



## Bioengineering Babies: The Spreading Sin of Surrogacy

We are in the midst of a biological revolution that may transform humans as we know them. Last April the *Mindszenty Report* covered Chinese scientist Dr. He Jiankui, who edited the genes of embryonic twin girls with a powerful tool known as CRISPR. The announcement of the world's first genetically modified babies caused considerable controversy among scientists. A subsequent report from a study involving more than 400,000 people, which warned that genetically modified human DNA might be more harmful than beneficial, drew only a little media attention.<sup>1</sup> There was a call by politicians, pundits and scientists for serious discussions about human genetic engineering, although exactly where and how these discussions would take place was unclear.

Meanwhile, another ethically troubling method of engineering human babies has been quietly spreading for decades: so-called surrogate motherhood or surrogacy, in which women are paid to produce children for others. Beginning in the late 1980s, new technology allowed for a human embryo created through in vitro fertilization to be transferred to the womb of a surrogate mother. In vitro fertilization commonly involves the creation of multiple embryos from the same biological parents, some of which could be used for later pregnancies. In a typical surrogacy case, eggs are purchased and extracted from a young woman and combined with the sperm of a would-be father, and a different woman is paid to carry the embryo(s) to term—in essence, to rent her womb for nine months.

With the more recent development of gene editing and DNA embryonic sequencing technology, the genes of these embryos can be edited before implantation. Fertility specialists can create dozens of embryos in the lab, screen the genes through preimplantation genetic diagnosis, which is becoming easier, and then implant the selected embryo(s) in a woman. Gene editing allows for further engineering of embryos.

Many countries ban or strictly regulate commercial surrogacy—paying women to carry implanted embryos. Some countries have recently banned commercial surrogacy outright, including India, Thailand and Cambodia, where it was clear poor women were

being exploited. Western Europe has bans or strict regulations on commercial surrogacy. In the United States, however, commercial surrogacy is legal or unregulated in many states, and has become a big business.

Opponents of surrogacy point to the adverse health effects on surrogate mothers and egg sellers; the impact on children manufactured through surrogacy, who are deliberately deprived of a natural mother; the exploitation of poor women by the rich; the obligations of responsible parenthood; and the unforeseen consequences of surrogacy on human society. The *Mindszenty Report* warned of the ethical pitfalls of surrogacy in December 2014. Yet the advocates of surrogacy seem to be winning so far in the U.S.

### Changing Social Mores

Social attitudes toward commercial surrogacy have changed rapidly in the last decade. High-profile couples choosing to use surrogates have bolstered the social legitimacy of surrogacy. Tom Daley and Dustin Lance Black, Kanye West and Kim Kardashian, Sarah Jessica Parker, and Elton John are just a few of the celebrities who have opted for surrogate births. Same-sex couples, single men, single women, career-minded women, and older people (single and married) wanting children have increased the demand. Well-known American businessmen who have opted for surrogacy include New Yorker Mort Zuckerman and Senator Mitt Romney's son Tagg.

Commercial surrogacy is profitable. Jennifer Lahl, a leading opponent of surrogacy and president of the Center for Bioethics and Culture, estimates that in the United States a surrogate birth costs \$100,000 to \$150,000.<sup>2</sup> Due to the high cost and the incentive to boost success rates, multiple embryos are often transferred into a surrogate mother. This increases health risks and lengthens hospital stays. In addition, women pregnant with another woman's egg(s) have a more than threefold higher risk of developing hypertension and pre-eclampsia.

There have been no long-term studies of the effects of egg harvesting on the health of young women who sell their eggs. We do know that the medical process for egg retrieval is lengthy and poses

medical risks, including ovarian hyperstimulation syndrome due to superovulation, loss of fertility, ovarian torsion, stroke, kidney disease, premature menopause, ovarian cysts and even death.

Jennifer Lahl cites studies showing that children born through surrogacy are **much more likely to suffer from low to very low birth weights**. In one study, stillbirths from pregnancies induced through various assisted reproduction technologies were five times higher.<sup>3</sup>

Women selling their eggs are often poor and need money. They can also be a Stanford University co-ed answering an ad in a student newspaper to sell her eggs for \$50,000 to \$100,000. But most egg donors or surrogate mothers are not privileged. They are more like Brooke Brown, a surrogate mother who died from pregnancy complications along with twins she was carrying for a couple in Spain. She had carried a total of five babies as a surrogate.

### Suffer the Children and Women

**A**nd what about the babies born through purchased eggs and surrogacy? Shouldn't a child have a chance to know and be cared for by his biological mother?<sup>4</sup> Adoption is sometimes a necessary second-best alternative when biological parents are unable to care for a child, but in commercial surrogacy the genetic and gestational mothers are deliberately cut out of the child's life before conception or implantation, by contract and law. Often the child does not even have any legal mother, as in the case of single men or gay male couples who use surrogacy. Often there is no screening of the would-be legal parent(s) for fitness to raise children, such as adoptive parents must undergo.

Melissa Cook, a surrogate mother pregnant with triplets in California, came under pressure from the intended father to abort one of the children, and after refusing and giving birth 10 weeks early in 2016, she entered into and ultimately lost a custody battle with the father. The father was a single 50-year-old deaf-mute postal worker who was described as “depressed, has anxiety, a paranoid personality disorder, and irrational angry fits, has pulled out his own hair, and has a history of being cruel to family pets—even killing them.”<sup>5</sup>

Mark Newton and Peter Truong were convicted in Los Angeles in 2013 of subjecting their surrogate-born son to what one investigator described as “the worst [pedophile] ring” he had ever heard of. The boy appears to have been created for the sole purpose of sexual exploitation.

In 2014, Japanese millionaire Mitsutoki Shigeta was discovered to have fathered some 16 children through surrogates in Thailand because he wanted a “big family.” This case led Thailand to ban surrogacy in 2016.

The worldwide surrogacy industry was already estimated in 2012 as **\$6 billion per year**, and it continues to grow.<sup>6</sup> Dr. Vicken

Sahakian, who heads the Pacific Fertility Center in Los Angeles, has made a fortune over the last 25 years working with an international clientele.<sup>7</sup> He has worked with Hollywood celebrities, but his clients also come from China and Europe. His clients are straight and gay, young and old, single and married. What they have in common is the money to afford a surrogate birth.

“Money talks,” Sahakian told a *Guardian* reporter, adding that “If you have the money, you're going to have a baby. It's sad, but it is the case.” He corrected himself immediately, “It isn't sad, actually—it's pretty happy. I believe in this type of science. I believe in family balancing, gender selection, selecting out abnormal embryos, using egg donors, sperm donors. This is what I do. I love what I do.” He loves the money because it costs about \$150,000 to have a baby through his services.

He has seen his practice expand with what is called “social surrogacy,” i.e., career women who do not want to take time off work for a pregnancy or don't want the stretch marks of a pregnancy. These women usually use their own eggs but hire another woman to gestate their embryos. Five years ago he saw only a handful of social surrogacy cases. Now he sees about 20 such cases a year and the number is growing. He admits that there is an advantage to carrying one's own baby—“bonding. I understand that, and from experience I can say that most women love being pregnant. But a lot of women don't want to be pregnant and lose a year in their careers.” Furthermore, he notes, many of these women do not want to “disfigure” their bodies.

According to the American Society for Reproductive Medicine, gestational carriers—who carry babies with eggs from another woman—should only be used when there is a medical need. Sahakian defines medical need broadly. His justification is that “Somebody wants to be a parent. I'm facilitating that. I understand it's controversial, it's borderline unethical for some people, but put yourself in the shoes of a 26-year-old model who is making her living by modeling swimsuits. Tell me something—is it unethical, to say let's not destroy this woman's career?”<sup>8</sup>

### Procuring Unnatural Parenthood

**S**ahakian is well known for pushing the boundaries. He helped Jeanine Salomone, the oldest woman on record in France to conceive using donor eggs, to give birth at 62. The pregnancy caused a scandal in France when it turned out that the biological father of the son she gave birth to was her brother. They had presented themselves to Sahakian as a married couple, and Salomone lied about her age. A few years later, Sahakian became responsible for the oldest woman in the world on record to give birth. She was Maria del Carmen Bousada de Lara, a retired sales assistant from Cadiz, Spain, who had twin boys before her 67th birthday. She was diagnosed with cancer a year later and died in 2009, leaving her toddler sons orphaned. He still does not ask his patients their age.

**California being one of the most surrogacy-friendly jurisdictions in the world**, San Diego is a hotbed for surrogacy clients, with more than 20 clinics and 16 agencies operating in the area. Many are going to these agencies for social surrogacy. San Diego-based fertility specialist Dr. Lori Arnold says that about 20 percent of her 200 clients each year are there for social surrogacy. “Mainly,” she explains, “it’s women with careers that don’t allow them the time, or the potential of being on bed rest. These are career women where it just doesn’t fit into their schedule but they want to have a child.” She adds that many of her clients are wealthy Chinese women: “With patients that come from China, it’s usually about 80 percent that are social. They feel that after one pregnancy or two the uterus is old, and that the success rate for an egg will be better with a younger uterus. It’s a cultural thing.”<sup>9</sup>

American corporations are finding that offering surrogacy benefits is a way to retain talent, especially for female and LGBTQ employees.<sup>10</sup> One such firm is the San Francisco-headquartered Samsara. They offer up to \$15,000 annually for each employee to cover fertility expenses including for surrogacy. The International Foundation of Employee Benefit Plans estimates that 31 percent of U.S. employees with at least 500 employees offered fertility benefits in 2018, a seven percent increase from 2016. Not all of these benefit plans include surrogacy, but there is a corporate arms race for employees, especially in high-tech companies, so surrogacy coverage will likely increase.

### The Wave of the Future?

**H**enry T. Greely, a law professor at Stanford University, in his *The End of Sex and the Future of Human Reproduction* (Cambridge, MA, 2016) predicts that within 30 years all pregnancies will be through surrogacy. He argues that reproductive technologies are advancing so rapidly that embryos will be produced and gestated not within women’s bodies, but in the laboratory. Furthermore, he envisions a rapidly increasing potential for creating genetically designed babies, using gene-editing technology. Already there are scientists calling for human engineering as a means of eugenically creating a new race of humans.<sup>11</sup> Greely is not a biologist and his predictions might be far-fetched. However, there is no doubt that surrogacy is a growing trend.

Many countries ban or heavily regulate commercial surrogacy.<sup>12</sup> A survey by the European Court of Human Rights released in September found that of 43 country laws reviewed, surrogacy arrangements are explicitly permitted in only nine of the countries, only tolerated in another 10, and banned in 31 countries. Furthermore, in 19 countries, the surrogate mother could establish herself as the legal mother of a child born through surrogacy, even when she is not genetically related to the child.<sup>13</sup>

In France and Germany, commercial surrogacy is currently seen as a violation of the dignity of a woman. One result is that many

French couples, straight and gay, have been coming to the U.S. to have children through surrogacy. In the United Kingdom, surrogacy is deemed permissible only as a gift of one woman to another, so the UK allows “altruistic” surrogacy under strict regulations. In Russia and Ukraine, commercial surrogacy is legal, being considered an expression of individual autonomy.<sup>14</sup>

Calls for further monitoring of surrogacy came in September when Greek law enforcement authorities, supported by Interpol, arrested 22 people suspected of engaging in a criminal network involved in illegal adoptions, egg-selling and commercial surrogacy.<sup>15</sup> Greek law permits only altruistic surrogacy. Yet, even as this scandal in Greece was breaking, pro-surrogacy forces were making gains—driven by some feminists, gays and human rights activists.<sup>16</sup> A 500-page proposal was released by the Law Commission of England and Wales and the Law Commission of Scotland to advocate legalizing commercial surrogacy in the UK.<sup>17</sup>

About a dozen states in the U.S. explicitly allow commercial surrogacy. New Jersey, Washington State and Oklahoma legalized it in the last year. New York Governor Andrew Cuomo tried to push a pro-surrogacy bill through the state legislature earlier this year, but it failed to pass.

### The Church and Surrogacy

**T**he Catholic Church firmly opposes surrogacy and egg-selling.<sup>18</sup> Compelling reasons for this position include:

**Rights of the child:** Surrogacy and egg sales violate the God-given human dignity and right of a child to be conceived and raised by his married natural parents whenever possible. Baby-selling is wrong.

**Exploitation of women:** Cash-poor women are being exploited to sell their eggs or use their bodies for embryonic implantation, pregnancy and childbirth, risking their health, life or fertility in the process. These women find they have little power in the commodification of their bodies for the benefit of the wealthy.

**Abortion:** Embryos developed in the lab are often discarded. Surrogate mothers are often instructed by donors to abort implanted embryos for sex selection, because of birth defects, to enhance the prospects of another embryo in the same womb, or for financial or other reasons.

**Designer babies:** Gene editing will eliminate many genetic diseases in the future. Yet the potential for eugenic selection—the selection of hair, eyes, body type, height, possibly personality and intelligence—is advancing, giving would-be parents a frightening amount of power over new lives. (Such eugenic selection is already happening with egg purchases.) In addition, scientists do not know the health consequences of editing the DNA of germ cells. While some diseases might be eliminated through genetic editing, the overall effect on an individual’s DNA is unknown.

It should be noted that some of the above objections also apply to in vitro fertilization generally, especially for single women and lesbians who use sperm donors. However, surrogacy raises unique moral problems.

The fertility industry in the U.S. is a largely unregulated Wild West of profit-seeking, with no participants incentivized to look out for the rights of the child or the women whose bodies are exploited for eggs or womb-rental for the rich. Christians should be deeply engaged in the conversation about the public policy of egg purchases and surrogate motherhood, and should seek legal prohibitions on those decadent practices. The Center for Bioethics and Culture, [www.cbc-network.org](http://www.cbc-network.org), is an excellent resource for readers interested in learning more.

In this Christmas season, as Christians focus on the Nativity of the Christ Child through a natural mother, let us strive to uphold the dignity of the mother-child relationship in our laws and customs—a relationship treasured by Venerable Cardinal Mindszenty. **We wish our readers a blessed Christmas.**

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- 7 Jenny Kleeman, “Having a Child Does Not Fit into These Women’s Schedule: Is this the Future of Surrogacy?” *The Guardian*, May 25, 2019.
- 8 *Ibid.*
- 9 *Ibid.*
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- 11 <https://www.bioedge.org/mobile/view/savulescu-interviewed-on-procreative-beneficence/13273>.
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- 14 Claire Fenton-Glynn, *op. cit.*
- 15 Katia Neofytou, “Assisted Reproduction Crime Network in Greece Highlights Need for Monitoring Surrogacy,” *BioNews*, October 21, 2019.
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- 17 Catherine Hill, “Do the Law Commissions’ Proposals for Surrogacy Reform Have the Child’s Welfare at Heart?” *BioNews*, September 30, 2019.
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Kevin Haney addresses a capacity crowd on October 20 on “The Heroic Virtue of Cardinal Mindszenty,” sponsored by the Cardinal Mindszenty Foundation at Mindszenty Hall at St. Mary of Victories Church in St. Louis.

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