

## Having children in cross-border contexts: late-family formation among homoparental families in Spain

Ter filhos em contextos transfronteiriços: formação familiar tardia entre famílias homoparentais na Espanha

1

THEMATIC ARTICLE

Raúl Sánchez-Molina (<https://orcid.org/0000-0002-1288-7716>)<sup>1</sup>

Nancy Anne Konvalinka (<https://orcid.org/0000-0001-8817-2269>)<sup>1</sup>

**Abstract** *Considered until recently unfit to rear children, non-heterosexual people have been excluded from forming families in most countries. Many, worldwide, demand access to family formation, claiming the same aptitudes as heterosexual people for raising children. However, when non-heterosexual singles and couples want to become parents in Spain, they must consider transnational contexts, resorting to inter-country adoption or surrogacy abroad, processes that contribute to delay their family formation. They must consider not only Spanish sociocultural conditions, but other countries' legal restrictions regarding parents' gender, social status, and sexual identity. These families experience great difficulty in gaining access to reproductive health services. Based on multi-site ethnographic fieldwork, this text addresses how, despite legislative changes allowing homoparental family formation in Spain, these parents must overcome complex bureaucratic processes when they decide to have children, while facing homophobic attitudes and policies in their quests to become parents.*

**Key words** *Homoparental family, Late-forming family, Adoption, Assisted reproductive technologies, Surrogacy*

**Resumo** *Até recentemente as pessoas não heterossexuais foram consideradas inadequadas para criar seus filhos, sendo excluídas da formação de famílias na maioria dos países. Em todo o mundo, estas pessoas exigem acesso à formação familiar, destacando as mesmas competências que as pessoas heterossexuais possuem para os criar seus filhos. No entanto, quando pessoas solteiras e casais não heterossexuais consideram tornar-se pais na Espanha, devem pensar em contextos transnacionais para ter filhos através da adoção ou sub-rogação em outros países, contribuindo para atrasar a sua parentalidade. Elas devem considerar não só as condições socioculturais da Espanha, mas também as dos países de destino em aspectos como gênero, classe social e orientação sexual. Estas famílias enfrentam grandes dificuldades no acesso aos serviços de saúde reprodutiva. Por meio de uma abordagem etnográfica multissituada, este artigo aborda como, apesar das alterações legislativas que permitem a formação de famílias homoparentais na Espanha, estes pais e mães devem superar complicados processos burocráticos e enfrentar atitudes e políticas de exclusão social quando decidem ter os seus filhos e filhas.*

**Palavras-chave** *Família homoparental, Família tardia, Adoção, Tecnologias de reprodução assistida, Sub-rogação*

<sup>1</sup> Universidad Nacional de Educación a Distancia (UNED Spain). Paseo Senda del Rey, 7, Planta 1ª, 28040. Madrid España. [ersanchez@fsf.uned.es](mailto:ersanchez@fsf.uned.es)

## Introduction

Delayed parenthood is a growing social phenomenon in many countries; in Spain, the average age at first birth for women of all nationalities is 32.61 and for women with Spanish nationality, 33.05<sup>1</sup>. This phenomenon has caused the emergence of a new group, *late-forming families*, people who become first-time parents after the age of 35<sup>2</sup>. Spain has experienced structural infertility since the 1990s, due to labor-market issues, gender inequality, and a lack of effective public policies on family formation and reproduction. Many people wish to form families but feel they should follow the traditional life course in Spain, which requires a completed education, stable employment, independent housing, and a stable partner before having children. These conditions are difficult to fulfill in precarious economic contexts and in a society that flexibilizes long-term romantic commitment; they are achieved, if at all, at much later ages than in the 20<sup>th</sup> century<sup>3</sup>.

Besides heterosexual adult single and couple parents, this group includes non-heterosexual parents who identify as gay, lesbian, bisexual, trans, queer, intersexual or other non-heteronormative identities (LGBTQI+). In Spain, these families constitute an established social group since the equal marriage law approved in 2005<sup>4</sup>, challenging traditional cultural values of kinship based on gender and heteronormativity<sup>5</sup>. Law 13/2005 defines marriage as a union between two people of undefined sex, extending to same-sex-married couples the possibility of adopting children. Since then, the number of same-sex couples has increased, rising from around 2.5% between 2014 and 2018 to 3.41% in 2021, reaching 4.16%, for example, in the Community of Madrid and in the Canary Islands. The National Statistics Institute (*Instituto Nacional de Estadística*, INE)<sup>6</sup> registered 5,073 same-sex marriages for 2021: 2,867 same-sex female and 2,206 same-sex male marriages.

Although the INE began to register same-sex marriages in 2011, statistics do not include data on non-heterosexual single parents, unmarried couple parents, or means of family formation: adoption, assisted reproductive technologies (ARTs), or transnational surrogacy<sup>7</sup>.

Until recently, same-sex couples have been considered unfit to rear children and excluded from forming families. To become parents, many must think of parenthood in cross-border contexts, by intercountry adoption, as domestic adoption is limited in Spain, or by transnational

surrogacy, not allowed by Spanish law<sup>8</sup>. Transnational factors interact when they decide to have children abroad and family formation beyond national borders is a growing social phenomenon. Non-heterosexual Spanish intended parents must consider not only Spain's specific legislation, but also other countries' conditions of and legislation on transnational adoption and surrogacy, as well as parents' age, gender, and sexual identity, which may exclude them from adopting or accessing gestational surrogacy (GS)<sup>9</sup>.

Based on multi-site ethnographic fieldwork in Spain and the U.S., and considering gender, class, coming-out processes and identity, we will discuss how national and transnational conditions affect family formation and reproduction among non-heterosexual parents in Spain. This text, for the first time, combines our research on late-forming families and on their use of adoption, ARTs, and surrogacy. Despite legislative changes allowing homoparental family formation in Spain, when these parents travel abroad to create their families, they must gain access to costly reproductive health services and overcome complex bureaucratic processes, while facing homophobic attitudes and social exclusion policies.

Following the tenets of anthropology and ethnography, our research has a holistic and trans-cultural perspective. We take into account several imbricated aspects: sociocultural and legislative changes in different countries, advances in medical technologies, globalization and the resulting transnational movements of people seeking reproduction and family formation. All participants in our fieldwork provided their informed consent before taking part in the research.

### A Multi-Site Ethnographic Approach as a Methodological Process

From 2012 to 2014, a team of anthropologists at the UNED carried out a methodological process of multi-site ethnographic research studying "late-forming families" in Spain, that is, families constituted by first-time parents at or over the age of 35<sup>10</sup>. Multi-site ethnographic approaches have been relevant methodological processes since the 1990s, studying issues such as cross-border displacements and ARTs in relation to family formation and reproduction in contexts of globalization. The team maintained this multi-site ethnographic approach from 2017 to 2021<sup>11</sup>, studying GS. We carried out fieldwork with intended parents, surrogates, and other agents involved in GS in Spain, Mexico, and the U.S., in-

cluding work on how structural conditions affect transnational family formation and reproduction among gay parents<sup>12</sup> and the meaning of genetic, biological, and social kinship<sup>13,14</sup>.

We met lesbian and gay parents of late-forming families by adoption, ARTs, and surrogacy through personal contacts at family associations and snowball sampling, carrying out fieldwork at these associations, participating in meetings, parties, seminars, and public events. The main ethnographic techniques employed were observation and semi-structured interviews, including life histories. By including different participants in surrogacy arrangements—heterosexual and homoparental intended parent couples, single intended parents, women acting as surrogates, leaders and personnel of surrogacy agencies, professionals working with intended parents and surrogates—in our research, we are able to contextualize the specific experience of same-sex intended parents in late-forming families. Contact with surrogates, as well as different professionals in the field, was made through surrogacy agencies in the U.S.

In their late 30s and early 40s, most gay and lesbian parents in our research have university degrees, work as liberal professionals, and identify as middle class. We will analyze ethnographic data on the life experiences of 15 gay and lesbian families: 10 male couples, five female couples and two single mothers. One lesbian and two gay couples had their children through domestic adoption; another gay couple had a son through surrogacy in the U.S. and was waiting to adopt in Spain. Three lesbian couples had their children using IVF in Spain. On the international level, one lesbian couple and one gay couple had their children through intercountry adoption and six gay couples through transnational surrogacy in the U.S. Context is provided by work with late-forming Spanish heteroparental families (three couples who used surrogacy in Ukraine, two families through adoption, and four Spanish single-mother families through ARTs), as well as with other participants (11 U.S. surrogates, two U.S. lawyers specializing in surrogacy, one U.S. doctor working in ARTs and surrogacy, and three U.S. psychologists who evaluate potential intending parents and surrogates).

## Results

### Access to National and Intercountry Adoption

National or international adoption are often the first options that people who cannot have children on their own consider. Adoption in Spain is a long, difficult process, designed to ensure the adoptive parents' commitment and the children's welfare. Many people arrive at adoption at later ages, after years spent seeking the right partner, in unsuccessful fertility treatments, or in delayed coming-out processes. The Ministry for Social Rights and the 2030 Agenda stipulate an age difference between parents and children, in domestic adoption, of at least 16 but no more than 45 years<sup>15</sup>; with the same limit for international adoption<sup>16</sup>. Many prefer to adopt babies or small children, but late-forming families, who arrive at adoption after other lengthy processes, often find themselves, after several years of adoption procedures, beyond the age limit to adopt a small child. Some foster children to facilitate adoption or accept older children, while others move on to the option of surrogacy.

We shall now present and discuss four cases of adoption as related to us by three non-heterosexual couples and one single mother.

In 2004, Adrián (all names are pseudonyms), a 36-year-old gay man living with his boyfriend, Alejandro, adopted his oldest son in Brazil as a single father. When Adrián and Alejandro married, Alejandro adopted this child. Later, when adopting their younger son in Spain, the process was long and difficult because, this time, they were unable to renew their certificate of aptitude (*Certificado de Idoneidad*). To obtain this certificate, intended parents must pass interviews and home inspections by civil servants, usually a psychologist and a social worker, who certify that they fulfill the legal requirements. Adrián said that the social worker was “very stubborn”, and created obstacles; as a result, they decided “to hold very tough conversations with the Social Counseling Office (*Consejería*)”. According to Adrián, they were unable to get the certificate due to the civil servants' homophobic attitudes. They filed “a lawsuit against the administration for homophobia”, which they won years later.

Another gay couple, Carlos and Cristóbal, got married and planned to adopt a child abroad. They contacted a homoparental family association in Spain that defends non-heterosexual parents' family rights and helps them to become

parents. Single parents in the association who had adopted their children abroad advised them to start with domestic foster care. They fostered a 6-year-old boy and adopted him 6 years later.

A 42-year-old woman, Débora, with her wife, Daniela, a 32-year-old physician, adopted a 3-month-old son with special needs in Spain. Although Débora said that they obtained the certificate of aptitude without “many formal difficulties”, she criticized the homophobic attitudes of the social worker, who not only told them that “this is the first time that we evaluate two women adopting”, but also expressed concern about the lack of a father. Débora felt that these prejudices pushed the adoption agents to do more inspections than usual with heterosexual couples, delaying the adoption.

Another physician, Elena, adopted her daughter in Nepal as a single mother, when she was 45 years old and her daughter was seven, a process that took over five years. She observed contradictions throughout the bureaucratic processes in Spain and in her daughter’s birth country and said she had to overcome many obstacles that delayed the adoption.

All the non-heterosexual couples interviewed coincided in highlighting that the Spanish same-sex marriage law allowed them to marry and opened their path to parenthood; they considered it a major step toward social recognition<sup>17</sup>. However, they emphasized the long, complicated process they had to undergo to adopt. The first obstacle was to obtain the certificate of aptitude. Civil servants working in adoption may refuse to certify aptitude because of too large of an age difference or because of concerns about the lack of a traditionally-imaged mother or father. In any case, based on “the child’s best interest”<sup>18</sup>, sending and receiving countries’ adoption laws tend to reproduce heteronormative traditional values of family and kinship. However, non-heterosexual people around the world demand to adopt children, claiming the same capacity to safeguard “the child’s best interest” as anyone else. While these rights are increasingly recognized in some countries, others, such as China and Russia, have enacted legislation prohibiting non-heterosexual people from adopting<sup>19</sup>.

When these informants started the adoption processes, there were few countries which had approved same-sex marriage legislation including adoption without restrictions. Some, like Spain, were major receiving countries of adopted children from abroad. Although 34 countries have legalized same-sex marriage in 2023, many have

recently changed their adoption legislation<sup>20</sup>. In 2013, there were only 15 countries (Canada, the Netherlands, Sweden, South Africa, Spain, England, Wales, Belgium, Uruguay, Scotland, Norway, Argentina, Brazil, Denmark, and France) that had approved same-sex adoption without restrictions, including adoption by same-sex couples, step-parents, and single gays and lesbians<sup>21</sup>.

### **Access to Assisted Reproductive Technologies (ARTs) in the Spanish Health System**

ART legislation in Spain determines who has access to the ARTs. The original law on this subject, Law 35/1988, Art. 6.1, states that “any woman can receive or use the technologies regulated in the present law, as long as they have consented to their use freely, consciously, expressly, and in writing. The woman must be at least 18 years old and have full capacity to act” (authors’ translation). This law provides access to ARTs for heterosexual couples and implicitly allows single and lesbian women access. This law was abolished in 2006 by Law 14/2006 which makes access for single and lesbian women explicit in Art. 6.1: “Any woman over 18 years of age and with full capacity to act can receive or use the technologies regulated in this law, as long as she has given written consent to their use freely, consciously, and expressly. A woman can use or receive the technologies regulated in this law independently of her civil status and sexual orientation”.

Spanish Law 13/2005 approving same-sex marriage recognizes lesbian couples’ reproductive rights. The Spanish Fertility Society (*Sociedad Española de Fertilidad*, SEF) lists the options open to same-sex female couples<sup>22</sup>: artificial insemination (AI) with donor sperm or in vitro fertilization (IVF) with donor sperm and donor eggs. The Spanish Civil Code<sup>23</sup> determines that the woman who gives birth is always legally the mother; as the SEF explains, her female spouse can adopt the baby.

Law 14/2006 does not explicitly contemplate reciprocal or partner IVF (ROPA, in Spanish), in which one woman provides an egg for IVF and the resulting embryo is implanted in her spouse or partner, who carries the pregnancy and gives birth. The issue here is that, by Law 14/2006, Art. 5.5, gamete and pre-embryo donation is strictly anonymous, but this does not apply to married couples. Thus, the SEF considers reciprocal IVF a legally acceptable exception for married lesbian couples.

The broad applicability of Law 14/2006, compared to more restrictive legislation in other European countries, makes Spain a fertility treatment destination for foreign women, especially other Europeans<sup>24</sup>.

We will now present cases from our fieldwork. One same-sex couple, Florencia and Fani, had not contemplated having children until they met a lesbian couple with a daughter through IVF in 2002. Florencia said that, after this experience, “something moved inside us”. A year later, they started to plan having children through IVF and contacted other lesbians who had done so. They agreed that the woman in better physical condition would be the biological mother and initiate the IVF process. With eggs from one of the women and sperm donation, they began the process in the Spanish public health system. But because of the long waiting list, they decided to go to a private clinic where, in 2005, their twins were born.

Long waiting lists in the public health system are particularly problematic for late-forming families, whose reproductive options are time-sensitive. Some informants mention that they chose reciprocal IVF because of the feeling of carrying a pregnancy or a sense of shared genetics with their children. In this sense, Spanish homoparental families tend to reproduce traditional values based on biological kinship while challenging traditional cultural ideals regarding family formation<sup>25</sup>. Pelka<sup>26</sup> describes lesbian families using reciprocal IVF as “non-traditional, traditional families”, emphasizing both biological relatedness and the possibility of two mothers, each biologically related to the child.

Mothers who decide to have their children by IVF may also need to overcome other obstacles arising from interviews with professional agents. This was the case for Gloria, who had her first son when she was 39 years old. She explained that she had had to wait for two years because a “homophobic psychiatrist did not want me to get pregnant”. However, social agents’ attitudes may be changing in Spain, as some studies<sup>27</sup> and another couple’s national experience indicate. According to Héctor, a male nurse who, with his husband, Hugo, adopted a little girl with special needs in 2017, their process was less complicated than other non-heterosexual people had told him and they only had to wait two years to adopt their daughter. But as other informants’ experiences show, prejudicial attitudes towards non-heterosexual intended parents affect and delay homoparental family formation in Spain.

Non-heterosexual people spend more time and resources forming families than heterosexual parents. Many have had to face first steps of self, social, and family acceptance. Most described the difficulties of coming out to their family members, although having children usually brought them closer to their own families. They all had to overcome concerns about possible homophobic reactions while raising their children in a dominant heteronormative society.

### From Adoption to Transnational Surrogacy

1. *The contract in which gestation, with or without a price, carried out by a woman who renounces maternal filiation in favor of the contracting party or a third party will be null and void.*
2. *The filiation of the children born through substitutive gestation will be determined by childbirth.*
3. *This shall be without prejudice to the possible action of claiming paternity with respect to the biological father, according to the general rules.*  
(Art. 10, Law 14/2006; authors’ translation)

While surrogacy—traditional (using the surrogate’s eggs and AI) or gestational (using eggs donated by a different woman and IVF)—is neither criminalized nor punishable, it cannot be carried out in Spain because there is no way for the intended parents to receive the child and become its parents. If a birth mother gives up her child, it necessarily enters the national adoption system and is assigned to a family already in the system awaiting a child; a child entering the system cannot be claimed by specific intended parents. Feminist associations and political parties firmly oppose surrogacy, even though some associations call for an altruistic surrogacy act.

The increasing number of children born through intercountry surrogacy, as well as social actions led by gay couples who were denied the possibility of registering their children, led the General Directorate for Registries and Notaries to enact a provision allowing these parents to register their children in 2010. Based on “the child’s best interest”, parents must fulfill two conditions. First, they must certify that a foreign judge authorized their children’s filiation following exequatur proceedings in Spain. Second, they must certify that the infants’ and surrogates’ rights were guaranteed. However, this provision, as Marco Molina<sup>28</sup> points out, has only advisory value; it has no judicial or normative weight.

Children born in the U.S. or Canada receive citizenship from these countries where nationality is based on *ius solis* and can be registered. However, for children born in countries such as Ukraine or Russia, where nationality is based on *ius sanguinis*, registration is more complex.

Heterosexual and homosexual parents and singles seek countries where surrogacy is available and protected by clear legal processes, such as California, in the U.S.; in other countries, such as Ukraine and Georgia, the cost is lower than in the U.S., but they only allow heterosexual couples. As researchers explain<sup>29</sup>, and our fieldwork confirms, intended parents' choice of destination contemplates not only access, but also cost, legal processes for attribution of paternity/maternity, and the ease of registering the child in Spain.

Recent research has shown that people wishing to form families in Spain perceive the outcome of the adoption process as long-term and uncertain, but feel that surrogacy gives them control and reproductive autonomy<sup>30,31</sup>. As our cases show, many couples who employ surrogacy had previously attempted adoption, often spending years awaiting adoptions that never materialized; these long delays are a major factor in late family formation, both for adoptive families and for families that finally resort to surrogacy. Our fieldwork with heterosexual intending parents in Spain confirms that both heterosexual and homosexual parents share the condition of becoming late-forming families due, in part, to the length and uncertainty of adoption processes.

While waiting years to have a child through domestic adoption, one gay couple, Iker and Ignacio, traveled to India in 2013 to start a GS process. At that time, India was the second destination, after the U.S., for commercial surrogacy. However, after their trip, the legislation changed, banning first gay men and, years later, married heterosexual foreigners, from access to GS<sup>32</sup>. So they decided to have their son through GS in California in 2016 while awaiting domestic adoption in Spain.

Before marrying, one 44-year-old LGBTBI+ activist, Juan, wished to have children; once married, the couple considered domestic adoption, until a gay friend who had adopted his son in Spain told them it had taken 10 years. Juan was 40 years old and his husband, José, was 37; they felt they were too old to wait so long. After talking to a relative with a son born through surrogacy in the U.S., they contacted the agency he had used and had their daughter with an African American surrogate in Georgia (U.S.).

Another gay couple, Luis and Lorenzo, who had their two daughters in Georgia (U.S.) between 2014 and 2018, explained that domestic adoption was limited for them and legislation in Georgia allowed them to become fathers through GS, recognizing their legal paternity rights before birth. Another gay married couple, Miguel and Marco, who had lived in the U.S., had their three children in Minnesota (U.S.). The surrogate was a friend of the couple and they used traditional surrogacy.

Political factors, among others, made these gay couples choose the U.S., with the U.S. and Canada being the only countries allowing foreign singles and gay couples access to surrogacy. While surrogacy in Canada is altruistic, many states in the U.S. permit commercial and/or altruistic surrogacy. Some also legally confer paternity rights before children are born, once surrogates surrender parental rights. As other studies indicate<sup>33</sup>, informants appreciate other social and cultural factors, such as being able to maintain frequent contact with surrogates during their pregnancies. They also explained that the freedom to choose and contact the surrogate (and egg donor) made them feel in control of the process, supporting the research previously cited. In contrast to other commercial surrogacy destinations, many U.S. agencies require surrogates to be involved with intended parents throughout the pregnancy, with in-person and phone or internet meetings. Another advantage, already mentioned, is that the children automatically receive U.S. citizenship.

All of these families point out that the biggest obstacle was the high cost of surrogacy in the U.S. Most talk about saving up for several years or borrowing from family members to pay for surrogacy arrangements that cost between \$ 100,000 and \$ 150,000. With incomes between 40,000 and 50,000 euros per year, they generally do not own homes. As Fantus and Newman<sup>34</sup> state in the case of gay fathers in Canada, informants chose this option because most countries' legislations explicitly prohibit same-sex couples from adopting. For most, the first choice was national or inter-country adoption, but the attempt to adopt often failed, leading them to GS abroad.

After signing a contract with a U.S. agency, intended fathers chose egg donors, reviewing prospective donors' profiles on Internet. They explain that they considered the egg donors' health and age, prior successful donations, ethnicity (preferring European or Latino origins), biography, education, and hobbies. The next step was to provide their sperm for IVF. Intended fathers

also had to create detailed profiles and answer questions about themselves, particularly regarding their motivations for becoming fathers. They then review prospective surrogates' profiles and interview them, mostly on Internet. These women are married women with children, in their late 20s or early 30s, middle-class, and with jobs (in our research, a teacher, a social worker, a member of the military reserve, a clerk, a stylist). One informant pointed out that, although surrogates and intended fathers select each other, surrogates are the first selecting intended parents. Our research with U.S. surrogates shows that the women have full decisional autonomy regarding who they match with and that they often do multiple surrogacies, some for heterosexual couples and others for gay couples.

In their interviews with prospective surrogates, intended fathers asked about their motivations for being surrogates, valuing answers emphasizing altruism. As other studies have shown<sup>35</sup>, informants talk more about their children's surrogates than about their egg donors. This coincides with the perception that intended parents conceive the relationships with the egg donor and with the surrogate differently, apparently in relation to the chronology: egg donation occurs at a specific moment previous to the GS process, whereas surrogacy creates an intense, 9-month personal relationship<sup>36,37</sup>. Other studies have found relationships with egg donors to be rare<sup>38</sup>, pointing out that intended fathers may avoid them due to their genetic links with the children.

U.S. agencies encourage contact between intended parents and surrogates from the start. Once intended parents had contacted their U.S. surrogates, they kept in touch with them through Internet and telephone calls. They developed different kinds of friendly relationships with their surrogates and hoped to stay in touch after their children's birth; they also established lasting friendly relationships with their husbands, children, and other family members. All these men emphasize the surrogates' altruism and empathy throughout the pregnancy, saying that they cannot pay them enough for what they have done for them. In their narrative of becoming fathers, they express feelings of pride, self-esteem and fulfillment, and support from family members and friends, explaining how their children have brought them closer to their own family.

## Discussion

Homoparental families have emerged as a specific social group in Spain over the last decade, challenging dominant heteronormative assumptions about gender, sexuality, and family. Before deciding to become parents, however, non-heterosexual people must consider national and transnational conditions and political and bureaucratic difficulties, while facing prejudices, homophobia, and coming-out processes that contribute to delay family formation. In this sense, their paths to parenthood should be situated, taking into account life histories characterized by personal and collective experiences of social exclusion and marginalization<sup>39</sup>.

Regarding ARTs in Spain, heterosexual and lesbian couples and single mothers face certain similar barriers: long waiting lists for public health services, making it difficult to form families within the stipulated ages, and the high cost of private health services. While heterosexual couples face the delays inherent to trying to conceive on their own and then attempting increasingly complex ARTs, and single mothers by choice often spend years trying to find the right partner before finally deciding to have children on their own, lesbian couples must deal with coming out, finding the right partner, and then deciding among the different ARTs available.

Gay couples, as well as single men, face a different set of obstacles. Coming-out processes and finding the right partner can also occupy years of their time, but their only options for becoming parents in Spain are domestic or international adoption. Many countries do not allow adoption by homosexual parents. Domestic adoption is more open, but the 45-year limit between the adopting parents' age and that of the child makes it difficult for the couples to adopt in a timely manner. Between the coming-out processes and finding the right partner, as well as the homophobic attitudes of some gatekeepers to adoption, the several years of the adoption process often puts these couples over the age limit. In addition, the outcome of the adoption process is uncertain. In this scenario, many couples and singles, both homosexual and heterosexual, opt for international surrogacy, as a process more likely to produce a positive outcome in a shorter time.

## Collaborations

Both authors participated in the design of the research project which produced the data analyzed. Both authors carried out the fieldwork for the project: Dr. R Sánchez-Molina carried out participant observation and interviews of the homoparental families. Dr. NA Konvalinka carried out participant observation and interviews of the heteroparental families. The authors analyzed the data jointly and drafted the article jointly.

## Acknowledgements

We are grateful for financial support for our research from:

Ministry of Economy and Competitiveness. Madres, sujetos agentes o individuos con agencia. Estudio etnográfico a través de la subrogación gestante. FEM2016-80012-R.

Ministry of Science and Innovation. Las familias “tardías”: Estudio etnográfico de las conformaciones familiares en Madrid y sus implicaciones sociales. FEM2011-30306.

The Wenner-Gren Foundation, U.S. Late-Forming Families. The Organization of Care-Giving and the Concept of Generation Gr. 8309.

UNED. Las familias “tardías”: Estudio etnográfico de las conformaciones familiares en Madrid y sus implicaciones sociales.

Community of Madrid and EU. Población, familia y migraciones en las sociedades contemporáneas GEPS-CM, H2019/HUM-5802 and Población, familia y envejecimiento en el mundo contemporáneo: dimensiones de un proceso en marcha GEPS-CM, S2015/HUM3321.

UNED-Santander. Estudios etnográficos de prácticas de subrogación: Un análisis comparativo.

We would like to thank our colleagues who participated in this research, Drs. Elena Hernández Corrochano, Alfredo Francesch, and Sandra Fernández García.

## References

1. Instituto Nacional de Estadística (INE). *Indicadores demográficos básicos. Indicadores de Fecundidad* [Internet]. [acceso 2023 set 21]. Disponible en: <https://www.ine.es/jaxiT3/Tabla.htm?t=1579&L=0%20>.
2. Konvalinka NA, Hernández Corrochano E. Methods and Concepts at Work. Generation and Caregiving in 'Late-forming Families'. *Anthropol News* 2012; 53(5):10.
3. Konvalinka N. Timing and Order Conflicts in the Life Course. Schooling, Job Precariousness, and Caregiving in Late-Forming Families in Spain. In: Seifert M, editor. *Die mente Seite der Ökonomie. Gefühl und Empathie im Arbeitsleben*. Dresden: Thelem; 2014. p. 221-232.
4. Pichardo Galán JI. *Entender la diversidad familiar: relaciones homosexuales y nuevos modelos de familia*. Barcelona: Ed Bellaterra; 2009.
5. Weston K. *Families We Choose. Lesbians, Gays, Kinship*. New York: Columbia Univ. Press; 1991.
6. Instituto Nacional de Estadística (INE). *Series Anuales. Matrimonios del mismo sexo* [Internet]. 2021 [acceso 2023 jul 11]. Disponible en: <https://www.ine.es/dynt3/inebase/es/index.htm?padre=1128&cap=sel=1670>.
7. Cortina C. Demographics of Same-Sex Couples in Spain. *REIS* 2016; 153:3-22.
8. Marre D, San Roman B, Guerra D. On Reproductive Work in Spain: Transnational Adoption, Egg Donation, Surrogacy. *Med Anthropol* 2018; 37(2):158-173.
9. Volkman TA, editor. *Cultures of Transnational Adoption*. Durham: Duke Univ. Press; 2005.
10. Sánchez Molina R, Hernández Corrochano E, Konvalinka NA, Francesch A, Fernández García S. *Las familias «tardías»: Estudio etnográfico de las conformaciones familiares en Madrid y sus implicaciones sociales*. Proj. I+D+i del MCINN, FEM2011-30306; 2012-2014.
11. Hernández Corrochano E, Konvalinka NA, Sánchez Molina R, Fernández García S, Tober D. *Madres, sujetos agentes o individuos con agencia. Estudio etnográfico a través de la subrogación gestante*. MINECO (FEM2016-80012-R); 2017-2021.
12. Sánchez Molina R. From Adoption to Transnational Surrogacy: Family Formation Among Non-Heterosexual Parents. *Hum Organ* 2022; 81(4):380-389.
13. Konvalinka NA, Fernández García S. Des espaces de parenté publics et personnels complexes en matière de gestation pour autrui transnationale: le cas de l'Espagne. In: Côté I, Lavoie K, Courduriès J, editors. *Perspectives internationales sur la gestation pour autrui: Expériences des personnes concernées et contextes d'action*. Quebec: Presses del' Univ. du Québec; 2018. p. 93-121.
14. Hernández Corrochano E, Konvalinka NA. La subrogación gestante desde el ámbito de la antropología. Antecedentes, estado de la cuestión y agentes implicados. In: Rodríguez Ruiz B, editor. *Autonomía, género y derecho: Debates en torno al cuerpo de las mujeres*. Valencia: Tirant lo Blanch; 2019. p. 277-298.
15. España. *Ministerio de Derechos Sociales y Agenda 2030* [Internet]. [acceso 2023 set 19] Disponible en: <https://www.mdsocialesa2030.gob.es/derechos-sociales/infancia-y-adolescencia/adopcion-nacional.htm>.
16. España. Ley 26, de 28 de julio de 2015. *De modificación del sistema de protección a la infancia y a la adolescencia* [Internet]. [acceso 2023 set 19]. Disponible en: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-8470>.
17. Schecter E, Tracy A, Page K, Luong G. Shall We Marry? Legal Marriage as a Commitment Event in Same-Sex Relationships. *J Homosex* 2008; 54(4):400-422.
18. España. *Ley Orgánica 1/1996 de Protección Jurídica del Menor* (BOE, nº 15, de 17 de enero de 1996, art. 9, aptdo. 5).
19. Volkman TA. Introduction: Transnational Adoption. *Soc Text* 2003; 74(21/1):1-5.
20. Human Rights Campaign. *Marriage Equality Around the World* [Internet]. [cited 2023 jul 12]. Available from: <https://www.hrc.org/resources/marriage-equality-around-the-world>.
21. Montero D. Attitudes Toward Same-Gender Adoption and Parenting: An Analysis of Surveys from 16 Countries. *Adv Soc Work* 2014; 15(2):444-459.
22. Sociedad Española de Fertilidad [Internet]. [acceso 2023 set 21] Disponible en: <https://www.sefertilidad.net/?seccion=pacientesSEF&subSeccion=faqs>.
23. Spanish Civil Code [Internet]. [cited 2023 set 27]. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-1889-4763>.
24. Rivas Rivas AM, Álvarez Plaza C. Presentation. In: Rivas Rivas AM, Álvarez Plaza C, editores. *Etnografía de los mercados reproductivos: actores, instituciones y legislaciones*. Valencia: Tirant lo Blanch; 2020.
25. Hayden CP. Gender, Genetics and Generation. Reformulating Biology in Lesbian Kinship. *Cult Anthropol* 1995; 10(1):41-63.
26. Pelka S. Observing Multiple Mothering: A Case Study of Childrearing in a U.S. Lesbian-Led Family. *Ethos* 2010; 38(4):422-440.
27. Fernández Molina M, Alarcon E. Adopción y LGTB familias. Actitudes de los profesionales en una muestra española. *Acción Psicol* 2015; 12(1):91-102.
28. Marco Molina J. Spanish Law in 2010-2012: The influence of European Union Law and the Impact of the Economic Crisis. *J Civ Law Stud* 2013; 6:401-443.
29. Álvarez Plaza C, Rivas Rivas AM, Jociles Rubio MI. Estrategias de creación de vínculos en la subrogación gestacional según los países de origen de los hijos/as. In: Jociles Rubio MI, editor. *Revelaciones, filiaciones y biotecnologías. Una etnografía sobre la comunicación de los orígenes a los hijos e hijas concebidos mediante donación reproductiva*. Barcelona: Bellaterra; 2016. p. 318-346.
30. Smietana M. Las paternidades y maternidades en las familias de padres gays creadas por gestación subrogada. In: López C, Marre D, Bestard J, editores. *Maternidades, procreación y crianza en transformación*. Barcelona: Bellaterra; 2013. p. 203-220.
31. Lores Masip F, Rivas Rivas AM, Jociles Rubio MI. Elecciones reproductivas: ¿es la adopción una alternativa a la gestación subrogada? In: Rivas Rivas MA, Álvarez Plaza C, editores. *Etnografía de los mercados reproductivos: actores, instituciones y legislaciones*. Valencia: Tirant lo Blanch; 2020. p. 213-268.

32. Rudrappa S. The Impossibility of Gendered Justice through Surrogacy Bans. *Curr Sociol* 2021; 69(2):286-299.
33. Smietana M. Procreative Consciousness in a Global Market: Gay Men's Paths to Surrogacy in the USA. *Reprod Biomed Soc Online* 2018; 7:101-111.
34. Fantus S, Newman PA. Motivations to Pursue Surrogacy for Gay Fathers in Canada: A Qualitative Investigation. *J GLBT Fam Stud* 2019; 15(4):342-356.
35. Carone N, Baiocco R, Morelli M, Lingiardi L. When the Womb Is Overseas: The Meaning-making of the Gestational Surrogacy in Gay Couples. *Hum Reprod* 2016; 131(1):123-124.
36. Cadoret A. Parentesco y figuras maternas. El recurso a una gestante subrogada por una pareja gay. *RAS* 2009; 18:67-82.
37. Álvarez Plaza C, Rivas Rivas AM, Jociles Rubio MI. Estrategias de creación de vínculos en la subrogación gestacional: diferencias según los países de origen de los hijos/a. In: Jociles Rubio MI, editor. *Revelaciones, filiaciones y biotecnologías. Una etnografía sobre la comunicación de los orígenes a los hijos e hijas concebidos mediante la donación reproductiva*. Bellaterra: Barcelona; 2016. p. 317-346.
38. Smietana M. Affective De-commodifying, Economic De-kinning: Surrogates' and Gay Fathers' Narratives in US Surrogacy. *Soc Res Online* 2017; 22(2):163-175.
39. LeBlanc AJ, Frost DM, Bowen K. Legal marriage, unequal recognition, and mental health among same-sex couples. *J Marriage Fam* 2018; 80(2):397-408.

---

Article submitted 21/11/2023

Approved 05/12/2023

Final version submitted 07/12/2023

---

Chief editors: Romeu Gomes, Antônio Augusto Moura da Silva