

# **Surrogacy: A 21<sup>st</sup> Century Biotechnology Issue Impacting Women's Rights**

The growing surrogacy phenomenon in which women agree to have their bodies used to undergo a pregnancy and give birth to the resulting baby is becoming a major issue of the 21<sup>st</sup> century. The practice is fraught with complexity and controversy surrounding the implications for women's rights and health. Society is only beginning to grapple with the issues that it raises. Increasingly, surrogates function as gestational carriers, carrying a pregnancy to delivery after having been implanted with an embryo. Since the surrogate usually has no biological relationship to the fetus, she has no legal claim and the surrogate's name does not appear on the birth certificate. In many countries and jurisdictions, most notably in Europe, surrogacy is an illegal medical procedure. But in the United States there is no Federal regulation of surrogacy and its fifty states constitute a patchwork quilt of policies and laws, ranging from outright bans to no regulation. More than a dozen states, including Pennsylvania, Massachusetts and California, specifically legalize and regulate surrogacy and just in the past five years, four states – Texas, Illinois, Utah and Florida – have passed laws legalizing surrogacy. Only twelve states refuse to recognize surrogacy contracts. The practice is often referred to as “womb renting” wherein a bodily service is provided for a fee.

A few among the many issues surrogacy raises are:

- What are the rights of the children who are produced through surrogacy to information regarding their biological parents in cases where the egg and/or sperm donor is/are not the intended parents as well as information about the surrogate mother? What rights do children have to information regarding any siblings they may have who are the offspring of the donor parents?
- What are the ethical and practical ramifications of commodifying women's bodies?
- In places where there is no regulation of surrogacy, how is fraud committed by surrogacy companies to be prevented and prosecuted?
- How are poor women to be protected from exploitation through the financial transactions that are a major component of surrogacy? This is particularly germane in developing countries such as India where destitute women often serve as surrogates and are paid an average of one-tenth what an American surrogate is paid.
- What are the moral and ethical consequences of transforming a normal biological function of a woman's body into a commercial contract?
- What are the implications for women's reproductive rights if embryos become legally defined?

The lack of sufficient regulation of surrogacy in the United States is cast against a backdrop of rising usage. The American Society for Reproductive Medicine reported a 30% increase in surrogate births between 2004 and 2006, for a total of 1,059 live births in 2006, the most recent year for which it could provide data. Industry experts estimate that the actual number is much higher since many surrogate births go unreported.

A fertility-industrial complex is being created to cater to the 8 million infertile women in the United States alone, that are spending approximately \$3 billion a year to try to help themselves conceive. Even though the cost to the intended parent(s), including medical and legal bills, runs from \$40,000 to \$120,000, the demand for qualified surrogates is well ahead of supply. The surrogate herself typically is paid \$20,000 to \$25,000 in the U.S., which averages approximately \$3.00 per hour for each hour she is pregnant, based on a pregnancy of 266 days or 6,384 hours. The impact of these practices is beginning to have major implications for the rights of American women.