SURROGATES
AND OTHER NON TRADITIONAL REPRODUCTION

Current technology permits the artificial insemination of a mother who has never met her child's father. It permits the transfer of a living embryo into a woman who is not genetically related to the new life she carries. A living child may now result from the sperm of a donor father, the egg of a donor mother and the uterus of yet another mother without any of the three parents necessary to create that child meeting one another or knowing one another's identities.

As recent statistics indicate, there is an increasing number of infertile American couples. We support research and techniques that will permit them to conceive and bear children genetically related to both. Yet technology will not enable all couples to bear children.

Some infertile couples seek to adopt others' children. Sadly, few are interested in the foster children who need permanent homes. Instead, while these children wait for parents, most infertile couples are willing to be parents only to perfect white newborns. In growing numbers, they seek to create such newborns by non traditional reproductive methods.

Some who are fertile want to use the new reproductive technology too. Some fear a genetic problem may result in an imperfect baby. Some prefer not to face pregnancy's risks to life and health, preferring that these risks be borne by another. Some do not want the inconvenience of pregnancy to interrupt their careers.

The experience of traditional adoption sheds some light on the probable effects of these new adoption arrangements. Research on mothers who surrendered children for adoption indicates that they surrendered their children due to a temporary lack of resources to support them, not a lack of love. Research also indicates that surrendering mothers suffer detrimental, often devastating, consequences throughout their lives as a result of the surrender. There is no reason to believe parents separated from their children as a result of contracts for non traditional reproduction will suffer any less. In our hearts, we know that children are far dearer to their parents than any body part. What mother would not rather lose an eye than one of her children?

Infertility is a physical limitation like blindness or lameness or heart disease. Our society does not recognize as binding and will not enforce contracts requiring any living person to sell his or her eyes, lungs, kidneys or other body organs. We know too well that the sellers would inevitably be the poor, the powerless or the unbalanced while the buyers would be the rich and the powerful. It does not matter whether the potential buyer of an eye is a great artist while the potential seller cannot read and is receiving welfare. Deciding that we do not want to live in a country in which a parent who is poor might be forced to sell her eyesight to feed her children, we do not regard who might or might not make better use of an organ as a justification for allowing such contracts. All such contracts are void.

Clearly it is not the wealthy and well educated who will subject themselves to bearing children for the poor. The same considerations that make contracts for the sale of body organs void apply at least as well to people's children. Contracts for non traditional reproduction should be similarly unenforceable.

Society should be concerned not only for the exploited adults in these new, non traditional adoption arrangements, but even more for the children who may be created and separated from their families. The separation of any child from a parent is a tragedy with far reaching consequences not only for the individual child and parent but also for future generations. The proliferation of arrangements that deliberately create children with the intention of separating them from one or more of the child's parents is alarming. These arrangements could cause serious harm to children born because of them and to children who helplessly watch a baby brother or sister disappear from their family.

It is clear that these arrangements are neither intended nor designed to serve the best interests of children or society, but to supply a desirable product to consuming couples. The contract in the infamous William Stern and Mary Beth Whitehead case in New Jersey, for example, required Mrs. Whitehead to undergo amniocentesis and provided that if this test showed an abnormal fetus the Sterns would accept no responsibility for the child and would not pay Mrs. Whitehead to carry it.

The possible effects on a child of knowing
the parent he lives with contracted for a perfect baby only and would not have wanted him if he were less than perfect are not presently known. Would such a child fear any failure might mean his parents would cease to want him? Would a woman unwilling to face sacrificing her convenience and risking her health by becoming pregnant with her own child be willing, after adopting her husband's child by another woman, to make sacrifices and take personal risks for that child? How would the brothers and sisters of a child conceived in a surrogacy arrangement be affected by the fact that their sibling was sold?

Adoptees have frequently described suffering from feeling their birthmothers might have rejected them by surrendering them for adoption, yet most adoptees at least know their mothers received no money for their surrenders. The suffering is intensified when money is involved. People who were conceived by artificial insemination have queried, "How would you feel if all you knew about your father, the man you look like and whose genes you gave your kids, is that he did it in a jar for $40?" Children whose mothers contracted before their conception to bear and surrender them for money may be harmed even more. How will they feel when they realize their mothers only produced them as products to be sold to fathers and stepmothers who wanted them only if they were perfect?

CUB does not support any form of reproduction in which a child is created with the intention of separating him or her from a parent. We recognize that it may not be possible to stop people from entering into these relationships. While we have no wish to criminalize a woman's agreeing to bear a fetus conceived with her sister's ovum and brother in law's sperm, we do not believe such arrangements should be enforceable under any circumstances.

No person should be permitted to sell or rent or to give or receive any payment of any kind for the use of his or her sperm, uterus, or ovum to create a human life. Thus, all contracts for surrogacy mothering, embryo transplantation and artificial insemination by donor should be void as against public policy.

Further, any person whose ovum, uterus or sperm was essential to the creation of a child is irrevocably a parent and should have all the same rights as any other parent. No parent should be allowed to surrender his or her parental rights until after the birth of a child. The adoption of any child created by non traditional reproduction should be handled in the same way as all other adoptions in that state with regard to voluntariness, revocation and waiting periods, expense reporting, home visits to approve the placement and court approval.

Physicians should be required to fully inform patients requesting non traditional reproductive techniques of the potential physical and emotional risks to the resulting child, themselves, the child's other parent, and any other children the parents may have. Prospective participants should be advised that no parent can be contractually required to surrender his or her parental rights.

Just as courts decide custody upon divorce when both parents want the child, it should be a court's decision which of the child's natural parents should have custody. This decision should not be based on economics but on the respective parents' emotional and physical contributions and commitment to the child. Any parent who is not awarded custody should be entitled to liberal visitation rights and obligated to pay child support. The accounts of many children whose family history includes divorce and remarriage, and the experiences of many adoptees in this country, demonstrate that it is important to children that they know the truth of their lives and have access to all of their parents. Any person created by non traditional reproduction should have full knowledge of how he came to be and of the identities of his parents.

Infertility, like blindness or any other physical incapacity, is sad. But just as the blind have no moral or legal right to be cured with another's eyes, the infertile have no right to cure their physical incapacity with another's child. No child should be created as a product to be sold.

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