



Beyond Borders



An Overview of Surrogacy Around the World

Trends, Questions and Ethical Issues

KIM L. ARMOUR, PhD, NP-BC, RDMS

In the past few years, several consumer media outlets have covered the topic of surrogacy. An article entitled “Womb for Rent” in *Newsweek* (Ali & Kelley, 2008) and a more recent article, “The Most Wanted Surrogates in the World,” in *Glamour* (Nosheen & Schellmann, 2010) reviewed perspectives of military wives as surrogate mothers. The *Wall Street Journal* published “Assembling the Global Baby” (Audi & Chang, 2010), which described international surrogacy

as an option for individuals to avoid restrictive laws and financial constraints. Fictionalized depictions of surrogacy have appeared in popular television shows, including “Army Wives” (Younger & Fugate, 2007) and “Private Practice” (Blackman & Verica, 2010; McCormick & Kindberg, 2010). In 2008, the major motion picture “Baby Mama” (Goldwyn, Michaels, & McCullers, 2008) was released. This movie looked at many variables of surrogacy, including single

Abstract Although the birth of a child is typically considered a very happy time for parents, surrogacy is often uncharted territory that can become very stressful for all parties involved. Part of the stress stems from the fact that different states and countries have varying laws and regulations overseeing surrogacy. This article provides insight regarding surrogacy around the world, including professional, societal and ethical issues. DOI: 10.1111/j.1751-486X.2012.01734.x

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parenting, infertility and the relationship between the surrogate and intended mother.

Today, people around the world, regardless of marital status or sexual orientation, are

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looking at surrogacy as an option to have a family. Although the birth of a child is typically considered a very happy time for parents, surrogacy—whether traditional or gestational—is often uncharted territory that can become very stressful for all parties involved.

Definitions

A number of definitions can be found in scientific literature regarding the process of surrogacy and those involved. The American Society for Reproductive Medicine (2006), American College of Obstetricians and Gynecologists (2008) and Council for Responsible Genetics (Council for Reproductive Genetics & Gugucheva, 2010), have published definitions for many of the terms

associated with the process of reproductive surrogacy, to provide clarity about this increasingly visible pathway to reproduction (see Box 1).

Varying Rule and Regulations

The majority of surrogacy studies have occurred outside the United States and primarily in the United Kingdom; many have evaluated psychosocial implications for surrogate mothers. The United Kingdom has regulation on surrogacy that doesn't allow for financial payment or commercial surrogacy, thereby leaving altruistic surrogacy as the only option (Erickson, 2010). Some postulate that this type of regulation leaves many individuals and couples without options with regard to their intention to become parents and have a family, causing them to look elsewhere. Situations such as this may create the foundation for women to offer and provide surrogacy for those intended parents seeking a surrogate outside their home state or their own country borders (Ali & Kelley, 2008; Nosheen & Schellmann, 2010). Research indicates that individuals will move around restrictive laws to acquire a baby through the surrogacy process, which adds to the confusion of this poorly understood and regulated process (Bromham, 1995).

In addition to commercial surrogacy being banned in a number of countries, including the United Kingdom (see Box 2), further legal stipulations in the United Kingdom have

Kim L. Armour, PhD, NP-BC, RDMS, is director of Obstetrics and Gynecology at Northwestern Memorial Physicians Group in Chicago, IL, and she serves as expert faculty for perinatal improvement at the Institute for Healthcare Improvement in Cambridge, MA. The author reports no conflicts of interest or relevant financial relationships. Address correspondence to: karmour3@gmail.com.



Box 1.

Surrogacy Terms

Biologic mother/genetic donor

A woman who contributes her egg to reproduce the resulting child.

Biologic father/genetic donor

A man who contributes his sperm to reproduce the resulting child.

Intended parent/commissioning parent

The individuals who intend to become the legal parents of the child born of a surrogacy arrangement. They may or may not contribute DNA and be biologically linked to the expectant child.

Traditional surrogate mother

The woman who donates her DNA (egg/ova) and gestates (carrying the fetus) the pregnancy for someone else.

Gestational surrogate mother/carrier

The woman who gestates (carrying the fetus) until it is born.

Traditional surrogacy

Traditional surrogacy is an agreement by a woman to donate her egg, along with sperm of the intended father, or possible sperm donation. Most often this can be accomplished through artificial insemination, thereby avoiding the greater costs of in vitro fertilization. This woman is considered the biologic, genetic and gestational mother and will carry the pregnancy till delivery, whereby she relinquishes all parental rights of the child to the intended parents.

Gestational surrogacy

This surrogacy arrangement occurs when a woman undergoes in vitro fertilization to carry a fetus that has no genetic or biologic link to her; in essence, she provides “a womb to rent.” She relinquishes all parental rights as the gestational mother upon birth of the child. The fetus/child could be genetically linked to one, both or neither intended parents if donor DNA was utilized.

Source: Council for Reproductive Genetics & Gugucheva (2010).

barred anonymous egg/ova and sperm donation (Erickson, 2010). The U.K. policy is considered to be moderate, with countries such as Italy and Germany banning surrogacy completely and countries such as Ukraine and India and some U.S. states having very few restrictions as well as accepting the practice of commercial surrogacy (Gamble, 2009). Recently, Israel lifted its ban of surrogacy in support of altruistic or nonprofit surrogacy (Erickson, 2010) and as recent as 2010, Mexico City legalized altruistic or noncommercial surrogacy, making it the first law

regarding surrogacy for any region inside the borders of Mexico (Associated Press, 2010).

With regard to surrogacy and reproductive technology, legal stipulations vary within countries and around the world. While some countries and states report favorable laws toward these reproductive technologies, others are highly restrictive or even unclear (Council for Reproductive Genetics & Gugucheva, 2010; Nakash & Herdman, 2007).

U.S. Statistics

Although inconsistently reported due

to a lack of regulation, surrogacy for human reproduction appears to be on the increase in the United States. It has been estimated that approximately 1,000 surrogates give birth in the United States annually, with as many as 19 percent being military wives, although statistical data do not specifically denote whether the births are gestational or traditional surrogate births (Nosheen & Schellmann, 2010). A recent report (Council for Reproductive Genetics & Gugucheva, 2010) evaluated statistics from both the Centers for Disease Control and Prevention (CDC) and the Society for Assisted Reproductive Technology (SART). Findings indicated a doubling in the total number of gestational surrogate births. This subset of surrogacy rates increased from 738 babies born in 2004 to 1,400 in 2008, which is 400 greater than reported by Newsweek (Ali & Kelley, 2008).

The disparity in data highlights the inconsistency of standardized reporting as well as variation in the utilization of definition criteria. It's estimated that these statistics are just skimming the surface of what has been electively reported in the United States, since neither professional organizations nor the U.S. government currently mandate standardized reporting.

International Statistics

Much like the United States, there is very little regulation internationally regarding surrogacy. Reviews of several online websites, including the United Kingdom's Human Fertilisation and Embryology Authority (HFEA), concur with the lack of regulation and data reporting not only within the United Kingdom, but, around the world. In 2008, HFEA reported an 8.2 percent increase of in vitro fertilization cycles and patients, a 10.2 percent increase in surrogacy births and a 10.3 percent increase in surrogacy babies (HFEA, 2008). We could postulate there is a relationship between increased reproductive techniques and the use of

surrogacy; however, without a standardized reporting mechanism we really don't know.

Stanford University reported on *Surrogate Motherhood in India* (2008) with a perspective on poverty and women's rights. This report cites the lack of statistics as directly related to the lack of completed and published research. The Stanford report also notes that 25 percent of the total population in India exists below the poverty line, with many women included in that subset, looking for ways to survive. Although far from traditional employment, being a surrogate may prove to be a source of income that thousands of women will turn to in efforts to help their families and communities. That being said, we must continue to research the multiple effects of work as a surrogate and the risks attached, not only for the surrogates but for women in general (Stanford University).

Ethical Issues

Many ethical issues surrounding surrogacy have been identified. The evaluation of ethics related to a situation is often influenced by the culture and societal norms of the community or population involved. Disparity of ethical concerns has been documented regarding altruistic and commercial surrogacy, both in the United States and in other countries. The biggest concern seems to begin with a woman's right to reproduce for someone else. The question would be, "Is gestating a child for someone else ethical?" Then add the multiple factors or variables debated in the literature, such as: Is reproduction a woman's choice? Is financial gain versus altruism an ethical issue? Does a genetic link to the surrogate mother, surrogate father or intended parents create conflict? If a child is created from donated DNA, should a donor be assured anonymity? Does lack of a genetic medical history create ethical issues later in life for the child born of surrogacy, such as mating with a half

Box 2.

International Laws related to Surrogacy

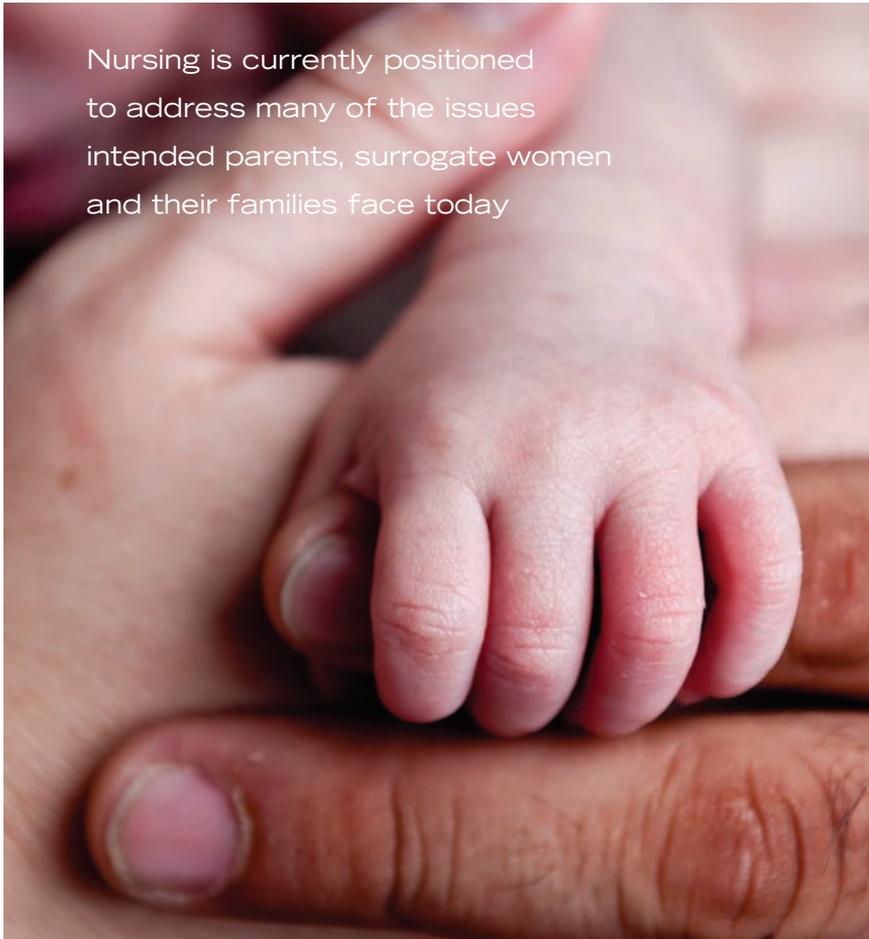
Issue	Country's Legal Perspective	
	Legal	Illegal
Anonymous donation of DNA	US UK (<i>child has access at 18 years of age</i>)	Germany France
Use of donor DNA, identified and anonymous	US	France Sweden Japan
Commercial surrogacy	US (<i>variable by state</i>) India Ukraine Russia	UK Australia (<i>variable by state</i>) Canada China France Germany Greece Israel Italy Japan Netherlands Norway Spain Sweden Switzerland
Altruistic surrogacy	US (<i>variable by state</i>) UK Canada Australia (<i>variable by state</i>) Denmark Greece India Mexico (Mexico City, <i>variable by district</i>) Norway Spain Sweden Switzerland Ukraine	China Germany Italy Japan

Sources: Gamble (2009); Nakash & Herdiman (2007)

sibling unknowingly? Does a surrogate child have a right to know its genetic donor? The United Kingdom addresses this by providing anonymity to the DNA donor until the offspring turns 18. At that time the offspring has

the right to access the DNA donor's information.

Additional ethical issues, such as the imperfect fetus or newborn, higher order multiple pregnancies that may require reduction, and medical



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complications such as diabetes or hypertension, are all possibilities that may occur and present great strife for all parties involved. These variables and more illustrate importance of psychological screening and counseling for all parties involved. The American College of Obstetricians and Gynecologists (ACOG) released a committee opinion on surrogate motherhood that focuses on ethical concerns for obstetrician/gynecologists participating in surrogacy arrangements (ACOG, 2008). The European Society for Human Reproduction (ESHRE) has also published a report on ethics and laws related to surrogacy (Shenfield et al., 2005), acknowledging many risks and benefits of surrogacy to all parties involved. According to Ber (2000), the principles of autonomy, beneficence, nonmaleficence and justice must all be addressed with all parties involved and must remain at the forefront of decision-making with regard to surrogacy.

Professional Perspective Nursing

To date, there have not been any reports or published opinions by professional nursing associations regarding this reproductive methodology or the subset population engaging in its use. Nursing is currently positioned to address many of the issues intended parents, surrogate women and their families face today. Issues of practice education, care coordination and legal, ethical and societal concerns all require the attention of a multidisciplinary health care team.

Medicine

In the field of medicine, several professional associations around the globe have taken the time to evaluate and document a perspective regarding this burgeoning reproductive methodology.

Canada. In 2007, the Canadian Medical Association published a guide titled

Surrogate Pregnancy: A Guide for Canadian Prenatal Health Care Providers to assist in standardization of care for a growing number of surrogate pregnancies being seen in Canada (Reilly, 2007). This document addresses ethics and surrogacy, the law and surrogacy, the law and care of surrogates, prenatal care of surrogates and how the commissioning or intended parents fit into the scenario (Reilly).

Europe. The International Federation of Gynecology and Obstetrics (FIGO) published a committee report on surrogacy titled *Ethical Aspects of Human Reproduction and Women's Health* (2008). This report focuses on the background and implications of surrogacy for human reproduction, and makes recommendations for the population engaging in surrogacy and those providing health care. It addresses several issues, including the question of whether only those with a medical indication should engage in surrogacy, and recommends that psychological concerns of all involved be addressed. Most of Europe legally prohibits commercial surrogacy and FIGO recommends that all participants of surrogacy obtain legal advice for all situations, regardless of the actual country laws. Further recommendations include research in the areas of coercion and harm to all individuals involved in and or exposed to reproductive surrogacy, such as the surrogate's previous children.

United States. ACOG has published three reports on the topic (1988, 1991, 2008). Two address the ethical issues of surrogacy (1988, 1991) and the third is a committee opinion statement regarding surrogate motherhood (2008). In the United States, each state has jurisdiction to prohibit or legalize different aspects of surrogacy. Legal variance between states creates difficulty for providers, with intended parents and surrogates often residing in different states. ACOG recognizes the need for providers to have up-to-date knowledge

regarding their state mandates and emphasizes the importance of fair and equitable care for surrogates and the fetuses they carry.

Conclusion

The birth of a child through surrogacy can bring great joy as well as complicated issues, many of which are considered uncharted territory, maybe even a minefield. Global concerns regarding surrogacy may include but not be limited to psychosocial, physical, economic and legal situations (Erickson, 2010). There are concerns by some of women carry-

In the United States, each state has jurisdiction to prohibit or legalize different aspects of surrogacy

ing pregnancies for remuneration—often termed a “womb to rent”—to obtain birth certificates that documents legal parentage for the intended versus birth parents. Clearly when international surrogacy arrangements produce children born in one country who will reside with intended parents in another country, greater challenges and constraints surrounding citizenship and acquiring a passport for the newborn will arise. These concerns are just starting to surface in the world of international surrogacy. The paucity of research and understanding makes it difficult to navigate such territories for prospective parents, as well as for health care and legal systems.

With the lack of standardized data reporting and what appears to be an increase in the use of in vitro fertilization and surrogacy, global standardized definitions, evidence-based guidelines of care and reporting processes need to be developed and implemented to facilitate future research and education regarding this very interesting, yet challenging area of reproduction. **NWH**

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