

EDITORIAL: FRAMING A FUTURE RESEARCH AGENDA FOR *MEDICAL LAW INTERNATIONAL*

Elizabeth Chloe Romanis, Sarah Devaney, Alexandra Mullock, and Isra Black

Introduction

In the pages of this journal, since its inception and over the last 30 years, leading scholars have risen to some of the most complex challenges at the intersection of law, health, and healthcare across the world.¹ In just the last few years, the COVID-19 pandemic, the effects of the climate and natural environment crisis,² conflict, mass displacement, and involuntary migration (among many other things) have continued to exemplify that health challenges are constant and know no borders. *Medical Law International* as a leading journal in the field, has a key role to play in forging the future research agenda of health(care) law in how we respond to these and other critical challenges.

We are indebted to the previous editorial team who have, over the years, built *Medical Law International* into the critical platform that it is for scholarship in health(care) law and ethics. The previous editors, Professor Amel Alghrani, Dr Paula Case, Professor Marie Fox, and Dr Craig Purshouse have done a tremendous amount to raise the profile of the Journal and to make it a natural home for the work of scholars from a wide range of different disciplinary backgrounds and jurisdictions. Each of us has benefitted from their careful, thoughtful, and supportive approach to editing the Journal. Theirs are big shoes to fill.

It is a real privilege to take over the editorship of *Medical Law International*: to engage with and to learn from the work submitted to the Journal and to see all the different directions in which our colleagues around the world are taking health(care) law. It is not lost on us that we take over the Journal at a moment in time in which health(care) law is critically important in the role it must play to address the modern causes and effects of ill health, health disparities, and important matters of how we live and die.

Medical Law International and Health(care) Law into the Future

Our vision for the Journal as the incoming editorial team is to protect and expand on the wonderful legacy of our predecessors. In so doing, we invite contributions which display strength and variety both in subject matter and methods, and from contributors from a variety of jurisdictions and career stages.

We are keen to encourage submissions that draw on a variety of methodologies in developing their analysis. Health law and bioethics research increasingly recognises the contributions which empirical and arts and humanities-based work can make to understanding the ever-evolving contexts within which health(care) law is situated.³ To our minds, such work

¹ A. Alghrani, P. Case, M. Fox, and C. Purshouse, '30th anniversary editorial: Reflecting on the past and paving the way for the future,' *Medical Law International* 23(4) (2023) pp. 319-324.

² K. Abbasi, P. Ali, V. Barbour, and others, 'Time to treat the climate and nature crisis as one indivisible global health emergency,' *The Lancet* 402(10413) (2024) pp. 1603-1606.

³ L. Frith, 'Symbiotic Empirical Ethics: A Practical Methodology' *Bioethics* 26(4) (2012) pp.198-206; M. Brazier, *Law and Healing: A History of a Stormy Marriage*, (Manchester, Manchester University Press, 2023).

complements doctrinal health law approaches and combines with it to represent a rich analytical resource for academia, policy and practice.

As an editorial team, we will provide a supportive and constructive editorial process to ensure that work published in *Medical Law International* demonstrates the quality to which its authors and readers aspire. Our dedication to research quality goes hand in hand with dedication to equality, diversity, and inclusion. Our development plan for the Journal centres on ensuring that *Medical Law International* is an inclusive and supportive space to publish work. We would like to emphasise our commitment to publishing the work of colleagues whose voices which are often marginalised within academia, as well as those who are earlier in their careers. We also strongly encourage more contributions both from, and in relation to health issues, in the Global South. We will be introducing an early career and diverse voices submission track for authors to self-select into; this will offer increased editorial support and feedback during the publication process. Through these approaches, we expect *Medical Law International* to attract exciting and original work showcasing work by the best emerging scholars and by those whose voices are too often marginalised by the Western gaze.

In this editorial we highlight just some of the areas of health(care) we see as ripe for academic ethico-legal analysis in an international context. These areas provide some of the starkest illustrations of the ways in which an increasingly connected global society means that the analysis of health(care) law must take place at an international level. Moreover, these areas exemplify how centring inequities and disparities – at both a local and a global level – is critical to understanding the scope and nature of contemporary threats to health and that pose consequential challenges for health(care) law.

Critical Moments for Health Law

We are living through a series of critical moments for health law, in which it must rise to several challenges. Science and technology are moving faster than ever before, and with each new development, we face new regulatory and ethical questions (or at least recurring questions in another guise). Simultaneously, social and political polarisation on critical matters of health, life, and death are changing what healthcare is accessible to whom, and in what circumstances. In each case, we anticipate that *Medical Law International* will offer a critical academic forum to help us think through strategies for action across and in all jurisdictions.

Climate and the Environment

The World Health Organization (WHO) reports that 23% of deaths globally could have been prevented by a healthier environment.⁴ The climate crisis, the decline of biodiversity, and the

⁴ World Health Organization, 'Healthy Environments for Healthier Populations: Why do they matter and what can we do?' 2019. Available at: <https://iris.who.int/bitstream/handle/10665/325877/WHO-CED-PHE-DO-19.01-eng.pdf?sequence=1> (accessed 11 March 2024), p.4.

rise in air pollution are closely related problems.⁵ Such is the scale of the latter crisis that approximately 90% of the world's population breathes unclear air,⁶ and 1 in 6 deaths globally are due to some form of pollution.⁷ In 2021, Ella Adoo Kissi-Debrah became the first person in the United Kingdom (UK) to have air pollution listed as a cause of their death.⁸ This case sparked calls for law reform to bring into effect legally binding targets on levels of air pollution (that take the WHO recommendations⁹ as a minimum).¹⁰ In 2022, a Private Members' Bill to establish a right to clean air was passed in the House of Lords but has yet to pass in the House of Commons.¹¹ Concerningly, the enactment of the Retained EU Law (Revocation and Reform) Act 2023 has enabled government ministers to revoke some transposed European Union (EU) law that remains on the statute books with minimal parliamentary scrutiny. The government has made clear an intention to repeal regulations¹² that imposed a duty on it to publish plans on how they will meet tight emissions targets relating to noxious pollutants and to publicly consult on plans to cut emissions.¹³ Meanwhile, concern about deaths from pollution continues to rise and it remains a driver of major health inequities since the burdens of bad air are shouldered primarily by marginalised communities.¹⁴

We cannot forget that pollution, 'its drivers, its dispersion, and its effects on health transcend local boundaries and demand a global response'.¹⁵ While no jurisdiction is untouched by the harms of pollution and climate change, those facing much of the worst of the health, economic, and social consequences, are those that are poorer, marginalised in the geopolitical order, and, comparatively, have contributed much less to the problem.¹⁶ It could not be more important, therefore, to reflect on the role of law in global cooperation to protect the natural environment for the benefit of human health. As a leading journal concerned with the relationship between health, healthcare, and the law, we urge reflection about the role of health law in addressing environmental challenges and preventing further deterioration of the environment in which we live.

⁵ R. Fuller, P.J. Landrigan, K. Balakrishnan, and others, 'Pollution and health: a progress update,' *The Lancet Planetary Health* 6(6) (2022) E535-E547.

⁶ World Health Organization, p.7.

⁷ Fuller, Landrigan, Balakrishnan and others.

⁸ BBC News, 'Ella Adoo-Kissi-Debrah: Air pollution a factor in girl's death, inquest finds,' December 2020, available at: <https://www.bbc.com/news/uk-england-london-55330945> (accessed 11 March 2024).

⁹ World Health Organization, 'WHO global air quality guidelines: particulate matter (PM2.5 and PM10), ozone, nitrogen dioxide, sulfur dioxide and carbon monoxide,' <https://iris.who.int/handle/10665/345329> (accessed 11 March 2024).

¹⁰ Philip Barlow, 'Regulation 30: Action to Prevent Future Deaths,' April 2021, available at: <https://www.judiciary.uk/wp-content/uploads/2021/04/Ella-Kissi-Debrah-2021-0113-1.pdf> (accessed 11 March 2024).

¹¹ Clean Air (Human Rights) Bill [HL], 2023, <https://bills.parliament.uk/bills/3161> (accessed 11 March 2024).

¹² The National Emission Ceilings Regulations 2018.

¹³ S. Lavielle, 'Air pollution transparency rules among EU laws to be scrapped by UK,' May 2023, available at: <https://www.theguardian.com/environment/2023/may/16/air-pollution-transparency-rules-among-eu-laws-to-be-scrapped-by-uk> (accessed 11 March 2024); L. Smith and P. Bolton, 'House of Commons Library Briefing: Air quality: policies, proposals and concerns,' February 2024, available at: <https://commonslibrary.parliament.uk/research-briefings/cbp-9600/> (accessed 11 March 2024), p. 6

¹⁴ See A. Morris, 'Communities of color suffer disproportionately higher pollution-related deaths,' November 2023, available at: <https://news.northwestern.edu/stories/2023/11/communities-of-color-suffer-disproportionately-higher-pollution-related-deaths/> (accessed 11 March 2024).

¹⁵ Fuller, Landrigan, Balakrishnan and others.

¹⁶ C. Auckland, J. Blumenthal-Barby, K. Boyd 3, B.D. Earp, L. Frith, Z. Fritz, J. McMillan, A. Shahvisi, and M. Suleman, 'Medical ethics and the climate change emergency,' *Journal of Medical Ethics* 48 (2022) pp.939-940.

Health Data

Health(care) law has long faced the challenge of anticipating and responding to advances in science and technology. Such advances are increasingly driven by health and other data which can be used to inform research developments and treatment provision planning. The combined promise and challenge of utilising the UK's NHS data for research purposes has been recognised,¹⁷ and the use of such data to improve healthcare has significant public support.¹⁸ However, such support is not unconditional. Failure to take steps to develop and to protect the public's commitment to health data sharing have led to significant levels of distrust in proposed health data sharing systems.¹⁹ In the UK, the extent of patient opt-outs from health data systems threatens to impede the completeness of the data set, posing the danger that work based on its contents will not be representative. The UK's Data Protection and Digital Information Bill's provisions relating to the use of health data for research are premised on a policy that research use of data should be facilitated, and that data should be shared across health and adult social care sectors.²⁰ The EU approach to data sharing is also in a state of flux with its Data Governance Act 2023 providing for 'data altruism' to underlie the sharing of health data for research. How this will be implemented remains a live question.²¹ At an international level, more needs to be done to ensure that people are aware of both the health and commercial value of their data, and their entitlements to make choices about its sharing.²² Publications in this journal to date have focused on the normative basis for health data sharing²³ and the barriers that regulation can pose to this.²⁴ Academic analysis on perennial debates regarding how health law and regulation should, at a global level, draw the lines on who is entitled to use health data, on what basis, and for what purpose, remains vital.

As the previous editorial team noted, the development of Artificial Intelligence (AI) poses a major challenge to health law, and these challenges are already receiving treatment within the Journal.²⁵ Issues around health data are just one of the myriad challenges which this technology poses to health law and regulation and are key not only to the efficacy of treatments but to fairness and representation in health data and the benefits to which it may

¹⁷ B. Goldacre and J. Morley, 'Better, Broader, Safer: Using health data for research and analysis. A review commissioned by the Secretary of State for Health and Social Care,' April 2022, available at: <https://assets.publishing.service.gov.uk/media/624ea0ade90e072a014d508a/goldacre-review-using-health-data-for-research-and-analysis.pdf> (accessed 11 March 2024).

¹⁸ Understanding Patient Data, 'Public Attitudes to the Use of Patient Data, Sept 2018-Aug 2021' (August 2021), available at: <https://understandingpatientdata.org.uk/sites/default/files/2021-08/Public%20attitudes%202018-2021.pdf> (accessed 11 March 2024).

¹⁹ P. Carter, G. Laurie, and M. Dixon-Woods, 'The Social Licence for Research: Why *Care.Data* Ran into Trouble' (2015) 41(5) *Journal of Medical Ethics* 41(5) (2015) pp. 404-409; BMJ News, 'Government tried to launch patient data scheme without right safeguards, MPs are told', 377 (2022) o1208; J. Meszaros and C. Ho, 'Building trust and transparency? Challenges of the opt-out system and the secondary use of health data in England,' *Medical Law International* 19(2-3) (2019), pp.13-39.

²⁰ Data Protection and Digital Information Bill, March 2024, available at: <https://bills.parliament.uk/bills/3430> (accessed 11 March 2024).

²¹ M. Shabani, 'Will the European Health Data Space change data sharing rules?' *Science* 375(6587) (2022) pp.1357-1359; P. Terzis and O.E. Santamaria Echeverria, 'Interoperability and governance in the European Health Data Space regulation,' *Medical Law International* 23(4) (2023), pp.368-376.

²² M. Botes, A. Olckers, and M. Labuschaigne, 'Data Commercialisation in the South African Health Care Context' *Potchefstroom Electronic Law Journal*, 24(1) (2021), pp.1-35.

²³ L. Sun, 'Health data governance in China: Emphasizing 'sharing' and 'protection' based on the right to health,' *Medical Law International*, 23(1) (2023), pp.26-43.

²⁴ K.Ó. Cathaoir, H. D. Gunnarsdóttir, and M. Hartlev, 'The journey of research data: Accessing nordic health data for the purposes of developing an algorithm,' *Medical Law International*, 22(1) (2022), pp.52-74.

²⁵ Alghrani, Case, Fox and Purshouse.

give rise. However, biases within the algorithms which AI deploys pose the risk of compounding existing health inequities²⁶ and require urgent attention in health analysis and policy.

Health Inequities

It is not only in data and the environment that inequities in health lie. Health inequities at national and international levels more broadly have emerged as key indicators of health outcomes. In 2020 it was reported that the UK population will spend more of their lives in poor health than in previous decades, life expectancy increases have stalled—if not declined—and that the health gap has grown between wealthy and deprived areas.²⁷ Health inequities do not develop in isolation but are linked to and influenced by social determinants of health spanning all facets of our lives, including the societies and environments in which we live, and the economic circumstances we find ourselves in.²⁸ Alongside health inequities caused by the environment are those caused by structural barriers limiting access to healthcare.²⁹ The extent to which access to care is shaped by legal and extra-legal barriers, and how these disproportionately prevented access to healthcare for those most marginalised in society along multiple intersecting axes, was exemplified by the pandemic³⁰ but was by no means a new phenomenon to it.³¹

The World Health Organisation has established a ‘Special Initiative for Action on Social Determinants of Health for Advancing Health Equity’ which is developing a World Report on Social Determinants of Health Equity stating that,

‘[t]he world has seen considerable health gains over the last century, but their distribution is vastly unequal. This has led to inequities in health – avoidable and unfair differences in health status between groups of people or communities. COVID-19 has magnified and exposed those health inequities at the same time as providing a stark reminder to everyone, everywhere, that without our health, we have nothing.’³²

The intersectionality of factors affecting health outcomes should continue to be a critical aspect of health(care) law analysis.

²⁶ M.H. Chin, N. Afsar-Manesh, A.S. Bierman, and others, ‘Guiding Principles to Address the Impact of Algorithm Bias on Racial and Ethnic Disparities in Health and Health Care,’ *JAMA Netw Open* 6(12) (2023) e2345050; M. Whitehead, R. Ali, E. Carrol, C. Holmes, F. Kee, ‘Equity in Medical Devices: Independent Review - Final Report’ (11 March 2024) available at: <https://www.gov.uk/government/publications/equity-in-medical-devices-independent-review-final-report> (accessed 11 March 2024).

²⁷ M. Marmot, J. Allen, T. Boyce, P. Goldblatt, and J. Morrison, ‘Health Equity in England: The Marmot Review 10 Years On,’ 2020 available at: [health.org.uk/publications/reports/the-marmot-review-10-years-on](https://www.health.org.uk/publications/reports/the-marmot-review-10-years-on) (accessed 11 March 2024).

²⁸ M. Marmot, J. Allen, T. Boyce, P. Goldblatt, and J. Morrison, ‘Health equity in England: The Marmot Review 10 years on. London: Institute of Health Equity,’ 2020, available at: <https://www.instituteofhealthequity.org/resources-reports/marmot-review-10-years-on/the-marmot-review-10-years-on-full-report.pdf> (accessed 11 March 2024).

²⁹ C. Ngweni, ‘Substantive Equality in South African Health Care: The Limits of Law,’ *Medical Law International* 4(2) (2000), pp.111-131.

³⁰ S. Germain, and S. Yong, ‘COVID-19 Highlighting Inequalities in Access to Healthcare in England: A Case Study of Ethnic Minority and Migrant Women,’ *Feminist Legal Studies* 28 (2020) pp. 301–310.

³¹ S. Stopforth, D. Kapadia, J. Nazroo, L. Bécaries, ‘Ethnic Inequalities in Later Life, 1993-2017: the Persistence of Health Disadvantage Over More than Two Decades’ *Ageing and Society* 43(8) (2021), pp.1-29.

³² World Health Organization, ‘Special Initiative for Action on the Social Determinants of Health for Advancing Health Equity,’ 2024, available at: <https://www.who.int/initiatives/action-on-the-social-determinants-of-health-for-advancing-equity> (accessed 11 March 2024).

Reproductive Futures

In recent years, we have seen a powerful global trajectory towards better recognition of abortion as an important health resource. The World Health Organization published guidance in 2022 that emphasised the importance of access to abortion and recommended that abortion be decriminalised.³³ Decisions of international human rights bodies, including the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, are increasingly emphasising the importance of abortion access in broader circumstances.³⁴ Constitutional courts in several jurisdictions have made decisions partially or fully decriminalising abortion, including Mexico in 2021,³⁵ Colombia in 2022,³⁶ and South Korea in 2021.³⁷ On almost every continent, there have also been legislative changes that have resulted in progressive change. In 2020, New Zealand made abortion on demand until 20 weeks.³⁸ Also in 2020, Argentina legalised abortion until 14 weeks.³⁹ In 2021, Benin passed a law permitting abortion on a wider range of grounds (including socio-economic) until 12 weeks.⁴⁰ Most recently, France enshrined abortion rights in its constitution.⁴¹

Despite progress on the part of international institutions and jurisdictions across the world, several jurisdictions stick out like a sore thumb. The decision of the US Supreme Court to overturn the recognition of abortion rights in the US Constitution,⁴² for example, has attracted significant attention. Some scholars, including in this Journal, have recommended framing this decision as the outlier that it is and moving away from US-centric (comparative) perspectives on abortion law.⁴³ *Medical Law International* has published several papers on abortion law and access in many jurisdictions in recent years (e.g., Belgium,⁴⁴ Denmark,⁴⁵ England and Wales).⁴⁶ Against the backdrop of legal change occurring across the world, we are keen to encourage scholarship that examines and critiques the regulation of abortion in jurisdictions *beyond* Europe and North America.

³³ World Health Organization, 'Abortion Care Guideline', 2022, available at <https://www.who.int/publications/i/item/9789240039483> (accessed 11 March 2024).

³⁴ For example, UN Committee on the Elimination of Discrimination Against Women, 'Inquiry Concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to CEDAW', 2018, UN Doc. CEDAW/C/OP.8/GBR/1, para. 83.

³⁵ BBC News, 'Mexico decriminalises abortion in landmark ruling,' September 2021, available at: <https://www.bbc.com/news/world-latin-america-58482850> (accessed 11 March 2024).

³⁶ New York Times, 'Colombia Supreme Court ruling on abortion: Colombia Decriminalizes Abortion,' February 2022, available at: <https://www.nytimes.com/live/2022/02/21/world/colombia-court-abortion> (accessed 11 March 2024)

³⁷ Hunbeobjapanso [Const. Ct.], Apr. 11, 2019, 2017Hun-Ba127 (South Korea)

³⁸ Abortion Legislation Act 2020 (New Zealand).

³⁹ Ley de Interrupción Voluntaria del Embarazo adopted in 2020 by the National Congress.

⁴⁰ Gouvernement de la République du Bénin, 'Encadrement de l'avortement au Bénin : Le Parlement a adopté la loi modificative,' October 2021, available at: <https://www.gouv.bj/actualite/1518/encadrement-avortement-benin-parlement-adopte-modificative/> (accessed 11 March 2024).

⁴¹ G. Wright, 'France makes abortion constitutional right,' March 2024, available at: <https://www.msn.com/en-sg/news/world/france-makes-abortion-constitutional-right/ar-BB1jjEuo> (accessed 11 March 2024).

⁴² *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. 215 (2022).

⁴³ E.C. Romanis, 'The end of (reproductive) liberty as we know it: A note on *Dobbs V. Jackson Women's Health* 597 USC ___ (2022),' *Medical Law International* 23 (2023) pp.71-87.

⁴⁴ F. De Meyer, 'Abortion law reform in Europe: The 2018 Belgian and Irish Acts on termination of pregnancy,' *Medical Law International* 20 (2020) pp.3-30.

⁴⁵ F.H. Pederson, J.R. Herrmann, and L.T.D. Hansen, 'The factors influencing the trajectory of Danish abortion law: From progressive to 50 years of stagnation,' *Medical Law International* 22 (2022) pp.277-301.

⁴⁶ E.g., Z.L. Tongue, 'Human rights and foetal impairment grounds for abortion: *Crowter v Secretary of State for Health and Social Care* [2022] EWCA Civ 1559. *Medical Law International* 23 (2023) pp.297-306

As the previous editors noted, ‘how the law regulates reproduction is one aspect of an enduring concern since the Journal’s inception’.⁴⁷ We anticipate that, beyond abortion, the regulation of reproduction will remain a critical focal point of the scholarship published in this Journal. Not only is science moving faster than ever in terms of the development of innovative technologies, but changes in society (and across societies) are pushing the boundaries of how these technologies can and should be used.

The development of mitochondrial replacement techniques (MRTs) enables people worried about passing on diseased mitochondrial DNA to have genetically related children. MRTs are permitted, albeit in different circumstances, in several jurisdictions worldwide.⁴⁸ No one knows how many children have been born following the use of MRTs. In 2023, the UK welcomed its first baby born following the use of the technology.⁴⁹ In the UK, and many other jurisdictions, however, MRTs are permitted only for use in cases where a child could inherit a fatal mitochondrial disease.⁵⁰ There have been calls to allow the use of the technique to allow people to use MRTs where it may not be medically necessary, but would allow people to build their families in ways that reflect their reproductive preferences. For example, same-sex female couples might welcome the technology to ensure they could both be genetically related to a child.⁵¹ Thus, there are novel legal and ethical questions about the use of reproductive technologies beyond the purposes for which they were initially developed that need further interrogation in all jurisdictions that permit them.

In 2023, the first uterus transplant in the UK was performed by a team in Oxford.⁵² They follow in the footsteps of surgeons in many other jurisdictions (including Sweden),⁵³ who have not only performed the transplant surgery but also achieved successful pregnancies and births. For some women (assigned female at birth) suffering from absolute uterine factor infertility (AUI), this treatment is the only possible way to achieve parenthood through pregnancy.⁵⁴ As the research develops, numerous ethical, legal and policy questions arise (and are relevant to all jurisdictions that permit uterus transplantation), such as whether the state ought to fund such (non-lifesaving) treatments that are desperately important to a small group,⁵⁵ whether the treatment ought to be developed for and made available to transwomen

⁴⁷ Alghrani, Case, Fox and Purshouse, p.322.

⁴⁸ See I.G. Cohen, E.Y. Adashi, S. Gerke, C. Palacios-González, and V. Ravitsky, ‘The Regulation of Mitochondrial Replacement Techniques Around the World,’ *Annual Review of Genomics and Human Genetics* 21 (2020), pp. 565-586.

⁴⁹ I. Sample, ‘First UK baby with DNA from three people born after new IVF procedure,’ May 2023, available at: <https://www.theguardian.com/science/2023/may/09/first-uk-baby-with-dna-from-three-people-born-after-new-ivf-procedure> (accessed 11 March 2024).

⁵⁰ Human Fertilisation and Embryology (Mitochondrial Donation) Regulations 2015, reg 5 (a).

⁵¹ G. Cavaliere and C. Palacios-González, ‘Lesbian motherhood and mitochondrial replacement techniques: reproductive freedom and genetic kinship,’ *Journal of Medical Ethics* 44 (12) (2018), pp. 835-842.

⁵² Oxford University Hospitals NHS Foundation Trust, ‘First Womb Transplant Performed in the UK,’ August 2023, available at: <https://www.ouh.nhs.uk/news/article.aspx?id=1975&pi=0> (accessed 11 March 2024).

⁵³ The first birth following a successful uterus transplant took place in Sweden: Associated Press of Sweden, ‘Womb transplants hailed as success in pioneering Swedish project,’ January 2014, available at: <https://www.theguardian.com/society/2014/jan/13/womb-transplants-success-swedish-project> (accessed 11 March 2024).

⁵⁴ L. O’Donovan, ‘Pushing the boundaries: Uterine transplantation and the limits of reproductive autonomy,’ *Bioethics* 32 (8) (2018), pp. 489-498.

⁵⁵ S. Wilkinson and N. Williams, ‘Should uterus transplants be publicly funded?’ *Journal of Medical Ethics* 42 (2016) pp. 559-565.

(and in what circumstances),⁵⁶ and whether individuals should be able to direct the conditions under which their uterus is donated.⁵⁷

Novel reproductive technologies, and the hope and possibility that they offer for individuals and couples, mean that—in a world of pluralism in the approaches to the regulation of reproductive services—cross-border reproduction is inevitable. The world has never been smaller and people's procreative needs and preferences never more complex. Cross-border reproduction (where people travel for procreative services, or find source material overseas), however, raises its own legal issues for individuals, clinics and health professionals, and states.⁵⁸ With the rise of new technologies and the ways in which they can be used, alongside the differences in the ways that states regulate parenthood in assisted reproduction, we anticipate only a growing number of complex cases in which jurisdictions have to respond to cross-border reproduction on the domestic legal plane, and those which come before supranational courts like the European Court of Human Rights.

We are excited about scholarship, including speculative scholarship, that addresses the complex questions that are raised by novel technologies and their different uses in different places. *Medical Law International* is a comfortable home for much of this reflection.

The Future of End-of-Life

Assisted dying is yet another important issue in which there has been dramatic development across the world in recent years. As more jurisdictions have chosen to legalise some form of assisted dying, we have seen diverse approaches; from cautious models allowing only the terminally ill to access assisted dying in the US and Australia, to more inclusive regimes in Canada and some European countries. In jurisdictions that allow access for those suffering unbearably due to non-terminal conditions, the question of whether unbearable suffering caused by serious *psychiatric* illness ought to be accepted as grounds for assisted dying has been raised as a key dilemma in the debate. This invites profound questions about where the line between preventing suicide and facilitating assisted suicide should be drawn. The spectre of the 'slippery slope' and concern about the impact on vulnerable people remain central in such debates, but there has been less focus on the drivers behind the growing acceptance of lawful assisted dying as a global issue. As other European countries and two UK Crown Dependencies (Jersey and the Isle of Man) are currently considering legalisation, the global spread of lawful assisted dying inches closer to UK shores. (As we submit this editorial for production, President Macron of France has announced legislation—to be considered before Summer 2024—that would permit assistance to die 'under strict conditions').⁵⁹

⁵⁶ A. Alghrani, 'Uterus transplantation in and beyond cisgender women: revisiting procreative liberty in light of emerging reproductive technologies,' *Journal of Law and the Biosciences* 5(2) (2018) pp. 301–328.

⁵⁷ E.C. Romanis and J.A. Parsons, 'Directed and conditional uterus donation,' *Journal of Medical Ethics* 48 (11) (2022) pp. 810–815.

⁵⁸ N. Hudson, L. Culley, E. Blyth, W. Norton, F. Rapport, and A. Pacey, 'Cross-border reproductive care: a review of the literature,' *Reproductive Biomedicine* 22 (7) (2011) pp. 673–685.

⁵⁹ Le Monde, 'Fin de vie : Emmanuel Macron annonce pour avril un projet de loi prévoyant une « aide à mourir » sous « conditions strictes,' March 2024, available at: https://www.lemonde.fr/societe/article/2024/03/10/fin-de-vie-emmanuel-macron-annonce-pour-avril-un-projet-de-loi-prevoyant-une-aide-a-mourir-sous-conditions-strictes_6221208_3224.html (accessed 11 March 2024).

A recent UK House of Commons Health and Social Care Committee Report on Assisted Dying⁶⁰ made no recommendations concerning legalisation in the UK, but rather encouraged Parliament to give time and attention to the debate. The Committee also highlighted the need to seek greater engagement with the Crown Dependencies to consider the diverging paths taken. Differences within the UK nations also demand attention. The Report also focussed on the perilous state of palliative care in the UK, where although excellent care is available to some, far too many people do not experience a good death.

Considering broader questions in end-of-life law and ethics, some jurisdictions have adopted palliative care pathways that might be thought to occupy territory close to assisted dying; palliative deep sedation in France being a prime example.⁶¹ Questions about what is permissible at the end-of-life or indeed in the final stages of illness continue to require attention. Times may be changing more slowly when compared to assisted dying policy shifts, but the health and social (care) issues raised are nevertheless profound. For example, the changing population in many jurisdictions, with ever greater numbers of elderly people and more people suffering from diseases such as Alzheimer's, present mounting challenges that demand solutions; solutions which health lawyers, ethicists and others working within the field will be well placed to address.

Conclusion

The above provides only a snapshot of some of the current and developing critical issues in health(care) law. As the incoming editors, we look forward to receiving new scholarship that takes up the mantle of these and other ethical and legal challenges on the horizon. We are especially keen for *Medical Law International* to showcase work that takes on new and existing challenges from different approaches and perspectives, hearing from marginalised voices and those who are thinking in innovative ways.

We hope that in the next few years *Medical Law International* will continue to go from strength to strength. A key element of our plans is the work of our associate editors in maintaining the Journal's role as a key source for critical engagement with the latest legal developments in the UK and beyond, and reporting on cutting-edge books published by colleagues on all aspects of health(care) law. As Chloe and Isra become joint editors-in-chief with Alex and Sarah, we are delighted to welcome on board two new associate editors to replace them as book reviews and commentaries editors, respectively: Dr Zoe Tongue and Dr Magdalena Furgalska. We have every confidence that they will do exciting and innovative things with their sections.

We are excited to do our part to ensure that *Medical Law International* makes space for health(care) law analysis within, across, and beyond borders and to support the full range of voices who make this such a vibrant field in which to work.

⁶⁰ UK Parliament, 'Health and Social Care Committee, Assisted Dying/Assisted Suicide,' February 2024, <https://publications.parliament.uk/pa/cm5804/cmselect/cmhealth/321/report.html> (accessed 11 March 2024).

⁶¹ R. Horn, 'The French Exception: the right to continuous deep sedation at the end of life,' *Journal of Medical Ethics*; 44 (2018) pp.204-25.



Citation on deposit: Romanis, E. C., Devaney, S., Mullock, A., & Black, I. (2024). Framing a future research agenda for Medical Law International. Medical Law International, 24(1), 3-13. <https://doi.org/10.1177/09685332241242270>

For final citation and metadata, visit Durham Research Online URL:

<https://durham-repository.worktribe.com/output/2482595>

Copyright statement: This content can be used for non-commercial, personal study.