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ABSTRACT

Assistive reproductive technology has progressed significantly over the past few decades. In spite of the advances, people may still resort to a surrogate for bearing and birthing a baby. Surrogacy, though an altruistic act, has been commercialized in the past few years, leading to emergence of several ethico-legal concerns. Nurses care for the surrogates, the infants, and the intended parents through their journey with sensitivity, advocacy, compassion, and confidentiality. This article intends to explore the implications of surrogacy to individuals, families, nations, and health care.

Keywords: surrogacy; cross-border surrogacy; reproductive technology; reproductive tourism

TECHNOLOGICAL ADVANCES HAVE revolutionized reproductive technologies, allowing many individuals and couples to fulfill their dreams of parenthood. When reproductive technology fails to achieve motherhood, a third-party surrogate or donor may be contracted. Families may cross international borders in their search of an ideal surrogate. Accurate data on surrogacy are not available because of the lack of standardized guidelines across international borders; however, 13,380 recorded gestational surrogacy deliveries resulted in 18,400 births from 1999 to 2013 in the United States.[1–3] Surrogacy is a medically and emotionally complex process that can have severe ramifications at individual, familial, social, emotional, financial, political, national, and international levels. Literature lacks evidence on the pragmatic, emotional, and ethical aspects of surrogacy. This manuscript focuses on reviewing the practice of surrogacy and its implications for families and health care providers, particularly neonatal clinicians.

WHAT IS SURROGACY?

Surrogacy is the practice of contracting a woman (the surrogate mother) to become pregnant and deliver a baby to be raised by another couple or individual (the intended parent(s)).[4] The American Society for Reproductive Medicine defines "third party reproduction" as when genetic information is provided by an individual other than the intended parents (gamete donation) and/or gestation is completed by someone other than the intended mother (surrogacy).[5,6] There are two types of surrogacy: traditional surrogacy and gestational surrogacy.[7] In traditional surrogacy, a woman becomes pregnant by artificial insemination, carries a fetus, and delivers a child who will then be reared by the intended parents. In this type of surrogacy, the child is genetically related to the surrogate. In gestational surrogacy, an embryo is implanted in the surrogate who will carry and deliver the child. Here, the child is not genetically related to the surrogate.[8]

Several different combinations of reproductive tissue can be used in surrogacy, as presented in Box 1. Gamete providers, the sources of the sperm and oocytes, are not necessarily the intended parents.[7,9]

If using a donor egg, the donated egg is fertilized in vitro, and the embryo is

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Box 1 ■ Possible Combinations of Sperm and Egg Fertilization in Surrogacy

- Sperm from the intended father + Egg from the surrogate (Traditional surrogacy)
- Donor sperm + Egg from surrogate (Traditional surrogacy)
- Sperm from the intended father + Egg from the intended mother (Gestational surrogacy)
- Donor sperm + Egg from intended mother (Gestational surrogacy)
- Sperm from the intended father + Donor egg (Gestational surrogacy)
- Donor sperm + Donor egg or donated embryo (Gestational surrogacy)

Box 2 ■ Characteristics of an Ideal Surrogate[5]

- Is at least 21 years of age
- Has given birth previously
- Has a stable social environment
- Passed her background checks
- Is cleared by references
- Has similar values and priorities to the intended parent(s)
- Is cleared by screening for diseases, particularly ones that will affect her reproductive health or the health of the child (e.g., HIV)
- Has available medical, family, and obstetric histories
- Is cleared by a health care professional for her potential to maintain a healthy pregnancy

implanted in the surrogate immediately after fertilization or after thawing (if cryostored). Donated gametes and surrogacy are typically used if a couple has a history of several failed in vitro fertilization attempts, a woman has a condition preventing her from successfully carrying a fetus to term, the intended parent is single, or the couple is of the same sex.[6,9] Donors, surrogates, and intended parents undergo a thorough screening process before the decision and procedure.

Screening of Gamete Donors

Guidelines from the American Society for Reproductive Medicine[5] state that an egg donor should preferably be a woman 21–34 years of age who has undergone an extensive medical examination. This examination includes a detailed medical history, family history, sexual history, genetic and psychological screening, screening for diseases (HIV, hepatitis B, and hepatitis C), and substance use. This screening process applies to sperm donors as well.[5,9] The use of a donated embryo typically occurs when both the sperm and the egg are from donors who chose to freeze their gametes but no longer personally want or need them. The demand for such embryos far exceeds availability.[10]

Screening of Surrogates

Potential surrogates may be known or unknown to the intended parent(s) before contracting. Ideally, the surrogate and intended parents form a strong relationship, which is instrumental to the process.[11] Box 2 provides the factors for an ideal surrogate.

Teman described four phases necessary for a successful surrogacy arrangement: dividing, connecting, separating, and redefining.[12] Dividing is when the surrogate creates boundaries between herself and the baby. Berend[13] explains that typically when entering into a surrogacy agreement, a surrogate understands that the child is not hers. The strongest connection formed by the surrogate is with the intended parent(s) for whom she is providing this loving service.[13] Surrogates tend to seek intended parent(s) whom they feel a connection with and with whom they want to build a relationship.[11,13] In the connecting phase, the intended mother becomes attached to the unborn child and begins to assume the motherhood role. During the separating phase, the intended mother separates herself from the surrogate mother and assumes the full role as the child's mother. Finally, in the stage of redefining, the surrogate sees her purpose in the surrogacy process as heroic, not shameful or upsetting.[12] Because of the intimate nature of surrogacy, some seeking surrogates may choose a family member as a donor and/or a surrogate.

Considerations for Choosing a Familial Surrogate

Choosing a family member as a surrogate or gamete donor may be a faster and less expensive route to parenthood. This option also allows the intended parent(s) to feel a genetic closeness to the child.[8] However, using a family member as a surrogate or donor can greatly complicate the surrogacy process. Any gamete combination that would result in a child who has a genetic makeup indicative of incest, such as a brother donating his sperm to his sister, is not permitted by most fertility facilities.[8] Ethical concerns that may emerge from familial surrogacy include undue influence over an individual and pressure to perform the act of surrogacy for another family member. This is especially true in cases crossing generational lines. Typically, it is considered unethical for a younger woman to be a surrogate for her mother or aunt because of the risk of intimidation by older, authoritative relatives.[14] Therefore, it is vital to ensure that every individual remains autonomous in the decision-making process.[8] A familial surrogate may face additional emotional risks, such as resentment from her family members, if unable to establish or maintain the pregnancy or detach from the child she bore. The latter is particularly difficult in these cases because the familial surrogate may see the child often.[8]

CHALLENGES OF FINDING A SURROGATE

Trusting a surrogate with the birth of a family's future generation can be difficult, and recommending someone to be a surrogate is beyond the scope of clinical practice for a provider. There are agencies that specialize in surrogacy and provide services such as maintaining databases of potential surrogates, offering incentives, facilitating contracts, providing support for follow-up tests to confirm pregnancy, arranging legal services, making arrangements for birth, providing counseling services, and facilitating the payment process for the surrogate's services.[15,16] These agencies allow practitioners to remain uninvolved in the financial, administrative, and legal aspects of surrogacy.

Cross-Border Surrogacy

Transnational gestational surrogacy, sometimes referred to as reproductive tourism, typically involves intended parent(s) from a wealthy country using a woman from another, usually low-income country as a gestational surrogate.[17,18] Cross-border surrogacy may be chosen to avoid complex legal guidelines or high costs in the home country.[17]

SOCIAL, LEGAL, AND ETHICAL CHALLENGES

One of the largest ethical controversies of commercial surrogacy is the risk of exploiting women, especially those who are poor, compared to the opportunity for women to provide the "gift of life" for those who cannot do so themselves.[19] The potential for women to be exploited is elevated in cross-border surrogacy, where women from low-income nations turn to surrogacy solely to escape poverty[17] and are unprotected because of the lack of regulations in these nations.[20,21] Further, with in vitro fertilization in surrogacy, sex selection becomes an option and a topic of debate among practitioners.

Another aspect of surrogacy that must be considered is the impact on the child. In surrogacy, unlike in adoption, intended parent(s) are not screened for their ability to appropriately raise a child. Additionally, the child's specific needs and emotional well-being are not considered in the agreement.[22] Overall[22] also argues that as surrogacy is an exchange of money for a human being, it is technically a form of slavery. Box 3 lists additional challenges.

For surrogacy to become ethically justifiable, measures must be put in place to protect both the surrogate and the intended parent(s). Legal agreements or contracts are a necessity in order to enforce proper custody of the child.[7,21] Regulations that assign parental status must be clear for situations when intended parent(s) divorce one another or refuse to accept the child following delivery because of an unexpected outcome in the child (e.g., Down syndrome, unanticipated sex, and so on).[24]

Box 3 ■ Social/Ethical Challenges of Surrogacy[19,23]

- Women being coerced into surrogacy for economic gain
- Lack of awareness of the effects of surrogacy, especially for women in low-income countries
- Risk of HIV or other diseases
- Views of surrogacy as "baby-selling" and women's bodies as "baby factories"
- Artificial reproductive therapies threatening family structure
- Religious beliefs against surrogacy while supporting adoption
- Lack of regulations
- Inclusion of the surrogate may be confusing to the child as he ages
- Surrogacy for same-sex couple or singles
- Withholding genetic/donor information from the child
- Custody disputes
- Illegal commodification or objects of trade
- Intermediaries who connect intended parent(s) with surrogates can be viewed as "pimps" of the surrogacy trade

IMPLICATIONS FOR INDIVIDUALS WITHIN THE SURROGACY TRIAD

At the individual level, surrogacy has a major impact on the surrogate mother, child, and intended parent(s). These individuals form the surrogacy triad, a complex and extended reproductive unit connected by moral obligations.[25] The surrogate mother takes certain physical, psychological, and emotional risks by becoming pregnant,[26] including the risks of miscarriage, ectopic pregnancy, and fetal anomalies.[9] She risks accruing long-term effects from the pregnancy and relies on the intended parent(s) to properly take care of the child after birth. A strong, trusting relationship between the members of the surrogacy triad helps them to promote the best interests of one another.[25]

IMPLICATIONS FOR HEALTH CARE PROVIDERS

Surrogacy impacts health care providers in several ways: practice, education, and research. Thorough history taking is required to determine health risks and provide adequate preventative health care. Education about the process and impact of pregnancy on the surrogate and intended parent(s) is an important responsibility, particularly of those working in women's health, obstetrics, maternity, and neonatology. Emotional support, social support, and communication are key for the health and well-being of all parties involved. Administrators and clinicians, including bedside nurses, advanced practice nurses, and physicians, must support surrogates and intended parent(s), particularly in cases of loss, child separation, and custody battles. Research on quality of life, stress, and coping of

surrogates and intended parent(s), as well as the ethical aspects of surrogacy, is limited; thus, it needs attention by health care professionals to improve clinical practice and provide optimum care to the surrogacy triad.[27]

IMPLICATIONS FOR NEONATAL AND WOMEN'S HEALTH NURSING

Surrogacy not only affects the intended parent(s), the surrogate, and the child but also affects the neonatal nurses who care for the child involved. Clinical decision making in the NICU can be difficult in the context of surrogacy, where the legal guardianship of the child is not always clear. NICU nurses face several challenges in caregiving and identifying "the right person" for making care decisions.[28] Clinicians face the following challenging questions: Can the surrogate mother make decisions about the baby or only intended parent(s)? When does the relationship between the surrogate and child end? Can the surrogate mother breastfeed the child following the birth? Who can give consent for procedures or surgeries? Who can visit the newborn in the NICU?[28] Policies or answers may not exist in a hospital system to clarify these questions. It is essential for nurses to refer to the surrogacy contract and collaborate with a multidisciplinary team, including social workers and legal professionals.[9,28] To ensure the best outcome for the surrogacy triad, an agreement should be arranged beforehand regarding labor and delivery and any postdelivery care in the NICU that may be required.[29,30]

Both physicians and patients have guidelines for surrogacy created by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine, but no similar guidelines exist for nurses.[29] This indicates a need for health care facilities to have policies and protocols in place for nurses, according to their jurisdiction's current stance on surrogacy. However, not every jurisdiction has a clear stance, and the surrogacy agreement may have been created in an outside jurisdiction, complicating this process.

Nurses may be caught in the middle of a dispute on custody rights if a member of the triad refuses to adhere to the surrogacy agreement. In traditional surrogacy, often the surrogate will have the right to provide consent if she has not yet given up custody or consented to adoption.[28] In gestational surrogacy, the rights of the surrogate are not as strong, depending on the jurisdiction, because the child is not genetically related to the surrogate.[28] Sometimes a local court may assign a guardian to make the legal decisions regarding the child temporarily until legal guardianship is determined.[28]

Evidence shows that breastfeeding provides important health benefits for both the mother and the child and is promoted by neonatal and maternity nurses, but it is rarely discussed in terms of the surrogacy triad.[17,29] Nurses working with a surrogacy triad need to provide alternative choices to traditional breastfeeding such as the surrogate donating her breast milk for the child postdelivery, the intended parent(s) using donor milk from a regulated milk bank, inducing lactation in the intended mother, or deciding to feed the child with infant formula over breast milk.[17] Staff education and clear guidelines will help nurses focus on their priority: providing quality care to all within the surrogacy triad.[25] Clear guidelines will identify the right approach to address these emerging issues.

FUTURE

Surrogacy is both an expanding business and a revolutionary reproductive option that can be utilized to empower women. Women aspiring for high professional accomplishments may choose to find a surrogate so that they may fulfill their desire to be a parent without experiencing problems associated with pregnancy. Other women may choose to become a surrogate as a form of employment to earn money while staying at home.

More regulations may emerge to stipulate the conditions, services, and rights of all parties involved within the surrogacy triad. The child's rights may include knowledge of his genetic makeup. Overall[22]suggested a screening process for the intended parent(s) before any contracts are created to ensure that all potential children born via surrogacy are placed with responsible and capable caregivers. Technology makes it possible for children wishing to identify their donor parent to explore their genetic roots. Future regulations may make it more difficult for intended parent(s) to utilize cross-border surrogacy as legal challenges may occur when bringing the child back to their home country. The surrogate's rights and safety may become better protected by regulations created in the future.

CONCLUSION

Surrogacy is a complex and emotional process for all involved. Surrogates face the medical and health factors associated with pregnancy, delivering a child, and letting go of the child after the delivery. This act can be altruistic or commercial in nature. Guidelines for surrogates, donors, and intended parent(s) exist in some places but are not standardized. Clear, strong, and international guidelines for surrogacy are important for maintaining the social cohesion and emotional health of all involved. These guidelines will lead to less exploitation of the poor and fewer legal battles regarding children born with unpredicted disabilities. Education and clear guidelines for neonatal nurses can help them identify the right parties for consent and care decisions, and provide optimum care to the members of the surrogacy triad, particularly the babies.

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