

An illustration featuring a man on the left and a woman on the right, both celebrating with their arms raised. The man has teal hair and is wearing a white t-shirt with the word 'LOVE' in red, where the 'O' is a heart. The woman has dark hair and is wearing a white top and black leggings. They are set against a vibrant, multi-colored rainbow background with several small black hearts scattered around. A large white rectangular box is centered in the background, containing the title and author information.

ACCESSING ASSISTED REPRODUCTIVE TECHNOLOGIES (ARTS) BY LGBTQ+ PEOPLE

Roasia Hazarilali LLB, LLM



1. INTRODUCTION

2. THE LAW

3. LITERATURE AND THE LAW

4. PHD RESEARCH STUDY

5. METHODOLOGY

6. CONCLUSION





INTRODUCTION



1 out of every
6 people

Experiences infertility
in their lifetime





Infertility may be defined as:

A **disease** of the male or female reproductive system in which persons fail to achieve pregnancy after at least 12 months of regular unprotected sexual intercourse.

ARTs and the LGBTQ+ Community



LITERATURE AND THE



THE REGULATION OF ARTIFICIAL FERTILISATION



- **National Health Act**
- **Regulations Relating to the Artificial Fertilisation of Persons** GN R175, GG 35099, 2 March 2012.
- **Children's Act** 38 of 2005

LEGAL BARRIERS TO ACCESSING ASSISTED REPRODUCTIVE TECHNOLOGIES



- The overregulation of ARTs
- The ownership of embryos
- The parentage of donor-conceived children
- The regulation of surrogacy agreements

THE OVERREGULATION OF A

Regulation 3(1): Removal or withdrawal and storage of gametes

'No person, except a **competent person**, may remove or withdraw a gamete or cause a gamete to be removed or withdrawn, from the body of a gamete donor for the purpose of artificial fertilisation.'

Regulation 9: Place where and person who effects artificial fertilisation and embryo transfer

'(1) Artificial fertilisation or embryo transfer must only be effected at an **authorised institution**; and

(2) Only a competent person may effect artificial fertilisation.'

Regulation 1: Definition of a competent person

(a) medical practitioner specialising in gynaecology with training in reproductive medicine or

(b) a medical scientist, medical technologist, or clinical technologist, with training in reproductive biology and related laboratory procedures'



THE OWNERSHIP EMBRYOS

Regulation 18(2): Ownership of gametes, zygotes and embryos

'After artificial fertilisation, the **ownership of a zygote or embryo** effected by donation of male and female gametes is vested -

- (a) in the case of a male gamete donor, **in the recipient**; and
- (b) in the case of a female donor, **in the recipient.**'

Regulation 1: Definition of recipient

A 'female person in whose reproductive organs a male gamete or gametes are to be introduced by other than natural means; or in whose uterus/womb or fallopian tubes a zygote or embryo is to be placed for the purpose of human reproduction'



THE LEGAL PARENTAGE OF DONOR CHILDREN

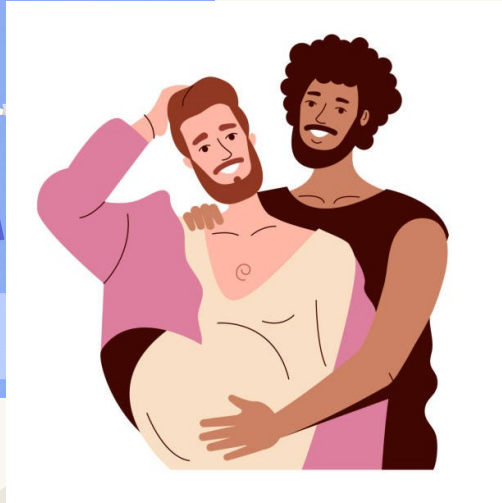
- **Section 40 of the Children's Act:** bestows legal parentage of a donor-conceived child to the recipient mother and her spouse. Excludes gamete donors
- **QG v CS [2021] ZAGPPHC 366:** Allows gamete donors to approach the court to grant parental responsibilities and rights
- **VJV v Minister of Social Development 2023 (10) BCLR 1250 (CC):** Includes life partners of the recipient mother
- What about **gamete donors** who contribute their gametes **intending to be a parent to the child** but hold **no romantic relationship with the recipient mother?**

VJV v MINISTER OF SOCIAL DEVELOPMENT (CONSTITUTIONAL COURT OF SOUTH AFRICA)





LITERATURE REVIEW



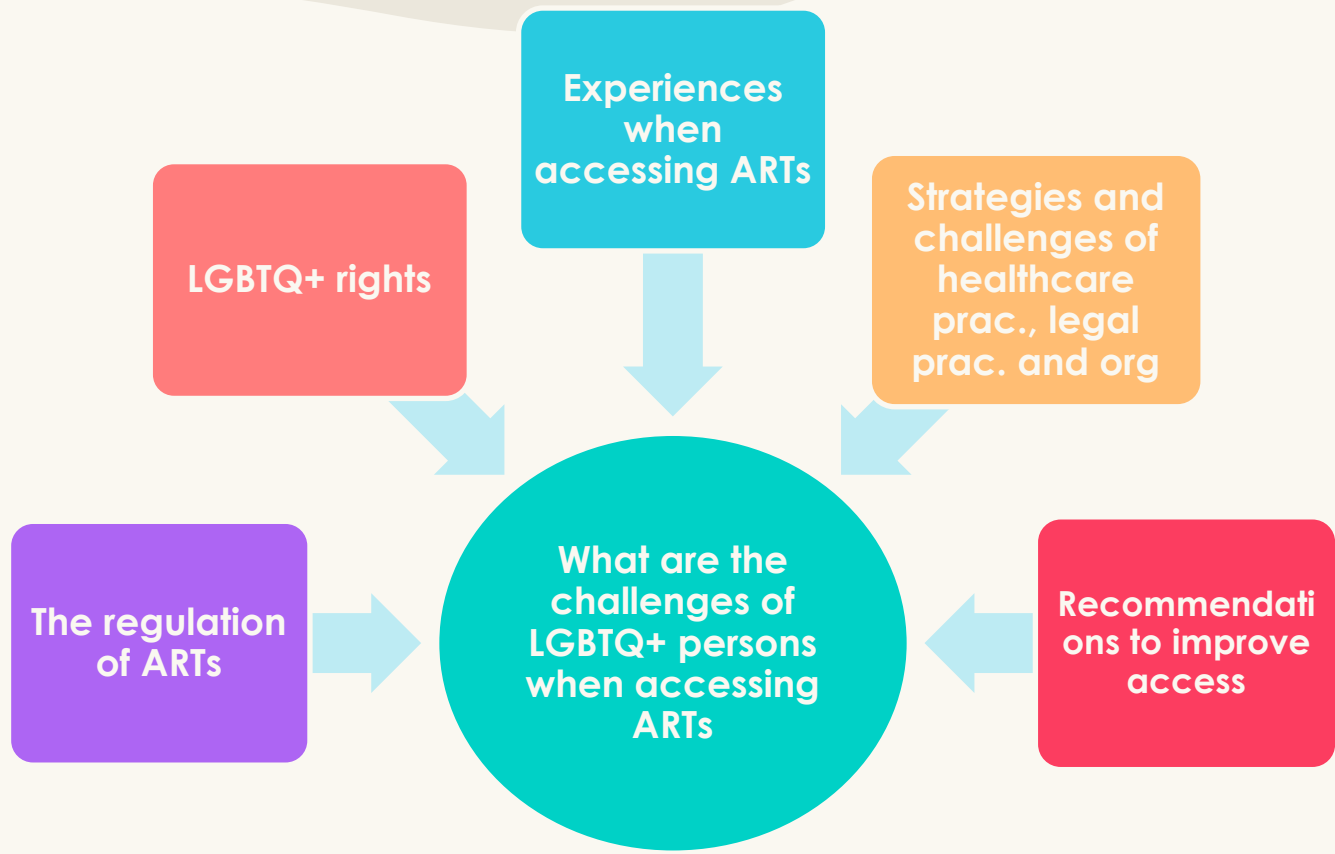
- Accessing ARTs in South Africa
- LGBTQ+ rights and family formation
- Accessing healthcare in the LGBTQ+ community
- Accessing ART amongst LGBTQ+ people (abroad)





**PHD STUDY:
A SOCIOLEGAL ANALYSIS ON ACCESS
FERTILITY HEALTHCARE SERVICES
AMONGST LGBTQ+ PERSONS**





Experiences when accessing ARTs

LGBTQ+ rights

Strategies and challenges of healthcare prac., legal prac. and org

The regulation of ARTs

What are the challenges of LGBTQ+ persons when accessing ARTs

Recommendations to improve access



METHODOLOGY

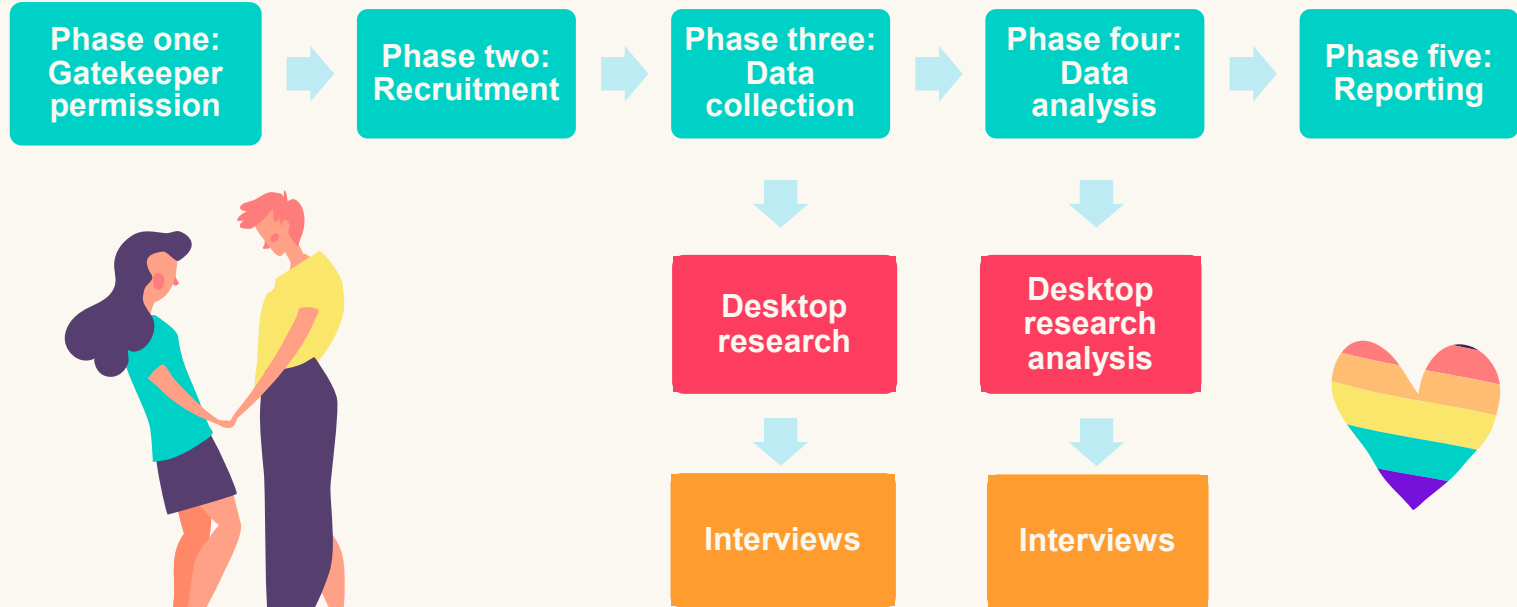


STUDY OVERVIEW



- Sociolegal analysis
- Legal analysis desktop research.
- Semi-structured interviews with four major stakeholders of the public and private fertility healthcare sectors:
 - **LGBTQ+ persons** who have used, considered using, or tried to use assisted reproductive services in South Africa
 - **Medical practitioners** of fertility clinics
 - Practicing **advocates and/or attorneys** with expertise in the regulation of assisted reproduction, family law, and/or LGBTQ+ rights.
 - Representatives of **organisations** working in a field concerning LGBTQ+ rights and/or infertility

RESEARCH DESIGN





CONCLUSION



THANK YOU



RoasiaHaz@gmail.com
+27 61 888 4740



FERRING

PHARMACEUTICALS



**National
Research
Foundation**

Slide Template by SlidesGo