



University of HUDDERSFIELD

University of Huddersfield Repository

Blyth, Eric

Baby Gammy: the responsibilities of ART professionals in international surrogacy

Original Citation

Blyth, Eric (2014) Baby Gammy: the responsibilities of ART professionals in international surrogacy. *BioNews* (767).

This version is available at <http://eprints.hud.ac.uk/id/eprint/21388/>

The University Repository is a digital collection of the research output of the University, available on Open Access. Copyright and Moral Rights for the items on this site are retained by the individual author and/or other copyright owners. Users may access full items free of charge; copies of full text items generally can be reproduced, displayed or performed and given to third parties in any format or medium for personal research or study, educational or not-for-profit purposes without prior permission or charge, provided:

- The authors, title and full bibliographic details is credited in any copy;
- A hyperlink and/or URL is included for the original metadata page; and
- The content is not changed in any way.

For more information, including our policy and submission procedure, please contact the Repository Team at: E.mailbox@hud.ac.uk.

<http://eprints.hud.ac.uk/>

Blyth, E. (2014) Baby Gammy: the responsibilities of ART professionals in international surrogacy. *BioNews* 767 18 August.

http://www.bionews.org.uk/page_446406.asp

The 'Baby Gammy' case has sparked worldwide interest and comment. At the time of writing at least some of the 'facts' of what happened, when, and why remain contested. However, as Sascha Callaghan and Ainsley Newson note in their commentary (see *BioNews* 766), the case highlights troubling issues that have been exercising the minds of some of us for some time (1-4).

Among the key questions that Callaghan and Newson ask are: whether it is 'reasonable [for rich countries] to outsource reproductive requirements to countries where women from deprived backgrounds can obtain a slice of the baby marketplace?' and 'whether selling reproductive services between countries is moral?'; the latter begging the question of whether selling reproductive services anywhere is moral.

While the 'Baby Gammy case' has unleashed global outrage, it would be naïve to think that any national or international body is going to take action soon to address the problems associated with international surrogacy. In 2011, the Hague Conference on International Private Law began to consider the possibility of drawing up internally accepted standards and regulations for international surrogacy similar to those in operation for international adoption (5). However, the formulation of such regulations, if they ever materialise, is a long-term rather than a short-term undertaking (6-8), with the Conference deferring until Spring 2015 a decision on whether and how to pursue this project.

In the meantime, given the divergence of regulatory arrangements between different countries (where they exist), unilateral action by individual governments is likely to perpetuate or aggravate existing problems that have resulted in commissioning parents and babies being stranded – sometimes for years – in both geographical and legal limbo. In the UK, proposals to reform the well-intentioned but ill-conceived laws on domestic surrogacy by removing some of the 'push' factors that drive the international surrogacy market, by legitimising domestic commercial surrogacy, relaxing the requirements for granting a Parental Order, or reducing the rights of surrogates through the introduction of binding pre-conception contracts and transferring legal parentage earlier, are likely to bring about their own problems.

Regardless of their partiality to external regulation, a number of major fertility professional bodies, such as the American Society for Reproductive Medicine, British Fertility Society, European Society for Human Reproduction and Embryology, and the Fertility Society of Australia, nevertheless recognise that

responsible fertility care involves paying due regard to the interests of fertility patients, donors (in this case also including surrogates) and children born as a result of fertility procedures. While there will continue to be debate about the precise parameters of such interests (for example, whether the interests of children born as a result of fertility procedures can be secured where they are prevented from knowing the identity of genetic parents or where their conception has been the result of a commercial transaction), there should be little argument with the fundamental principle of 'First do no harm'. Most surrogacy arrangements involve gestational surrogacy and are therefore dependent on the services of an IVF clinic, with attendant professional staff.

Professional bodies and leaders in the field have both the opportunity and the responsibility to be proactive in promoting acceptable standards of care for patients, donors, surrogates and children, wherever IVF services are provided. They can do this by raising these issues as a matter of priority within the global umbrella body, the International Federation of Fertility Societies.

SOURCES & REFERENCES

1) Palattiyil G, Blyth E, Sidhva D and Balakrishnan, G. Globalisation and cross-border reproductive services: ethical implications of surrogacy in India for social work.

International Social Work | 2010

2) Thorn P, Wischmann T, and Blyth E. Cross border reproductive services – suggestions for ethically based minimum standards of care in Europe.

Journal of Psychosomatic Obstetrics and Gynecology | 03/2012

3) Blyth E, Crawshaw M, and van den Akker O. What are the best interests of the child in international surrogacy?

BioNews | 17 December 2014

4) Crawshaw M, Fronck P, Blyth E and Elvin A. What are children's 'best interests' in international surrogacy?

British Association of Social Workers | 01 July 2014

5) Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements

Hague Conference on International Private Law | 2011

6) A preliminary report on the issues arising from international surrogacy arrangements.

Hague Conference on International Private Law | 2012

7) The desirability and feasibility of further work on the Parentage/Surrogacy Project

Hague Conference on International Private Law | 2014

8) Study of Legal Parentage and the issues arising from International Surrogacy Arrangements.

Hague Conference on International Private Law | 2014

RELATED ARTICLES FROM THE BIONEWS ARCHIVE

Surrogacy, motherhood and Baby Gammy

11 August 2014 - by [Sascha Callaghan and Ainsley Newson](#)

The story of the baby with Down's syndrome 'abandoned' in Thailand, which has dominated the news, illustrates how the international surrogacy industry has been booming... [\[Read More\]](#)

Surrogacy: Confusion amid reports of boy 'abandoned' by intended parents

04 August 2014 - by [Antony Blackburn-Starza](#)

A child with Down's syndrome born to a Thai surrogate is reported to have been abandoned by the intended parents, an Australian couple, who have denied the allegations. Conflicting versions of the developing story have been reported....

[\[Read More\]](#)