

**Testimony to Kansas Legislators Regarding Commercial Surrogacy**  
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My name is Kathleen Sloan and I am a life-long advocate of equality and justice for women. I am a member of the board of directors of the National Organization for Women (NOW), the oldest and largest feminist organization in the United States. I also represent the organization at the United Nations. For the last six years, I have worked on issues related to third party reproduction. As Program Director of the Council for Responsible Genetics, I developed extensive programming in the area of women and biotechnology and for the past two years, I have worked as a consultant to the Center for Bioethics and Culture. I am co-author of a call for an international declaration on global reproductive trafficking and its violations of human rights. I have written extensively and traveled around the country, speaking at the U.S. Capitol, state legislatures and universities against exploitation and commodification of women through commercial surrogacy and egg trafficking.

While not on the average person's radar, there has been an explosion in surrogacy and egg "donation" over the last decade. Mainstream media coverage of the subject always emphasizes the "gift of life" aspect but almost never the serious health risks to women or the commodification and exploitation of women that they represent.

In order to provide this "gift of life," a woman must undergo multiple injections of synthetic hormones and other drugs, along with surgery for egg retrieval or embryonic implantation that can have devastating long and short term health consequences. The short term dangers include ovarian hyperstimulation syndrome (OHSS), ovarian torsion, bleeding, infection, ruptured cysts, kidney failure, stroke, and even death. Two of the most serious long-term risks are future infertility and cancers, 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 their eggs or bodies 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 surrogacy or egg trafficking 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, legal and economic risks given the enormous profits generated. In fact, as one gazes out on this landscape of third party reproduction, the contours of a national disgrace and human rights violation are unavoidably clear.

It is estimated that nearly half of surrogates in the U.S. are “military wives” who represent an ideal supply source for brokers and clinics. They are low income 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.

Society has barely begun to grapple with the issues surrogacy raises. 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 moral ramifications of the further commodification of women and their bodies – beyond universal sexual commodification; exploitation of poor and low income women; 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; prosecution and prevention of fraud by surrogacy brokers; 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 businesses 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.

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. Within the framework of commercial surrogacy, the contract is always biased in favor of the financially secure intended parents. The freedom of the surrogate mother is an illusion; the arbitration of rights hides central social and class issues that make surrogacy contracts possible.

Deep regulatory divides have fueled a growing global market in which the economically privileged 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 have become pervasive international phenomena in which women's poverty and subordinate status in the United States and throughout the world, increase their exposure to gender-based exploitation and physical and emotional harms.

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 of women's humanity, wholeness, physical, emotional and spiritual inviolability. If you care about women, their health, and their rights as equal human beings, you must not support their exploitation as disposable commodities.

## Support Surrogacy? Think Again

- Unequal relationships between the buyers (intended parents) and the women who rent their bodies, favor the needs and desires of the buyers. These unequal transactions, in the absence of regulation of the fertility industry, result in inadequate “informed” consent, low payments, coercion, poor health care, and severe risks to their short and long-term health.
- Surrogacy is a stark manifestation of the commodification of women and their bodies. Surrogate services are advertised, surrogates are recruited, and operating businesses make large profits. The commercialism of surrogacy raises the specter of baby selling and breeding farms, turning impoverished women into baby producers. Pregnancy is reduced to a service and babies to products, an entitlement for the financially well-off.
- In the United States, there is no national regulation of surrogacy. For this reason, the U.S. is second only to India world-wide in the supply of surrogates.
- The list of health risks associated with surrogacy procedures reads like a horror novel. They include:
  1. Multiple injections of synthetic hormones and other drugs may cause ovarian hyperstimulation syndrome (OHSS), ovarian torsion, bleeding, infection, ruptured cysts, kidney failure, stroke, and even death.
  2. Two of the most serious long-term risks are future infertility and cancers, most commonly ovarian, breast and endometrial.
  3. Risks to both the pregnant woman and developing fetus of multiple embryos implanted in her uterus, frequently practiced in surrogacy to maximize the chances of a successful birth of a child. In the absence of regulation, there are no caps to the number of embryos implanted in the U.S.
  4. Surrogates are frequently subjected to severe physical tests and exams *even before* a contract is executed. The lack of regulation allows agencies and intended parents to require multiple, unnecessary tests.
  5. Surrogates are pumped with hormones and drugs such as Lupron which is *not* FDA approved for fertility use, estrogen which is linked to breast and uterine cancers, heart attack, stroke and blood clots, progesterone, antibiotics and steroids which are linked to high blood pressure, glaucoma, cataracts, peptic ulceration, and impaired immune system.
- A vast \$6 billion fertility industrial-complex operates unregulated, including fertility hormone manufacturers, harvesters of renewable resources (eggs & sperm), international trade (foreign adoptions), expert services (IVF & high tech medicine), long-term storage (embryo banks), legal experts, surrogate matching agencies, and rental real estate (surrogates).
- Surrogacy exploits poor, low income and otherwise financially vulnerable women.