

2. Particular Reproductive Technologies

2.6 Surrogacy

The Procedure and its Uses

In *traditional surrogacy*, a woman is artificially inseminated with the commissioning male's sperm and carries the pregnancy with a pledge to give the child to the commissioning couple once it is born. The surrogate is genetically related to the child since she has contributed the egg. More prevalent today is *gestational surrogacy*. Embryos are created through in vitro fertilization using the eggs of the commissioning woman or of a donor, and then transferred to the surrogate who carries the pregnancy with the intent of giving the child to the commissioning couple. In this case, the surrogate is not genetically related to the child. (1) *We will focus on gestational surrogacy* as it is currently the prevalent form of surrogacy.

A woman may be hired through an agency to serve as a gestational surrogate for monetary compensation ("commercial surrogacy"), or a relative or a friend may offer to serve as a gestational surrogate without monetary compensation ("altruistic surrogacy"). (2)

Medical indications for resort to a gestational surrogate include:

- an absent uterus, as a result of a hysterectomy or of being born without a functional uterus; (3)
- significant uterine abnormalities, including uterine scarring and the inability to develop a thick, supportive uterine lining; (4)
- medical conditions that make carrying a pregnancy risky for the woman's health, such as heart disease, kidney disease, severe diabetes, or a history of certain types of cancer; (5)
- multiple failed IVF cycles; (6)
- recurrent miscarriages. (7)

The medical procedure is that the commissioning woman (or the egg donor) undergoes the usual treatment for an IVF cycle (see section 2.3 In Vitro Fertilization) while the surrogate's uterus is prepared to receive the embryos through Lupron injections, oral estrogen and progesterone support. (8)

It has been reported that, in the period 2010 – 2014, some ten thousand infants were born through gestational surrogacy arrangements in the United States. (9) Legally, gestational surrogacy is permitted in the State of Iowa. (10) The average cost of gestational surrogacy for the commissioning couple can range from \$90,000 to \$130,00. (11)

Moral Assessment of Surrogacy

Surrogacy, whether in its traditional form or gestational, is not morally permissible.

This is stated in the *Instruction on Respect for Human Life in its Origin and On the Dignity of Procreation (Donum Vitae)* from the Vatican's Congregation for the Doctrine of the Faith:

Is "surrogate" motherhood morally licit?

No, for the same reasons which lead one to reject heterologous artificial fertilization: for it is contrary to the unity of marriage and to the dignity of the procreation of the human person.

Surrogate motherhood represents an objective failure to meet the obligations of maternal love, of conjugal fidelity and of responsible motherhood; it offends the dignity and the right of the child to be conceived, carried in the womb, brought into the world and brought up by his own parents; it sets up, to the detriment of families, a division between the physical, psychological and moral elements which constitute those families. (12)

The definition of surrogacy given in this document includes both traditional surrogacy and gestational surrogacy. (13)

The Church's negative moral assessment of surrogacy is reiterated in the *Ethical and Religious Directives for Catholic Health Care Services*, directive no. 42:

Because of the dignity of the child and of marriage, and because of the uniqueness of the mother-child relationship, participation in contracts or arrangements for surrogate motherhood is not permitted. Moreover, the commercialization of such surrogacy denigrates the dignity of women, especially the poor. (14)

It should be noted that the Catholic Church is not alone in coming down hard against surrogacy. For example, the Center for Bioethics and Culture in California has undertaken a campaign against surrogacy. (15) This Center has produced a documentary describing surrogacy as creating a "subclass of women" who are essentially "breeders" for others. (16) Or again, some feminists have seen surrogacy as an affront to the dignity of women in turning them into "baby factories." (17) Indeed, some have likened commercial surrogacy to prostitution, another practice exploiting women. (18)

The Case Against Gestational Surrogacy

First, surrogacy *violates and disrupts the unity of the marriage of the commissioning couple*. This point has been well stated by the New Jersey Catholic Conference:

Surrogate motherhood is morally wrong because it violates the biological and spiritual unity of the husband and wife... Marriage, both in Judeo-Christian tradition and in American jurisprudence, is a unitive covenant. A man and a woman agree to share in an exclusive way their bodies, their persons and their lives. A child is the product of a loving relationship and a loving act and thus

serves as a living symbol of the couple's love, a permanent sign which brings the couple together. To introduce a surrogate mother as a third party into the marital relationship to assume the procreative role is to undermine the unity of the relationship. (19)

That surrogacy involves going outside the marriage to have a child is very apparent in the case of traditional surrogacy, where the surrogate contributes her egg to the conception of a child and is the woman who is genetically related to the child. This is also apparent in the case of gestational surrogacy when donor eggs are used in the IVF procedure to create the embryo(s) transferred to the gestational surrogate. But this also holds true when the eggs and sperm of the commissioning couple are used in the IVF procedure to create the child to be carried by the gestational surrogate. Physiologically, the commissioning couple is still bringing in a third party outside their marriage to have a child.

Some might see gestational surrogacy as preferable to adoption because it preserves a genetic link to the parents who will raise to child, or at least to one of them when an egg donor is used to created the embryo. (20) However, *gestational surrogacy is dependent on the creation of embryos through in vitro fertilization*, which itself is not a morally permissible procedure and which carries medical risks (see section 2.3 In Vitro Fertilization). Moreover, with the use of IVF, the commissioning couple may be faced with the very difficult problem of what to do with extra unused embryos (see section 2.4 Disposition of Frozen Embryos). (21)

Catholic teaching emphasizes the sacredness of human life and the dignity of the human person. Thus human beings are always to be treated as “subjects” and never as “objects.” Consequently, the commissioning couple should also consider the impact of surrogacy on the woman serving as gestational surrogate and on the child involved in this relationship.

Physiologically and psychologically, a bond forms between mother and child during pregnancy. (22) *The gestational surrogate must take measures to counter this natural bonding in order to cope with relinquishing the child.* (23)

...a study by Ragone identified the surrogate's perception that the child was not hers as crucial in determining her experience of the whole surrogacy arrangement. In one instance, therapy that was designed to maintain the “desired state of mind” of the surrogate was withdrawn due to the surrogacy agency becoming bankrupt, and as result all of the surrogates involved subsequently expressed intense separation anxiety, as Ragone states: “When the support services are removed and the structure of the programme dissolves, it is difficult, if not impossible to maintain the prescribed and desired boundaries between the surrogate and her child: hence, surrogates report feelings of loss, pain, and despair when parting with the child.” (24)

In view of the bonding between a child and his/her gestational mother during pregnancy, the question has been raised of whether any harm comes to the child in being separated from the gestational surrogate. (25) It might be pointed out that the same concerns about separation

from the gestational mother would hold true in the case of giving a baby up for adoption, which is considered an acceptable practice. (26) However, *there is an ethically relevant difference between adoption and gestational surrogacy*. Adoption is “rescuing’ a child from difficult circumstances, in which case it is the child’s welfare that is of primary concern.” (27) On the other hand, “in a surrogacy arrangement, unlike adoption, the welfare of the child is not the primary objective, but instead, it is subordinated to fulfilling the desires of an infertile couple to have a child.” (28)

In the case of *commercial surrogacy*, the commissioning couple should keep in mind that they may well be *taking advantage of women in vulnerable positions*. For example, “surrogacy agencies have revealed that military wives are popular as surrogates.” (29) Indeed, “surrogacy agencies have chosen to locate near army bases, like San Diego’s Camp Pendleton, and have advertised in military periodicals such as *Military Times* and *Military Spouse*.” (30) Surrogacy can be an appealing option to such women because they have few alternative job opportunities and because standard surrogacy fees match or surpass their yearly military income. (31) In general, there is concern that *commercial surrogacy will exploit women who are poor (32) or under financial stress*. (33) One surrogacy agency advertising on the Internet tells women that they can earn base compensation of \$40,000 plus benefits (34); another agency states that they offer surrogates a compensation package up to \$63,000, with additional benefits up to \$40,000. (35)

Further, one cannot ignore the *potential impact on children and their self-image if they learn that they were born through a commercial surrogacy arrangement*. In one study “45 percent of children conceived from an anonymous sperm donor reported that they were bothered by the fact that money was exchanged in order to conceive them,” and “the same is likely to be said by children conceived through surrogacy.” (36) As one young woman, herself born through surrogacy, stated: “It is hard not to be aware that there is a price tag. In essence, you were bought by the family you grew up with. At the end of the day, you are a product.” (37)

In what is known as “altruistic” surrogacy, “a mother or sister or close friend volunteers to carry a child for a daughter, sister or friend, respectively.” (38) Prima facie, this type of gestational surrogacy may seem like an act of generosity and kindness. However, there are problems involved.

Gestational surrogacy involving family members is disruptive of family relationships for the child. For example, cases have occurred in which the commissioning woman’s own mother has served as the gestational surrogate. (39) Thus the surrogate is both the genetic *grandmother* of the child and the child’s gestational *mother*.

When the proposed gestational surrogate is a family member or close friend, there may exist subtle forms of *emotional coercion on the woman to serve in that capacity*. (40)

Further, when the gestational surrogate is a family member or close friend she is likely to remain in contact with the family as the child grows up. Studies indicate that this may

undermine family relationships and contribute to *adjustment problems for the child* (41) evidencing themselves in aggressive or antisocial behavior or in anxiety or depression. (42)

In sum, a pastoral counselor working with a couple considering gestational surrogacy must challenge them to look beyond their immediate desire to have a child to consider the “bigger picture” of surrogacy -- the negative impact of surrogacy on their marriage covenant, on the child, and on the woman serving as surrogate as well as the ethics and complications of the procedure of in vitro fertilization.

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Notes

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