

GeneWatch

- [Current Issue](#)
- [About GeneWatch](#)
- [25 Years of GeneWatch](#)
- [Submit Articles](#)
- [Subscribe to GeneWatch](#)
- [GeneWatch Archives](#)

GENEWATCH

ABUSES OF WOMEN'S HUMAN RIGHTS IN THIRD PARTY REPRODUCTION [Back to Archives](#)

By Kathleen Sloan

While not on the average person's radar, there has nevertheless been something of an explosion of media coverage of issues related to women's reproductive capacities and biotechnology over the last decade. From specialist online publications like *GenomeWeb* to mainstream media such as *Newsweek*, *The New York Times*, and *The Today Show*, surrogacy, egg "donation," Non-invasive Prenatal Diagnosis (NIPD) tests, and global reproductive trafficking are just a few of the issues to receive growing media and thus public attention.



When addressing these issues, it is standard practice to begin with an acknowledgement of the enormous benefit that countless infertile and LGBT people, desperate to have a child of "their own," have received as a result of IVF and third party reproduction. In fact, the mainstream media in particular tends to emphasize the "miraculous gift of life" aspect when covering the subject matter while tending to ignore or de-emphasize the very real harms and exploitation that are an integral part of these practices. For every outsourcing euphoric new parent there is a woman who has made their parentage possible through the use of her eggs, her uterus, or both.

In order to provide this "gift of life," the woman must undergo multiple injections of synthetic hormones and other drugs along with surgery for egg retrieval or embryonic implantation that can have devastating short and long term health consequences, including ovarian hyperstimulation syndrome (OHS), ovarian torsion, bleeding, infection, ruptured cysts, kidney failure, stroke and even death. Two of the most serious long-term risks are infertility and cancer, most commonly ovarian, breast and endometrial. A 2007 Institute of Medicine Report stated that "One of the most striking facts about IVF is just how little is known about the long term health outcomes for the women." Although over a million IVF cycles have been performed in the U.S., there are no registries that track the health of the women who undergo them.

Given all these risks, it is scandalous, not to mention grossly unethical, that women contemplating selling or renting their eggs or uteri, respectively, are not provided with relevant information before they give their consent. They are not told that no long-term studies have been conducted on the health risks involved. Many, if not most, are not aware that there is virtually no regulation of egg "donation" or surrogacy in the United States; no national registry to provide a centralized repository for records, patient follow-up and long term studies; that the commercial fertility industry has every reason to minimize the health and economic risks given the enormous profits generated. In fact, as one gazes out across this landscape of third party reproduction, the contours of both a national and international disgrace and human rights violation are unavoidably clear.

Let's begin in the United States. Lured by appeals to their financial self-interest, many college and graduate students struggling to finance their educations see ubiquitous ads in campus newspapers and social media for their eggs as a risk-free cash infusion. Offers ranging from \$50,000 to \$100,000 for "designer eggs" from women with exceptional looks, high SAT scores or a student at an Ivy League university or in-demand ethnic backgrounds such as Jewish or Asian can prove irresistible to uninformed women in need of a major income injection. From the high-income buyer's perspective, why buy from Wal-Mart when you can shop at Tiffany's? While the exploitation occurring here receives attention among women's health and human rights advocates, little discussion takes place about the classism, racism, ableism and elitism that underlie this selective breeding at a price.

Surrogacy is equally problematic. It is estimated that nearly half of surrogates in the U.S. are "military wives" who represent an ideal supply source for agencies and brokers. They often survive on low incomes and tend to marry and have their own children at young ages, so the prospect of doubling their income by serving as a surrogate is a powerful incentive. These women have few legal or regulatory protections, making them sitting ducks for exploitation and fraud. It is no coincidence that surrogacy brokers and clinics are concentrated in areas where there are large military bases. One could also point out that while the military heavily recruits from the working class and poor demographics to provide their cannon fodder for endless wars and occupations, these people are doubly exploited for their reproductive capacities by profit-driven private enterprise.

Society has barely begun to grapple with the issues surrogacy raises. Most commonly, surrogates function as

Search: GeneWatch

Gene Myths

The Gene Myths series features incisive, succinct articles by leading scientists disputing the exaggerations and misrepresentations of the power of genes.

[View Project](#)

Genetic Privacy Manual

The Council for Responsible Genetics' Genetic Privacy Manual: Understanding the Threats-Understanding Your Rights will be a comprehensive, electronic source of information for the consumer on these issues.

[View Project](#)

Tools

PAGE TOOLS

- EMAIL
- PRINT THIS PAGE
- SHARE

ON THE WEB

- YOUTUBE
- FACEBOOK
- TWITTER

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 national regulation of surrogacy and its fifty states constitute a patchwork quilt of policies and laws, ranging from outright bans to legalization to "anything goes," earning its title of the Wild West of third-party reproduction.

A few among the many issues surrogacy raises are the ethical and practical ramifications of the further commodification of women's bodies (beyond universal sexual commodification); exploitation of poor and low income women; implications for women's reproductive rights if embryos become legally defined; rights of the children produced to information regarding their genetic history and any siblings they may have who are the offspring of the donor parents; prevention and prosecution of fraud by surrogacy companies; and the moral and ethical consequences of transforming a normal biological function of a woman's body into a commercial contract.

Surrogacy is a stark manifestation of the commodification of women's bodies. Surrogate services are advertised, surrogates are recruited, and operating agencies make large profits. The commercialism of surrogacy raises the specter of a black market and baby selling, of breeding farms ala *The Handmaid's Tale*, turning impoverished women into baby producers. Surrogacy degrades a pregnancy to a service and a baby to a product (an entitlement for those with the financial means to procure one). Experience shows that like any other commercial transaction, the "customer" lays down her/his conditions before purchasing the goods. For example, some agencies insist that the surrogate be married and be a mother of at least one healthy child, be medically and psychologically fit, abstain from cigarettes, alcohol and any other drugs during pregnancy, and must agree to give up her parental rights after the baby is born. The agency arranges the contract, life insurance for the surrogate's family should she die during pregnancy or childbirth, and life insurance or a will for the child should the contracting parents die before the child is born.

In surrogacy, the rights of the child are almost never considered. Transferring the duties of parenthood from the birthing mother to a contracting couple denies the child any claim to its "gestational carrier" and to its biological parents if the egg and/or sperm is/are not that of the contracting parents. In addition, the child has no right to information about any siblings it may have in the latter instance.

It is assumed that there is an equal exchange in surrogacy; money paid for the service rendered. In reality, the contract between the parties to surrogacy would not exist if the parties were equal. The woman must give more than her egg in order to gestate a child, an important gender difference. Within this framework, the contract is always biased in favor of the financially secure. The freedom of the surrogate mother is an illusion; the arbitration of rights hides central social and class issues that make surrogacy contracts possible.

If the intended parents' circumstances change during the pregnancy, or if children are born with health problems or disabilities, the infants may be left to the surrogate, abandoned or placed in orphanages in the country of their birth. Intended parents may find they face unplanned financial costs and inadequate legal protections, including difficulties in establishing citizenship for the infant in their home country in international surrogacy arrangements.

Internationally, deep regulatory divides have fueled a growing global market in which privileged individuals and third party intermediaries, who benefit financially from the commodification of reproduction, exploit low income and poor women for their reproductive capacities. Surrogacy and the trade in human eggs in particular have become pervasive international phenomena in which women's poverty and subordinate status throughout the world often increase their exposure to gender-based exploitation and physical harms.

As in the U.S., unequal relationships between the buyers and the women who sell their fertility organs and eggs favor the needs and desires of the intended parents. These unequal transactions, in the absence of regulation of the fertility-industrial complex, result in inadequate "informed" consent, coercion, low payments, poor health care, short and long term physical and emotional problems, and increased risk of death.

In some countries surrogates are separated from husbands and children for the duration of the pregnancy, imprisoned in clinics where they are stationed assembly line style in bed after bed and obediently take orders from their overseers while their own children develop psychological problems.

High rates of multiple births and infection resulting from IVF place both surrogates and babies at high risk for complications. When problems arise during the pregnancy, the wellbeing of the child is given precedence over the health of the surrogate (money talks). Care of the surrogate ends with the birth of the child even when the woman who bears the child suffers lasting effects.

An international declaration concerning reproductive exploitation is urgently needed. The practices of reproductive organ, tissue and cell trafficking and/or trade, particularly ova sale and surrogacy, infringe upon several basic human rights under international law, and are violations of international agreements on health and medical standards. The international community must recognize trafficking and trade in reproductive organs, tissues and cells as a unique kind of human exploitation.

Beyond the basic right of every individual to human dignity, enshrined in the major international and regional human rights law instruments, the trafficking in ova and surrogacy have implications for women's rights; the right to an adequate standard of health, the right to be free from discrimination, the right to a family, and the rights of the child.

Universal legal agreements on the trafficking of ova and surrogacy should protect the basic rights and interests of the women involved. Specifically, these agreements must take into consideration the special vulnerability of women in a patriarchal world, most particularly in the Global South. They must protect the rights of women to be free from discrimination, to have access to adequate medical care and an adequate standard of health, and to choose the number and spacing of their children or whether they choose not to have children. They must also pay special attention to the international standards regarding voluntary and informed consent.

In 2005, following exposure of ova trafficking in Romania, the European Parliament issued an official Resolution on the Trade in Human Egg Cells and affirmed an absolute opposition to payment for ova, classifying such payments as organ trafficking. A specific resolution on the situation was issued that year as well, the Resolution on the Planned Trading of Human Egg Cells by Great Britain and Romania, which barred the granting of high fees for ova provision. The Resolution stated that such high fees amounted to the prohibited trade of human parts. Accordingly, the Resolution concluded that this prohibited trade should be regarded as an extreme form of exploitation of women.

For millennia, women's human rights have been abused and ignored with impunity. As developments in biotechnology facilitate the commodification of reproduction, alarm bells should be sounding about the new door that has been opened for yet further disregard and degradation of women's humanity, wholeness, physical and spiritual inviolability. Supporters of human rights everywhere must enjoin that universal cry: "never again."

Kathy Sloan is a human rights advocate specializing in global feminism and a member of the Board of Directors of the National Organization for Women (NOW).