non-discrimination, thereby facilitating broad access to assisted reproductive technologies.

Conversely, many jurisdictions approach reproduction through a moral or communitarian lens, emphasising the protection of human dignity, the sanctity of the family, and the prevention of commodification. From this perspective, commercial surrogacy and gamete markets are perceived as ethically problematic, raising concerns about exploitation, objectification of women's reproductive labour, and the commercialisation of human life. Consequently, such states impose restrictive regulatory regimes or outright prohibitions, justified by public policy considerations and moral imperatives. These contrasting regulatory philosophies produce a deeply fragmented global reproductive order, wherein identical reproductive practices are simultaneously celebrated as expressions of liberty and condemned as violations of human dignity.

This moral pluralism poses profound challenges for private international law. Traditional conflict-of-laws principles, grounded in territorial sovereignty and public policy exceptions, struggle to reconcile competing normative frameworks. Courts frequently invoke public policy doctrines to deny recognition of foreign surrogacy arrangements, even when doing so

undermines the legal security of the child. While such refusals aim to preserve domestic moral values, they inadvertently perpetuate legal uncertainty and erode the effectiveness of transnational legal coordination. The tension between safeguarding national ethical commitments and protecting the rights of children underscores the inadequacy of existing legal mechanisms in addressing transboundary reproductive practices. Moreover, the asymmetrical distribution of economic power within crossborder reproductive markets intensifies ethical concerns. Wealthy intended parents from developed jurisdictions often rely on the reproductive labour of women in economically disadvantaged regions, raising critical questions regarding consent, coercion, and structural exploitation. While proponents argue that regulated surrogacy arrangements provide financial opportunities and medical care to surrogate mothers, critics contend that systemic inequality undermines the voluntariness of consent. These dynamics complicate simplistic narratives of empowerment and highlight the need for nuanced regulatory interventions that balance autonomy, protection, and social justice.

In this complex landscape, the pursuit of coherent transnational governance becomes imperative. The absence of harmonised international standards perpetuates legal fragmentation, encourages regulatory arbitrage, and exacerbates child vulnerability. A child-centred regulatory paradigm, grounded in international human rights law, offers a normative anchor for addressing these challenges. By prioritising the best interests of the child, such a framework can recalibrate private international law doctrines toward recognition, continuity, and legal security, while preserving space for ethical diversity among states.

In conclusion, cross-border reproductive care represents a paradigmatic case of globalisation confronting territorially bounded legal systems. The interplay of regulatory arbitrage, moral pluralism, and fragmented sovereignty generates profound legal and ethical dilemmas that existing frameworks are ill-equipped to resolve. Addressing these tensions requires a reconceptualisation of reproductive governance that transcends national boundaries, harmonises legal standards, and places the child's welfare at the centre of regulatory design. Only through such an integrated and rights-based approach can the promises of reproductive mobility be realised without sacrificing legal certainty, ethical integrity, and human dignity.

III. Domestic Regulatory Divergence

A. Prohibitive Jurisdictions

Certain European jurisdictions historically treated surrogacy as contrary to public order. France

refused recognition of foreign surrogacy arrangements on the basis that surrogacy contracts violated the principle of human dignity embedded in civil law tradition. Germany similarly criminalises commercial surrogacy under its Embryo Protection Act.

Prohibitive regimes prioritise prevention of exploitation and commodification. However, prohibition does not eliminate demand. Instead, it externalises reproductive arrangements, creating complex recognition disputes.

B. Altruistic Regulatory Models

The United Kingdom permits altruistic surrogacy under the Human Fertilisation and Embryology Act 2008. Surrogacy agreements are unenforceable, but parental orders can transfer parentage post-birth. The welfare of the child is paramount.

Courts have adopted a pragmatic approach in international cases, granting parental orders even where payments exceeded statutory limits, provided the arrangement did not exploit the surrogate and the child's welfare demanded recognition.

Australia and Canada adopt comparable frameworks, though some Australian states criminalise commercial surrogacy even when conducted overseas.

C. Commercially Permissive Jurisdictions

In certain U.S. states, particularly California, commercial surrogacy contracts are enforceable. Pre-birth orders establish intended parents as legal parents before delivery, providing predictability.

Ukraine and Georgia have operated commercial surrogacy markets attracting international clients due to lower costs and permissive laws.

However, war and political instability have revealed vulnerabilities, including stranded surrogates and disputes over abandoned embryos.

D. India's Regulatory Transformation

India transitioned from a global hub of commercial surrogacy to a restrictive altruistic model under the Surrogacy (Regulation) Act, 2021. The Act bans commercial surrogacy, restricts

eligibility to Indian heterosexual married couples, and excludes foreign intended parents.

Constitutional challenges argue that these restrictions violate equality and privacy rights. The Indian debate reflects tension between protection of vulnerable women and recognition of reproductive autonomy.

IV. Private International Law and Parentage Recognition

The central legal problem in cross-border fertility tourism is recognition of parentage across jurisdictions.

In *Mennesson v France*, the European Court of Human Rights held that France's refusal to recognise parent-child relationships lawfully established abroad violated Article 8 of the European Convention on Human Rights. The Court emphasised the child's right to identity and private life.

Similarly, *Labassee v France* reinforced that children cannot be penalised for the circumstances of their birth.

These decisions marked a shift from rigid public policy exclusion toward child-centred recognition. Private international law traditionally allows refusal of recognition where foreign judgments violate domestic public policy. Yet the ECtHR jurisprudence narrows this discretion where child rights are implicated.

V. Nationality and Statelessness

Cross-border surrogacy can create statelessness when neither the country of birth nor the intended parents' home state confers nationality. The Convention on the Rights of the Child recognises every child's right to nationality and identity. Failure to recognise parentage may prevent issuance of passports or citizenship certificates, leaving children in administrative limbo. This problem illustrates the inadequacy of territorially confined nationality doctrines in an era of reproductive mobility.

VI. Constitutional Dimensions

Reproductive autonomy is increasingly framed within constitutional privacy and dignity jurisprudence. In India, the privacy judgment in *Justice K.S. Puttaswamy v Union of India*

recognised decisional autonomy as part of Article 21. Reproductive choice arguably falls within this ambit.

In the United States, however, the post-Dobbs landscape has decentralised reproductive governance to states. The Alabama Supreme Court decision in *LePage v Center for Reproductive Medicine* classified frozen embryos as children under wrongful death law, illustrating the variability of constitutional interpretation.

Constitutional fragmentation intensifies cross-border reproductive travel.

VII. Contractual Enforceability and Public Policy

Commercial surrogacy contracts in permissive jurisdictions treat gestational services as enforceable agreements. Prohibitive jurisdictions treat them as void. This divergence complicates cross-border enforcement. Private international law must reconcile contractual autonomy with domestic moral constraints.

VIII. Feminist Jurisprudence and Commodification

The commodification debate is central to cross-border fertility tourism. Radical feminist scholars argue that commercial surrogacy reduces women's reproductive labour to market transactions, reinforcing structural inequality. Liberal feminist scholars emphasise agency and economic empowerment, arguing that prohibition denies women autonomy. A nuanced regulatory approach must distinguish between exploitative conditions and consensual arrangements with safeguards.

IX. Global Justice and Economic Inequality

Cross-border fertility tourism frequently operates within a stark asymmetry of economic power, wherein financially affluent intended parents from developed or upper-middle-income jurisdictions engage the reproductive labour of women from economically disadvantaged regions. This structural imbalance raises profound concerns of global justice, ethical legitimacy, and socio-legal accountability. The commodification of reproductive capacities within transnational markets risks reinforcing neocolonial hierarchies, whereby wealthier nations externalise reproductive labour to poorer states, replicating patterns of economic dependence and extraction historically associated with colonial and post-colonial relations.

Such dynamics necessitate critical interrogation of whether existing reproductive markets perpetuate systemic inequality under the guise of contractual freedom.

While proponents argue that surrogacy offers financial empowerment and improved healthcare access for surrogate mothers, critics caution that persistent socio-economic vulnerabilities undermine the voluntariness of consent. When material deprivation constrains choice, the line between autonomous decision-making and economic coercion becomes blurred. Consequently, compensation frameworks that merely reflect local wage standards may fail to account for transnational disparities in wealth, bargaining power, and social risk.

In response, legal frameworks governing cross-border surrogacy must integrate principles of distributive justice alongside respect for individual autonomy. Regulatory regimes should mandate fair compensation benchmarks, comprehensive medical insurance, long-term healthcare support, and enforceable labour protections. By embedding social justice considerations within contractual and regulatory structures, legal systems can mitigate exploitative practices while preserving the agency and dignity of surrogate mothers in transnational reproductive arrangements.

X. International Harmonisation

The Hague Conference on Private International Law is currently engaged in an ambitious Parentage/Surrogacy Project aimed at formulating a harmonised international framework for the recognition of legal parentage arising from cross-border reproductive arrangements. This initiative responds to the growing incidence of legal uncertainty, statelessness, and identity fragmentation experienced by children born through transnational surrogacy and assisted reproductive technologies. By developing uniform conflict-of-laws rules, recognition mechanisms, and safeguards, the project seeks to ensure legal continuity of parent-child relationships across jurisdictions, thereby prioritising the best interests of the child and promoting transnational legal coherence.

A central objective of the project is the prevention of statelessness, a persistent risk where divergent nationality and parentage laws intersect.

Inconsistencies in domestic legal regimes often result in children being denied citizenship or formal recognition, leaving them in a precarious legal limbo. The proposed framework aims to

establish predictable recognition procedures that would mitigate these risks and facilitate seamless civil registration processes.

Nevertheless, the project confronts formidable obstacles rooted in moral pluralism and concerns over national sovereignty. States diverge significantly in their ethical, religious, and cultural perceptions of surrogacy, particularly commercial surrogacy, leading to deep-seated resistance against supranational regulatory impositions. Many jurisdictions remain reluctant to relinquish legislative autonomy over family law, a domain traditionally regarded as integral to sovereign authority. These normative and political divergences complicate efforts to achieve consensus, underscoring the inherent tension between universal child protection objectives and the preservation of domestic moral and legal traditions.

XI. Toward a Child-Centred Transnational Framework

A coherent regulatory response to cross-border reproductive arrangements must be firmly grounded in the principle of child-centred justice, ensuring that the rights, welfare, and long-term interests of the child occupy a central position in both domestic legislation and private international law reform. In an era characterised by increasing transnational mobility, fragmented legal systems, and technological advances in assisted reproduction, the absence of harmonised regulation has resulted in legal uncertainty, ethical dilemmas, and heightened vulnerability for children born through such arrangements. Accordingly, a comprehensive framework must prioritise five interrelated pillars: recognition of legal parentage, safeguards against exploitation, nondiscriminatory access, transparent medical and contractual standards, and effective international cooperation mechanisms.

First, the recognition of legal parentage constitutes the cornerstone of child protection in cross-border reproductive contexts. Inconsistent or delayed recognition of parentage frequently results in identity uncertainty, statelessness, and denial of fundamental civil rights. Children born through surrogacy or gamete donation often confront complex legal barriers in establishing their familial status, particularly when their country of birth and the intended parents' country of domicile adopt divergent regulatory approaches. A uniform and prompt mechanism for recognising parental status is essential to protect the child's rights to identity, nationality, and family life, as enshrined under international human rights law. Legal systems must move toward automatic or expedited recognition procedures that prioritise the best interests of the child over territorial formalism or moral objections.

Second, robust safeguards against exploitation must form an integral component of regulatory reform. The commodification of reproductive labour in economically vulnerable regions raises serious concerns regarding coercion, informed consent, and unequal bargaining power. Surrogate mothers and gamete donors, particularly in low- and middle-income jurisdictions, often operate within precarious socio-economic conditions, rendering them susceptible to exploitation. Regulatory frameworks must therefore mandate fair compensation, comprehensive medical care, psychological counselling, and enforceable contractual protections. Moreover, strict oversight mechanisms are required to prevent trafficking, forced surrogacy, and unethical medical practices, thereby ensuring that commercial interests do not eclipse human dignity.

Third, non-discriminatory access to assisted reproductive technologies is essential for advancing substantive equality and reproductive justice. Legal restrictions based on marital status, sexual orientation, gender identity, nationality, or disability unjustifiably curtail reproductive autonomy and reinforce systemic discrimination. A child-centred approach recognises that the welfare of the child is not contingent upon the conformity of family structures to traditional norms. Rather, regulatory regimes must embrace inclusive definitions of family, ensuring equitable access to reproductive services while safeguarding the child's right to stable, loving, and legally secure parentage.

Fourth, transparent medical and contractual standards are indispensable for ensuring accountability, safety, and legal certainty. Medical protocols governing fertility treatments must adhere to uniform ethical and clinical benchmarks to minimise health risks for both surrogate mothers and children. Similarly, contractual arrangements must be transparent, enforceable, and subject to judicial oversight, clearly delineating the rights and obligations of all parties. Standardised contractual frameworks can mitigate disputes, prevent exploitation, and provide clarity in cases of parental disagreement, medical negligence, or unforeseen contingencies.

Finally, effective international cooperation mechanisms are crucial to bridging regulatory gaps and resolving jurisdictional conflicts. The transnational nature of fertility tourism necessitates harmonised legal standards, mutual recognition of judicial decisions, and collaborative enforcement frameworks. Multilateral instruments, bilateral agreements, and coordinated institutional efforts can facilitate legal predictability and protect children from becoming

entangled in protracted cross-border disputes. Initiatives spearheaded by international bodies, such as the Hague Conference on Private International Law, exemplify the potential for constructing a coherent global governance model.

XII. Conclusion

Cross-border fertility tourism vividly illustrates the growing tension between unprecedented global mobility and the traditionally territorially bounded nature of legal systems. As individuals increasingly travel across national borders to access assisted reproductive technologies (ARTs), existing legal frameworks rooted in domestic notions of parentage, citizenship, and family struggle to keep pace.

Rapid technological advancements, including in vitro fertilisation, surrogacy, and genetic screening, have destabilised long-standing doctrines of parenthood based on biology, gestation, and marital presumptions. In the absence of harmonised regulation, stark disparities between national laws have generated profound legal uncertainty, leaving intending parents and, more critically, children in vulnerable positions.

Children born through cross-border reproductive arrangements often bear the brunt of fragmented sovereignty. Conflicting rules on legal parentage, nationality, and birth registration may result in statelessness, prolonged legal limbo, or denial of parental recognition, undermining their rights to identity, family life, and legal security. These outcomes expose the inadequacy of purely domestic legal responses to what is inherently a transnational phenomenon.

International cooperation grounded in human rights principles offers the most viable path forward. A coordinated legal framework, anchored in the best interests of the child, respect for human dignity, and reproductive autonomy, can reconcile individual freedoms with necessary safeguards. Such harmonisation would promote legal certainty, prevent exploitation, and ensure that cross-border reproductive practices evolve in a manner that is ethical, equitable.

REFERENCES:

I. PRIMARY SOURCES

A. International Instruments

1. Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.
2. European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) ETS 5.
3. Hague Conference on Private International Law, *The Parentage/Surrogacy Project* (HCCH, ongoing legislative project).

B. European Court of Human Rights

1. *Mennesson v France* App no 65192/11 (ECtHR, 26 June 2014).
2. *Labassee v France* App no 65941/11 (ECtHR, 26 June 2014).
3. *Paradiso and Campanelli v Italy* App no 25358/12 (ECtHR Grand Chamber, 24 January 2017).
4. Advisory Opinion concerning the recognition in domestic law of a legal parent-child relationship between a child born through gestational surrogacy abroad and the intended mother (ECtHR, Advisory Opinion P16-2018-001, 10 April 2019).

C. United Kingdom

1. Human Fertilisation and Embryology Act 2008 (UK).
2. Surrogacy Arrangements Act 1985 (UK).

D. India

1. Surrogacy (Regulation) Act 2021 (India).

2. Assisted Reproductive Technology (Regulation) Act 2021 (India).

3. Justice K.S. Puttaswamy v Union of India (2017) 10 SCC 1.

II. SECONDARY SOURCES (ACADEMIC)

A. Books

1. Kirsty Horsey and Erica Jackson, *Surrogacy and the Law: International Perspectives* (Hart Publishing 2019).

2. Jenni Millbank, *International Surrogacy and the Human Rights of the Child* (Intersentia 2017).

3. Margaret Brazier, Alastair Campbell and Susan Golombok, *Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation* (UK Government Report).

B. Journal Articles

1. Claire Fenton-Glynn, 'Children and the Commodification of Identity in International Surrogacy' (2016) 79(3) *Modern Law Review* 452.

2. Sharmila Rudrappa, 'India's Reproductive Assembly Line' (2015) 39(2) *Signs: Journal of Women in Culture and Society* 315.

3. Tobias Helms, 'International Surrogacy Arrangements and the Establishment of Legal Parentage' (2014) 14(1) *International Journal of Law, Policy and the Family* 1.

4. Katarina Trimmings and Paul Beaumont, 'International Surrogacy Arrangements: An Urgent Need for Legal Regulation at the International Level' (2011) 7(3) *Journal of Private International Law* 627.

5. I Glenn Cohen, 'Circumvention Tourism' (2012) 97 *Cornell Law Review* 1309.

6. Sonia Allan, 'Commercial Surrogacy and Legal Parenthood: Reflecting on the ECtHR Decisions' (2015) 23(1) *Medical Law Review* 1.

7. Bridget Anderson, 'Surrogacy and the Politics of Exploitation' (2016) 41(4) *Economy and*

Society 1.

C. Reports and Policy Documents

1.Hague Conference on Private International Law, *Parentage/Surrogacy Project: Preliminary Document No 3* (HCCH 2022).

2.European Parliament, *A Comparative Study on the Regime of Surrogacy in EU Member States* (2013).

3.Law Commission of England and Wales & Scottish Law Commission, *Building Families through Surrogacy: A New Law* (Law Com No 411, 2023).