



## **Ethical Problems Surrounding Surrogate Motherhood**

Curriculum Unit 00.07.05

by Grayce P. Storey

Surrogacy, umm. What comes to mind? I put the question to my class and their responses were; “like your godmother or foster mother”, “not your biological parent”, “to have someone have your baby for you” and “transplanting an egg and sperm inside you if you are having trouble having a baby”. Finally a surrogate mother is a woman who carries a child usually for an infertile couple. My student’s primary focuses are moral issues. The question may be asked, Is it wrong for a woman to loan her body out to someone for a fee? Why would a woman want to become a surrogate mother? What are the legal, moral, and religious issues involved in surrogacy? I find that their interest far surpasses their knowledge. They are molecules of vibrant energy bouncing around with many questions. It is my intent with the knowledge extrapolated from my seminar and the support of my professor that I will be able to answer all of their questions.

My unit will be taught in an eighth grade science class. I plan to address the moral issues of surrogate motherhood. The areas to be developed in this unit are:

1. What is surrogacy and the types of surrogacy
2. Who should or should not be a surrogate; is surrogacy for you
3. Religion, from a Christian’s point of view how surrogacy is perceived
4. Surrogacy and the Law

My class is highly opinionated. They were awestruck at the idea of a mother giving a child she gave birth to away. They totally ignored the idea of signing a contract. Morally they felt that surrogacy is “wrong”. I am not sure what made them so overtly irate. Was it my presentation or was it not being able to give them more information? Nevertheless, they left the door ajar indicating that they needed more time to think and talk the issue out.

Included in this unit are vocabulary list, resources, lesson plans, reading lists, and a bibliography.

## INTRODUCTION

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Ten to fifteen percent of married couples are unable to have children. Surrogate mothers are not a new solution to the old problem of not being able to reproduce an offspring. Surrogacy has been around a long time and dates back to biblical times. An interesting bible scenario is Sarah, the wife of Abraham. Sarah could not have children in the beginning. She gave her handmaid, Hagar, to her husband Abraham to produce them a child. The method used was copulation. The outcome in this arrangement did not prove to be a productive one and ended in disaster. In this scenario the spouse became jealous, the surrogate became proud and refused to give up the identity of the child and consequently the spouse had both her and her child ousted.

## WHAT IS SURROGACY AND THE TYPES OF SURROGACY

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A surrogate mother is a woman who carries a child, usually for an infertile couple. Making a decision to become a surrogate mother or hiring a surrogate requires a lot of planning, thought, and preparation. Becoming educated will help to alleviate some of the anxiety and disappointment that may result.

There are two types of surrogacy, traditional and gestational. The traditional type of surrogacy involves the surrogate mother being (AI) artificially inseminated with the sperm of the intended father or sperm from a donor when the sperm count is low. In either case the surrogate's own egg will be used. Genetically the surrogate becomes the mother of the resulting child.

In case of a sperm donor, cryopreserved sperm may be used. This process involves placing the sperm in liquid nitrogen and storing in an insemination facility. The sperm is thawed just prior to being used. For a better pregnancy rate the sperm collection is usually placed into the uterus or fallopian tube rather than into the cervix.

How long a sperm can remain cryopreserved is uncertain, but success has been recorded over 16 years. Cryopreservation process includes:

- Collecting the sperm (masturbation)
- Chemical removal of water; this process prevents the formation of ice crystals
- A cryopreservant buffer for support and protection (glycerol)
- Actual freezing in liquid nitrogen 196(C, in plastic straws, glass ampules, or cryovials. These vials can be transported worldwide. The preserving of the sperm allows time for the results of the donors test to be gathered.

The intended father's name is put on the birth certificate. The couple will have to consult a lawyer and the wife will have to do a "stepmother adoption" in order for both spouses' names to be put on the birth certificate. Laws vary from state to state and a knowledgeable lawyer will make the transition easier.

## **Gestational Surrogacy**

In order for a pregnancy to take place, a sperm, egg, and a uterus are necessary. In gestational surrogacy, the surrogate mother has no genetic ties to the offspring. Eggs and sperm are extracted from the donors and in vitro fertilized and implanted into uterus of the surrogate. This is an expensive procedure. Again, the unused embryos may be frozen for further use if the first transfer does not result in pregnancy.

An indicator that a surrogate is needed is medical disorders that affect the ovaries. These medical disorders include: damaged ovaries caused by endometriosis, destroyed ovaries caused by previous chemotherapy, menopause (egg production ceases), severe ovulatory disorders (polycystic ovaries), wife's genetic disorders, or premature ovarian failure. In these scenarios, the surrogate donates both the egg and the uterus. The surrogate is artificially inseminated (AI) by placing the sperm of the husband into the uterus of the surrogate at the fertile time of the cycle, which is just prior to the egg reaching the uterus. If pregnancy does occur, in the third trimester of the pregnancy the couple may petition the court to have their names put on the birth certificate. Since laws do vary from state to state the couple may want to consult a lawyer. They will have a knowledgeable attorney negotiating in their behalf and a better chance of their wishes becoming a reality.

A contributing factor as to why the gestational surrogacy is the more expensive procedure is that centers have been known to give hormones to the egg donor causing them to hyperovulate hence, enhancing the uterus for conception. Indicators for a gestational carrier are evident when the uterus and fallopian tubes are unable to perform the designed function. Some of these disorders or abnormalities include:

- Hysterectomy – uterus and tubes absent
- Myomectomy – surgical removal of a noncancerous tumor from muscle
- Damage from infection or IUD (intra uterine device – a type of birth control)
- Malformed uterus
- Pelvic adhesions causing distortion to bowel

Some physiological impediments that can be life threatening would also necessitate in considering a gestational carrier are:

- Cardiac disease
- Brittle diabetes
- Potentially dangerous drugs (drugs that can harm developing fetus)
- History of ectopic pregnancies
- Emotional factors
- Physical disabilities (weight gain causing stress on back and legs)

## Procedure For Becoming a Gestational Surrogate

In order to become a surrogate the individual undergoes a series of tests prior to the planting of the egg, sperm, or both. Some of these tests include.

- Hysteroscopy/HCG, this procedure determines the fallopian tubes are clear and the size and shape of the uterus
- Infectious disease test, to ensure there are no contagious diseases present
- A mock cycle, to see how the uterine linings will react to hormone replacements (estrogen)
- Pap smear to check for a healthy uterus
- A physical, to see if there are any physiological impediments that would hinder the surrogate in carrying the baby
- Trial transfer, to check the length of uterus to find out how far to insert the catheter, which will be loaded with embryos
- Psychological testing, to check motivations, attitudes, and commitment

Once all of the testing is completed and out of the way, the surrogate and/or egg donor are both usually given a birth control pill to synchronize their cycles and then a subcutaneous injection of Lupron, a steroid, which will shut down the production of hormones to control the cycles. Hopefully this process will ensure that the surrogate's uterus is ready to receive the embryo. Since the surrogate's cycle is a week or more ahead of the Egg Donor it will make the uterus more ready to receive the fertilized eggs. Once the cycle starts the Lupron dose is decreased and estrogen replacement is added.

The egg donor starts on fertility hormones on day three to stimulate her ovaries to produce more eggs than the norm. A shot of HCG is given, which includes a (LH) luteinizing hormone surge causing the eggs to mature at a rapid pace. The drugs given to stimulate the ovaries produce more than enough eggs for a single implantation. After thirty-six hours have passed, the eggs are retrieved and fertilized with waiting sperm. The fertilized eggs are then incubated for 2-5 days. When the fertilized embryos have developed to their proper stage they are loaded into a special syringe with a flexible catheter and inserted through the cervix into the uterus. Usually 3 of the 2-day-old embryos are used and the others are frozen. After the transplant has been completed, a 3-day bed rest is usually required.

After a pregnancy has been confirmed an ultrasound is done. In 6 weeks a check is done for a heartbeat. After 12 weeks the surrogate is released to a regular OB/GYN. Regular check-ups are still needed to ensure that hormone levels are maintained. Once the placenta takes over the hormone replacement is discontinued.

## WHO SHOULD BE A SURROGATE?

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If ever a woman should decide to become a surrogate, a word of caution, do not go into this endeavor blindly. All of the ramifications should be taken into consideration.

What groups of people mostly consent to becoming a surrogate? Statistically, mostly educated women with 13 or more years of education. It was not primarily a money factor that led them to make the decision. Mostly these women are employed and are not undergoing financial difficulties. They are predominately Catholic or Protestants.

The women want the intending family to enjoy the special love of a child and the wholesome gratification of their own child(ren). The surrogate is empathetically driven to share what they have, and relieve some of the social stigma of not being able to produce a child.

Some stresses associated with being a surrogate are: insemination (over several months), pain, unpleasant side effects, depression, sleep disturbance, guilt difficulty remaining unattached, intrusive or aloof couples, relinquishing, etc. It takes a special person to become a surrogate. If you cannot adhere to the demands no matter how much a person may wish to help out, don't think about it!!!

## RELIGION

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The command given to man was to be fruitful and multiply (Gen. 2:28). When looking at the role religion plays or has played in surrogate motherhood, we tend to look at the story of Abraham and Sarah. The moral and ethical issue surrounding the scenario was Sarah arranging for Abraham and Hagar to have them a child. It was the practice of her native country where there was no hope in bearing children for the spouse to give her maid to provide an heir for the family. This was one of the legal codes of Mesopotamia. Precisely the wife determined the rights of the offspring.

God did not condone the practice of surrogacy. Abraham was accused of following in the footsteps of Adam. They allowed their spouses to lead them astray instead of trusting and obeying. The outcome was suffering and disappointment. Scriptures also tells us that their imagined blessing proved to be a curse. Domestically there was a lot of tension, heartache, and hatred between the women.

The situation of the Egyptian maid could very well be mirrored today. Being a surrogate gave Hagar an elitist feeling and she became pompous and proud. Hagar would not consent to the plan to turn her child over to the mistress. Her question was, why should her child be passed off as the wife's son? She had second thoughts and this still happens today. Biblically the very bitter dissension between the offspring's of Sarah and Hagar is so intense until the repercussions are felt in the modern world today. Sarah's descendants, the Jews, and Hagar's descendants, the Arabs, are still contending for the possession of the Holy Land.

Considering all of the pain and heartache associated with surrogacy in the Bible the scenarios emphatically point out man choosing to be selfish. They made laws for self-aggrandizement. Some feel that the inability to conceive is a result of past sin and they are being punished.

It is the belief of many Christians that God has given man the freedom of choice. It is a common belief that the

use of technology is a personal decision between a couple and God. Christians agree that a stable and supportive family benefits the child. This will limit the assisted reproductive technology to married couples only where one or both partners are unable to either produce eggs or sperm, or carry a pregnancy. This supports the principle that God is the moral Arbiter of the world who differentiates with absolute exactness, the moral from the immoral, and is also a loving and compassionate God.

In vitro fertilization can bring about the ethical issue of being able to pass on social and spiritual heritage to the offspring if the genetic make-up cannot be passed. Another issue to be considered is the number of ova that are fertilized with in vitro fertilization. Discarding the unused embryos does not follow Biblical principles. The availability of cryo-preservation or freezing is available to bring about some relief of this problem. This procedure can allow the couple to have more children in the future. Biblically, life starts at conception and all stages of development are important. In using the current technologies including in vitro fertilization there are chances of multiple births. In the case of multiple fetuses, severe prematurity and non-survival of babies may occur. A solution to this problem may be selective termination of embryos in utero. This can raise moral issues. Is it right to intentionally take the life of a fetus to spare one or others? Should the pregnancy continue and possibly risk the survival of all the babies?

Another issue that should be considered in sperm or egg donations are the feelings of surrogate. How does the husband or wife feel about a third party being involved in the conception of their child? Is their privacy being invoked? When, if ever, will the recipient parent tell the child about the manner of his or her conception? Technology is expensive and certainly in the manner in which the couple will use their finances, both of them should be in agreement. Christians believe that God has given them the responsibility of being stewards. Therefore, how and for what money is spent is very important. Man's knowledge is a gift and a blessing when used in the proper manner.

Adventist Protestants believe that medical technology has enhanced human procreation through such procedures as in vitro fertilization, (AI) artificial insemination, cloning and yes, surrogacy embryo transfer. In seeking to do God's will, these options have raised serious ethical questions.

Christians agree that being barren (childless) weighs heavily upon couples, as we saw in the Abraham and Sarah scenario. Many are sad because of infertility and turn to reproductive technology for assistance. The question they ponder is when should assistance be used or if it should be used at all. This becomes a mind-boggling issue.

Adventists believe that God is concerned with all dimensions of human life and his principles should be followed. God gives the power to procreate. This gift should be used to glorify God. It is believed that:

1. Procreation is God's plan (Gen. 1:28); children are blessing from God, (Ps. 127:3, 113:9) medical technologies that aid infertility that does not venture from biblical principles are acceptable in good conscience.
2. All developmental stages of life should be respected (Gen. 1:5, Ps. 139:13-16)
3. The decision to use medical technology is a personal matter. There are acceptable reasons and forms of Christian service that may limit or refrain procreation (1 Cor. 7:32,33)
4. Due to cost, Christian stewardship is a relative factor (Prov. 3:9)

As Christians apply these principles to their decision-making they can be confident that the Holy Spirit will be there to assist them. Infertile couples should always keep the door ajar, so if necessary they can fall back on adoption as an alternative. I am aware however, that there are some that do not exactly follow these beliefs. They may choose other logic to arrive at their desired goals. I am not saying that this is wrong, only let your research and conscience be your guide.

## **THE SURROGATE AND THE LAW**

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It is advantageous to be well informed of your rights before deciding to become a surrogate. Therefore, seeking legal counsel is a necessity. The lawyer will assist the surrogate in defining her right, prior to signing any document. It is important for the surrogate to be knowledgeable of her rights as well as the rights of the infertile couple. Once the contract is agreed upon and signed, a lot of the surrogate's privacy is done away with. The infertile mother is privileged to accompany the surrogate to her medical appointments and be present when certain examinations are conducted.

In case of a married surrogate the spouse is a necessary party and many states presume him to be the genetic father. If the spouse is not in full agreement a contested legal proceeding may ensue.

In the traditional scenario of an unmarried surrogate with a semi-permanent significant other, some states may allow him the rights of a common law husband and he is at liberty to contest the legal proceedings. In either case the surrogate's spouse or significant other would have to agree to sexual abstinence during the duration of fertilization or embryo transfer. These men are also subject to infectious disease testing. Diseases could be problematic during pregnancy or delivery.

When it comes to compensation to the surrogate, this issue comes under close scrutiny. The surrogate is usually paid \$10,000.00 for her services upon completion of her contract. If the contract is not fulfilled she gets nothing (if she backs out). If the pregnancy results in a miscarriage, the surrogate receives partial payment. If for any reason remuneration is out of order, it is looked upon as baby selling (reproductive prostitution, baby trade, selling body and parts, prostitution, renting uterus) by the pregnant woman. The law frowns upon baby selling and in many states it is classified as a felony and punishable by heavy fines and many years in prison.

In the adoption procedure the amount of money exchanged is disclosed along with purposes it is intended to be used for. In an informal adoption procedure the amount that is allowed are restricted to the reimbursement of medical fees, cost of living and legal fees. Adoption agencies are flexible in allowing reimbursement expenses. Wages lost due to illness may not be allowed. All compensation issues must be reported.

Some issues arising out of gestational compensation are:

- The pregnancy was deliberate and consciously arranged (after being advised by lawyer)
- Legal matters were agreed upon by all parties (as advised by lawyer)
- Surrogate has no genetic ties

In the state where the child is to be born (if the surrogate just happens to be passing through) has a sufficient connection and has to issue the birth certificate. It is also a legal matter as to whose names are listed on the birth certificate.

It is a requirement of some states that a contract be drawn up among the parties involved in birthing arrangement. All points in the contract should be carefully and fully explored. Parties that should be present are:

- The surrogate (spouse/significant other)
- The infertile couple
- Legal counsel

In order to avoid disputes, most infertility clinics require a contract. Legal counsel is recommended in order that all involved, to ensure that local laws are kept in compliance.

A possible checklist for the surrogate and the intending couple to explore with their attorneys are:

- a) The infertile couple (intrusting their child's care and nurturing to another and surrendering of child)
- b) Surrogate (forfeit her privacy) i.e. Roe vs. Wade issue...the U.S. Supreme Court Fundamental Rights of Privacy. The issue includes a woman's ability to control her reproductive freedom hence her pregnancy
- c) Surrogate's spouse or significant other must agree to sexual abstinence at certain times; must submit to medical examination
- d) Infertility physician - if insurance is not assessable the infertile couple will assume all costs
- e) Psychiatrist/Psychologist/Counselor - assists in surrendering the child to the infertile couple and counseling
- f) Birthing hospital - provide birth certificate information
- g) If a contract is not required, they are certainly essential to protect all parties involved in keeping their transactions legal

The surrogate must at no time place the fetus at risk. Behaviors that may lead to inappropriate risk are: taking non-prescription drugs, contraband drug usage, smoking of any type (a word of caution is also to avoid the company of smokers), and alcohol consumption.



It is left up to the laws of a particular state to determine the mother or father of the child prior to birth. All parties must agree to provide affidavits, a court appearance, and testimony to effectuate the designated mother and father of the unborn fetus. The courts will honor contracts and agreements between surrogate and intending parents, unless circumstances significantly change that will jeopardize the best interest of the child. The gestational bond is not an issue. The question is asked, how much bonding actually takes place? The decision is always for the best interest of the child. This may not always be the most applauded solution; nevertheless it is what it always boils down to.

Frozen embryos are costly and should be addressed in the last will and testament of infertile couple. Methods of disposal can be controversial and should be addressed. The methods commonly used are: donate to unknown couple (separate consent is preferred and the parties may wish to screen each other), disposal (thawed embryos degenerate and cease to grow), and tissue donation for medical research. The latter is truly an ethical issue that should be explored. The rights to life activists are very vocal on this ethical issue regarding “pre-embryo” embryo. The board of trustees of the American Medical Association (AMA) recommends that the gamete providers (sperm and egg) be the primary authority over the frozen embryos.

## CONCLUSION

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There are three types of mothers, the genetic mother (provides the egg and ½ of the genetic code - 23 chromosomes), the gestational mother (she carries the fetus inside her body), and the social mother (contributor to the raising and care of the child). Each is important for the well-being and development of the child.

Surrogacy is not a simple arrangement; it is extremely complex. The relationships can be stressful, overwhelming, and intense. Patience and perseverance are a must.

Both the surrogate and the infertile couple should obtain legal counsel before agreeing to and signing a contract. It is in their best interest to know how the law addresses certain aspects of surrogacy as it pertains to their particular interest.

Disclosure of the surrogate relationship should be limited so as to avoid unwarranted scrutiny.

Many ethical issues have risen out of this unit. The students are highly opinionated. You can be the judge after analyzing some of the facts. I strongly recommend resource intervention; i.e.: body shop, lawyer, psychologist, social work, etc.

## ETHICAL ISSUES

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What are the pros and cons of using unused embryos for medical research?

Is there anything wrong with disposal of unused embryos ...leaving them on the counter to unthaw and degenerate?

What if the surrogate decides to maintain her privacy?  
What if the surrogate and the spouse violate the abstention clause?  
What if the surrogate decides to keep the baby?  
What if the surrogate with genetic ties demands to visit her child?  
Is there anything wrong with a surrogate giving her unused embryos to someone else?  
Who should make a decision to unthaw frozen embryos?  
Is handing over a child after delivery for a fee “baby-selling”?  
Do women participate in surrogacy to save their marriage?  
Is it wrong for a surrogate to abort?

## VOCABULARY

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surrogate

traditional surrogate

gestational surrogate

infertile

significant other

in vitro fertilization

fertilization

compensation

felony

fetus

procreate

abstinence

AI - artificial insemination

cryopreservation

Fallopian tube

uterus

menopause

endometriosis

ovary

chemotherapy

implanted

hysterectomy

myomectomy

pelvic adhesion

ectopic pregnancy

## **RESOURCES**

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body shop (nurse, doctor, social worker, or nurse practitioner)

lawyer

minister

social worker

psychologist

## **LESSON PLAN I**

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Debate:

3 Ethical Issues

## Round Robin (Pros and Cons)

Issue: What are the pros and cons of using unused embryos for medical research?

Issue: What if one infertile party of infertile couple decides to give the unused embryos to another infertile couple?

Issue: If you agree to be a surrogate - Is it wrong to give up the child?

Have the class to count off in 3's

Allow them to choose their issue

Allow 20 minutes to prepare with their group

choose a time keeper - keep the time

recorder - jot down important points

spokesperson - to introduce topic and give summary

parliamentarian - to keep the group focused

everyone in group must contribute in the debate

each group will have an opportunity to debate each other

one group is con the other group is pro (the teacher decides)

the open group (group not debating) will act as judges

Score Sheet

10 (points) a lot 5 (points) a little 2 (points) somewhat  
Number tallying closet to 40 is the winner

State issue

Familiarity with topic

Remained on topic

Persuasiveness

## LESSON PLAN II

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Skit:

You are a surrogate mother; you are having second thoughts and have decided not to give your baby away because you have genetic ties. The genetic ties involve the surrogate furnishing the egg to be fertilized with the sperm from the infertile couple. The infertile couple is pressuring the surrogate to give the child up because the surrogate agreed to. The infertile couple has the law on their side because a contract was signed.

Have the class count off in 3's (surrogate and infertile couple)

5-10 minute skits

5 minutes over all prep time

## LESSON PLAN III

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Teen Forum:

Speaking Out For Or Against Surrogacy

Topic: "Becoming a surrogate is immoral or commendable because..."

In a recent setting my students came up with three main points regarding choices that all must have.

Be polite

Be respectful

Be attentive

Each student will get 2-3 minutes to argue his or her opinion.

@SH:Student Reading List Andrews, Lori. *Between Strangers*. Harper and Row Publishers, New York, 1989. (The question on how men, women and society look at surrogacy). Bonnicksen, Andrea L. *In Vitro Fertilization*. Columbia University Press, New York, 1989. (Tracking the choice of IVF to delivery). Center For Christian Bioethics, "Adventist Guidelines on Assisted Procreation". Vol. 12, No. 1, 1997. <http://www.llu.edu/llu/bioethics/lléthup1216.htm> Sher, Geoffrey, M.D., and Marrige, Virginia A., R.N., M.N., with Stoess, Jean, M.A. *From Infertility to In Vitro Fertilization*. McGraw Hill Publishing Company, New York, 1988.

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