

Surrogate *Future*

by Daniel Weiss



A seemingly helpful cottage industry born of science fiction is harming women and threatening to redefine the family.

In the early 1930s, British author Aldous Huxley envisioned a future in which social control came through the destruction of sexual mores and the strict regulation of reproduction. In *Brave New World* (1932), people are no longer born, but decanted in gestational bottles. Sexual promiscuity is not just normalized, it is expected. Ideas such as “family” are considered pornographic, and words like “marriage,” “natural birth,” “parenthood” and “pregnancy” are too obscene to be mentioned.

In *The Handmaid’s Tale* (1985), Margaret Atwood describes a world in which enslaved concubines are impregnated to provide children for the ruling elite. These “handmaids” are considered to be “two-legged wombs.”

Welcome to the future.

No longer the stuff of science fiction, these tales have a lot in common with celebrity headlines: Increasing numbers of wealthy people are enlisting surrogates to have children, including Elton John and David Furnish, Nicole Kidman and Keith Urban and Sarah Jessica Parker and Matthew Broderick. “How I Met Your Mother” star Neil Patrick Harris’s partner, David Burtka, described their children’s surrogate mother as being “more like the oven.”

Our fawning celebrity culture, says attorney Jason Adkins, is the reason so few people know about the rank underbelly of the surrogacy business. As executive director of the Minnesota Catholic Conference, he has worked for years to bring

these darker issues to light.

“Once we get beyond ‘Oprah’ and *People* magazine and really look at the facts here,” he tells *Citizen*, “people begin to understand that this is an exploitative practice that turns women of fewer financial means into a breeder class for the wealthy.”

Minnesota is among a handful of states where surrogacy battles are currently raging; others include Kansas, Louisiana, Maryland, New York and Washington, D.C. Minnesota Family Council Legislative Affairs Director Autumn Leva, who worked with Adkins and others this year to kill legislation that would have legalized surrogacy contracts in their state, says most people are significantly misinformed about surrogacy, imagining nothing more than a childless couple receiving the gift of life from an altruistic woman. While those arrangements do exist, the industry is increasingly moving toward a purely financial model.

“The sperm is purchased, the egg is purchased, they’re combined together in the lab and the embryo is then implanted into a woman who is not genetically related to the child, and everybody’s being paid for all this,” she tells *Citizen*.

“We need to question some of the ethical and moral implications of paying for life.”

Adkins believes this is the essential point people fail to appreciate.

“It’s really the trafficking of persons,” he says, “whether we want to admit it or not.”

The Odd Couple

Human trafficking is an apt description of surrogacy, says Kathleen Sloan. A longtime women’s rights advocate and a member of the National Organization for Women’s (NOW) board of directors, she has fought the sexualization of women and children for years, including at the United Nations.

“The more I learned about biotechnology, I began to see the very direct parallels between sexual commodification of women and reproductive commodification of women through third-party reproduction, surrogacy and egg trafficking,” she tells *Citizen*.

“The prostitution industry and the reproductive industry both exist to exploit and profit from the use of women’s bodies.”

As famously liberal as NOW is, it has no position on surrogacy. But Sloan does—and says feminists who fear her stance threatens the availability of abortion have viciously attacked her. Surprisingly, one person she’s never argued with is Jennifer

Lahl, a staunch pro-life Christian and president of the Center for Bioethics and Culture, a California-based nonprofit organization. Together, they form what some call a “dream team.”

The two met at a screening of Lahl’s film *Egg-exploitation* at Harvard Law School four years ago. When fertility-industry representatives attacked Lahl, Sloan stood up and said she agreed with everything Lahl was saying. It silenced the crowd.

“They never expected a pro-choice feminist would be getting behind someone on the opposite side of the issues,” she said.

Since then, Sloan and Lahl have made dozens of presentations on the harms of surrogacy and other forms of assisted reproductive technologies (ART). No matter where they speak or screen a film—whether to students, legislators, women’s groups or religious groups, Sloan says—“the universal reaction is always, ‘I had no idea.’”

Lahl considers this fuel for her mission.

Over the past four years, she has released a trilogy of films exploring the dark side of third-party reproduction. In 2010, she released *Egg-exploitation*, which details the abuses young women suffer from egg trafficking. *Anonymous Father’s Day* (2011) chronicles the stories of sperm donors’ children. Her newest film, *Breeders: A Subclass of Women?*, exposes the hidden personal and social costs to women and children in surrogate arrangements.

Market Goods

One of the challenges to creating wider public awareness, Lahl says, is that people are only allowed to see happy surrogates. “If anybody raises any kind of question that things aren’t all right, it gets a lot of pushback from the industry and the

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*Jason Adkins, executive director,
Minnesota Catholic Conference*

people that seek to make a lot of money off of surrogacy,” she explains in *Breeders*.

The film also includes an interview with NOW’s Mona Lisa Wallace, who says the industry consists of “industrial human farms.”

It’s an accurate description, Sloan says. Surrogacy is modeled after the industrial factory farming of animals—including treating them as products,

pumping them full of synthetic hormones, pushing for the creation of saleable goods and casting them off when done. Such an approach, she says, “has tremendous consequences, whether (for) cattle, poultry or human women.”

Even worse, women can’t give informed consent “because they are not told that no long-term studies have been conducted on the long-term health risks associated with all these procedures,” she explains.

All of this is made possible by what Sloan calls a “class-based culture of entitlement.” Intended parents will incur total expenses of \$40,000 to \$120,000 by the time the child is delivered. An option only for the very wealthy, the practice exploits poor women by design—especially military wives (see “Serving God, Country—And Affluent Couples,” page 21).



RIGHT-LEFT PARTNERSHIP: Pro-life Christian Jennifer Lahl, right, of the Center for Bioethics and Culture often works with Kathleen Sloan of the National Organization for Women to blow the whistle on surrogacy.

For Sloan, money taints every aspect of surrogacy, including an otherwise natural desire to have children. Wealth gives a couple permission to “translate those desires into needs, and then those needs become rights,” she explains. “I desire to have a child, I have a right to a child, and if I have the money to buy one, then I’m entitled to do that.”

The problem, says Lahl, is that “nobody’s actually thinking, ‘Is this in the best interest of the child?’”

Breeders features testimony from psychologist Nancy Verrier, whose book *The Primal Wound: Understanding the Adopted Child* (Gateway Press, 1993) explores the impact separation from the birth mother has on adopted children.

“The child doesn’t care anything about the money. That’s not what hurts the baby,” Verrier

says. “The baby is hurt by the separation, by the loss of the mother that it knows. All the money being exchanged is just terrible, because you’re making children into commodities. You could almost say it is a form of slavery, you know, buying and selling them.”

Lahl calls the planned separation at birth in surrogacy “intentional not bonding,” but is careful to point out how this differs from adoption.

“With adoption, it’s a crisis, for whatever reason,” she explains. “So you are trying to deal with a situation that is less than ideal and mitigate the harm. We will always have a need for adoption because the world is the way that it is, but we don’t set out to create orphans. We don’t intentionally enter into relationships where we’re going to give a baby away.”

The Future is Now

The brave new world in which women become breeders and children are treated as consumable goods wasn’t created overnight. In many ways, surrogacy was born on July 25, 1978, when Louise Brown, the world’s first baby conceived through in vitro fertilization (IVF), was successfully brought to term, shocking the world.

But the shock wore off as fertility doctors began capitalizing on a lucrative new opportunity. IVF became standard; lab technicians could create embryos with eggs and sperm from anyone and implant them in any healthy woman’s uterus. For those with financial means, surrogacy promised an entirely new way

to have children.

In the intervening years, IVF has become big business. According to Allied Market Research, the global IVF industry was valued at \$9.3 billion in 2012.

Another research firm, Marketdata Enterprises, calculated the ART industry to be worth around \$4 billion in 2008 in the United States alone. Because of its lack of regulations, the U.S. is second only to India in providing surrogate mothers.

Marketdata estimates that “ART now produces more than 50,000 babies per year in the U.S. There are 483 U.S. fertility clinics, 100+ sperm banks, an unknown number of egg donors and 1,700 reproductive endocrinologists competing for the business, which is lucrative.”

Dial “M” for Murky

The thorny legal issues surrounding surrogacy first appeared with the “Baby M” case in New Jersey in 1987. A married couple, William and Elizabeth Stern, contracted with Mrs. Whitehead, a married mother of two, to carry and give birth to their child for \$10,000. Whitehead was inseminated with Stern’s sperm, and Baby M was born on March 27, 1986.

However, the Whiteheads grew uncomfortable with the idea of selling the child and wouldn’t release her to the Sterns. In the court case that followed, Judge Harvey Sorkow declared that the contract terminating Mrs. Whitehead’s parental rights was enforceable; the New Jersey Supreme Court reversed his decision in a 7-0 ruling on February 3, 1988.

Harold Cassidy, the Whiteheads’ lawyer, explained in *Public Discourse* in 2012 that “16 separate policies and statutory provisions were violated in Baby M. Today, gestational surrogacy arrangements violate those same policies and statutes.”

legislation actually is being drafted either by the fertility industry itself or by attorneys that stand to profit from legal issues surrounding the contracts. In Minnesota, the surrogacy bills Adkins and Leva opposed were drafted by attorneys from the family-law section of the state bar association. Adkins notes that the past president of the Minnesota State Bar is also legal director of the state’s largest gay-rights lobbying group. The conflict of interest, he says, is remarkable.

“They write these contracts, they do the litigation,” he explains. “There’s a lot of money at stake here. (Fertility) is a \$4 billion industry nationwide.”

Challenges Ahead

To counter the growing threat of surrogacy, pro-family leaders believe several key challenges

Surrogate arrangements are only a small part of ART, but experts say the numbers are growing. The Council for Responsible Genetics, a biotech-industry watchdog group based in Cambridge, Mass., reports that almost 1,400 children were born in the United States in 2008 through surrogates, nearly double the numbers of 2004.

Redefining the Family

With major policy battles on same-sex marriage and gender-identity laws raging nationwide, some might be tempted to overlook surrogacy as a real threat to the social order.

That would be a mistake, says Michael Hanby, who teaches religion and the philosophy of science at the Pontifical John Paul II Institute for Studies on Marriage and Family at the Catholic University of America. Anyone ignoring ART’s role in society today, he says, fails to perceive how the various anti-family agendas are feeding one another.

In *The Federalist* this February, he pointed out that same-sex couples need ART to keep “some form of the intrinsic connection between marriage, procreation and childrearing if they are really to be counted as marriage and to be truly ‘equal’ in the eyes of society and the law.”

Very soon, Hanby believes, ART will be seen not merely as a solution to infertility, but as a “normative form of reproduction” on par with natural procreation—or even an improvement on nature. “Yet if this is true,” he writes, “it follows that no great weight attaches to natural motherhood and fatherhood and that being born to a father and mother is inessential to what it means to be human, or even to the meaning of childhood and family.”

The further decoupling of natural procreation to the meaning of family concerns Adkins.

“Every child has the right to be conceived, carried in the womb, brought into the world and brought up within marriage,” he says.

As an attorney, he understands why surrogacy advocates are pushing to amend state laws: Without specific legal provisions, courts have no obligation to honor surrogacy contracts when there’s a dispute. Most intended parents will be reluctant to spend \$100,000 for a surrogate pregnancy without legal protections for their investment.

“When you legitimize the contract, then you create an environment where people can come here and make these contracts,” he explains. “Minnesota would then become a mecca (for surrogacy arrangements).”

Surrogacy redefines the family in law for everyone, but benefits only a few. Sloan says most surrogacy

must be addressed.

♦ **A divisive pro-life movement.** Gene Mills, president of the Louisiana Family Forum, has fought surrogacy bills in the state legislature for the past two years. Both were brought by pro-life Christians who had personal attachments to the surrogacy process. “In the whole area of IVF,” he tells *Citizen*, “there is no uniformity in the Christian community.”

Lahl encountered a similar situation in Kansas earlier this year. “Overwhelmingly, the majority of people that testified against me identified as Bible-believing, pro-life Christian and devout Catholics,” she recalls.

That’s why pro-lifers need to understand the eugenics inherent in IVF and surrogacy: The process is refined enough to create designer babies, to a degree. Embryos can be chosen by gender and those with Down syndrome or other perceived defects weeded out.

“I think you can easily make a Scriptural case for why the image of God is worthy of dignity,” Lahl says. “Jesus came in the womb—not as a surplus embryo in a freezer somewhere that was plopped into a surrogate.”

Lahl believes one reason for the confusion is that

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*Jennifer Lahl, president,
Center for Bioethics and Culture*

churches aren’t openly discussing these kinds of ethical issues.

“When does anyone hear a sermon preached on the barren womb?” she asks. “We have infertility right there in the beginning of Genesis, and what happens when Sarah goes outside her marriage to have that child she so desperately wants? It goes terribly wrong, but we don’t preach about these issues. We don’t talk about them, and we have this whole cafeteria menu of technologies that well-meaning Christians are just embracing and using.”

♦ **A better vocabulary.** Leva believes Christians have an essential role in the debate. Because the faith community serves a higher power, she says, “We have a responsibility to step forward and lead on this issue as opposed to sitting and watching from behind.”

Adkins hopes for greater creative thinking within the entire Christian community. “I think there’s a sense that we need fresher vocabulary for speaking about these things,” he says. “What we have been doing hasn’t always been working.”

♦ **A consumerist mindset.** One of the greatest challenges in changing the culture is finding a way to highlight surrogacy’s harms to those who have grown comfortable with a consumption-based society. Sloan says the commodification culture in the United States and our extreme emphasis on the individual is a “toxic combination when it comes to these kinds of issues.”

Adkins believes anti-family philosophies are already deeply ingrained in society, and aren’t unique to surrogacy. However, for him, surrogacy represents “a further manifestation of an atomized, contractual, libertarian society,



RECALLING THE PAIN: Heather—last name withheld—tells her story of serving as a surrogate for two different couples in the film *Breeders*.

where public policy exists simply to facilitate the free choices of individuals, and not look at the social costs or the harms (they) inflict on society at large.”

Moving Forward

Despite the overwhelming evidence of harm to women, children and society, family advocates say they are in an uphill fight. “Everybody’s got a story or knows a family member” who struggles with infertility, Mills says. “This is a very complicated issue. It touches people in a very personal way.”

As a result, Lahl says her mission goes beyond policy battles.

“A lot of times I don’t care so much about the laws as just educating people to do what’s right,” she explains. “Whether something is legal or illegal, shouldn’t we be motivated by doing what’s right?”

Leva believes information is the most important way to fight surrogacy. “It’s definitely going to take a massive education and outreach campaign, because this just isn’t something that’s on people’s radar screens,” she says.

Everyone agrees it will also take what Leva calls a “union of uncommon allies.”

“Working with our feminist friend was a very powerful thing because it caused people to really pay attention on both sides of the aisle,” she explains. “It also allows you to have a broader conversation about this because it is such a deep issue.”

Apart from public awareness, more legislative battles loom. Surrogacy bills have cropped up recently in Kansas, Louisiana, Maryland, Minnesota, New Hampshire, New Jersey, New York and the District of Columbia—and most are still being fought.

“The industry is like a hydra,” says Adkins. “It might get squelched for a time, but because of what’s at stake, it’s going to keep coming back.”

Nevertheless, success abroad gives hope for change in the United States. Most European nations, Canada and several countries in the Far East have already banned commercial surrogacy. Some still allow altruistic surrogacy, so long as no money is paid to the birth mother apart from medical costs.

Ultimately, Adkins believes Christians need to help people rediscover a true life ethic.

“Children are not an object to which we have a right. Children are a gift,” he explains. “And when we view them as gifts, we’ll recognize their dignity and their personhood and do things that serve their well-being.”

Serving God, Country— And Affluent Couples

Why are there so many advertisements for surrogate mothers in Stars and Stripes and other military media? The dirty little secret of the surrogacy industry, Sloan says, is that it targets women in need—and for many reasons, military wives are ideal suppliers.

- They are typically low-income, making them susceptible to financial inducements.
 - Their husbands are often deployed, which satisfies the gestational requirement of refraining from sexual activity.
 - They typically get married young and already have their own children, making them “proven breeders.”
- * Military culture emphasizes service to God and country. While their husbands are away, the wives can serve by helping a couple get a baby.*

“Creating and gestating children outside the context of a marriage between a man and a woman is deeply wrong and deeply troubling, and we need to think and pray long and hard as a society about that.” ■

FOR MORE INFORMATION

To learn more about the Center for Bioethics and Culture, its products and activities, visit www.cbcnetwork.org. The Council for Responsible Genetics’ report “Surrogacy in America,” can be found at <http://bit.ly/1nTRrF1>.

Daniel Weiss is the founder and president of The Brushfires Foundation, a non-profit ministry helping those impacted by sexual brokenness.