

Surrogacy: Pregnancy and Babies in the Modern World

By Matthew Tieu

Research Officer – Southern Cross Bioethics Institute (SCBI)

(Article Appears in the Canberra Times, June 11 2007)

With the advent of assisted reproductive technologies (ART), infertility can be treated, however, if ART is unsuccessful, or if a woman has a non-functional uterus, the remaining option (besides that of adoption) is surrogacy. In the majority of cases this involves an arrangement where a commissioning couple (the childless couple) conceive an embryo by in vitro fertilisation (IVF), which is then transferred to a surrogate mother who will give birth to the child for relinquishment to the commissioning couple. Some Australian states and territories have legislation in place permitting such arrangements while other states do not, however, Attorney-General Philip Ruddock has expressed a desire to have nation wide uniform policy in place.

There is an entire gamut of ethical problems associated with surrogacy, one of which is the difficulty for a potential surrogate to give genuine informed consent. It is especially problematic that surrogacy disrupts the important biological and cognitive/psychological bond between mother and child, which begins during gestation and continues after birth. The strength of this instinctual bond has led to many cases where surrogates have been unwilling to relinquish their child, resulting in custody battles, such as the “Baby M” and “Evelyn” cases. Then there is evidence that surrogates may live with the psychological burden of giving up their gestational child for many years. When a surrogate cannot predict how she may respond to relinquishment how can she provide genuine informed consent?

Furthermore, there are good reasons, supported by psychological studies that surrogacy objectifies and subordinates the welfare of surrogates. These studies have shown that many surrogates face a real challenge in attempting to reconcile the surrogacy arrangement with the reality of their relationship with the developing child. A dissonance arises between the natural maternal instinct that compels a woman to keep the child she gives birth to and the surrogacy arrangement, which requires her to relinquish the child to others. She must invoke “cognitive dissonance reduction strategies” which act to lessen the impact of relinquishing a child she has nurtured for nine months within her body. When surrogates were asked how they felt about giving up their baby, the typical kinds of responses were: “I had it in my mind from the beginning that it was not my child, I didn’t feel bonded”, “I don’t think of the baby as mine. I donated an egg I wasn’t going to be using”, “the baby isn’t mine. I am only carrying the baby” and “I am strictly a hotel”. Hence, having denied that the child is hers, the only logical outcome is to view herself as a “human incubator” and her child as the “product”. One particular study found that when therapy designed to maintain the “desired state of mind” of the surrogate was withdrawn, due to the surrogacy agency becoming bankrupt, all of the surrogates subsequently reported feelings of loss, pain, and despair when parting with the child.

Yet another study revealed that a good relationship forged with the commissioning couple eased the burden of relinquishment, so a surrogate would not see herself as a mere provider of a functional womb. Surrogates did not want to feel used and saw it as a betrayal when the commissioning couple and the baby disappeared from their

life. Perhaps the commissioning couple believe the surrogate will benefit through expressing her altruism, and that the process she must go through a minor inconvenience for which out of pocket expenses can simply compensate. Of course the child has no say in this matter, despite the fact that his or her welfare is being subordinated and placed secondary to the desires of the commissioning couple. Neither do the other children of the surrogate who are likely to simply see their mum giving away their brother or sister.

Is it fair to sanction a contract which favours the commissioning couple, who have nothing to lose, while a surrogate and her child have little if anything to gain and potentially far more to lose? Given this the state has a responsibility to act on behalf of the more vulnerable parties to protect them. Surrogacy also raises broader social and ethical questions about commercialisation of reproduction, reflecting an attitude that pregnancy and children are replaceable commodities in the modern world.

Everyone can sympathise with the plight of childless couples, however, as Rosalie Ber, an international lecturer on bioethics, comments:

The question of whether the suffering of a childless woman is greater than that of the gestational surrogate, who 'abandons' her baby, is 'solved' when the surrogate mother is de-personalised, and looked upon solely as a 'womb for rent'.

Legislation permitting surrogacy would therefore sanction the fragmentation of motherhood, devalue the importance of the foetal-maternal relationship, subordinate the welfare of the child, and allow women to become reproductive commodities. To deny a childless couple the means of acquiring a child through surrogacy is not to be taken lightly, however, in considering the consequences for all parties involved and the broader social implications, it may seem cruel to some but it is actually the fairest outcome.