Shanley, Mary Lyndon, and Sujatha Jesudason. "Surrogacy: Reinscribing or pluralizing understandings of *family*?" *Families – Beyond the Nuclear Ideal*. Ed. Daniela Cutas and Sarah Chan. London: Bloomsbury Academic, 2012. 110–122. Science, Ethics and Society. *Bloomsbury Collections*. Web. 26 Apr. 2023. <<http://dx.doi.org/10.5040/9781780930114.ch-008>>.

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Surrogacy

Reinscribing or pluralizing understandings of *family*?

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Introduction

Surrogacy – the practice whereby a woman agrees to bear a child that she will relinquish at birth to the intended parent(s) who commissioned her pregnancy – may seem either to reinforce the norm of the genetically based nuclear family or radically to reshape dominant understandings of ‘family’. In the relatively short span of twenty-five years since surrogacy entered the world of infertility treatment, it has gone from being regarded as a vehicle for heterosexual married couples to form a family that resembles as closely as possible the one that would have been formed through sexual relations between the parents, to being a potential means for expanding the array of families and family-like relationships.

Given the depth and rapidity of these changes, it is not surprising that the ways people understand the place of surrogacy in family formation is by no means uncomplicated or uncontested. These anxieties and concerns extend across the political spectrum and confound the usual divisions of ‘left’ and ‘right’, ‘progressive’ and ‘conservative’. Some social conservatives who seek to maintain the family as a lifelong union between a man and a woman and their biological or adopted children see the use of surrogates by married couples as a way to bring a ‘priceless child’ into a family. And some feminists and queer theorists who are happy to break down what they see as the exclusionary and repressive structures of the heterosexual nuclear family reject surrogacy on one or more of the grounds that it oppresses women, commodifies what should not be for sale, overvalues the genetic tie, reinforces class and racial privilege, and ignores children’s wellbeing.

The apprehensions about surrogacy, on both the right and the left, signal uncertainty about the norms and boundaries society places on definitions of family and family formation practices, and we should pay close attention to the disquiet they invoke. What people think affects what they – and society – do, and what people do affects how they – and society – think. We agree with

Valerie Hartouni that 'the issue with respect to the panoply of new reproductive practices and processes is not whether these new practices are good or bad; [but] rather, how we should think them and how they will think us' (Hartouni 1997: 132, quoting Marilyn Strathern). Whether surrogacy leads to a re-inscription or expansion of the traditional nuclear family will depend on the practices and regulations that stem from our collective understanding.

In shaping that understanding it is crucial that theorists, practitioners, and policy-makers listen carefully to those directly engaged in surrogacy: the intended parents, the surrogates, the egg and sperm (gamete) donors, and offspring. Until more of their accounts and reflections on their experience are available, our thoughts are provisional, but there is enough material on surrogacy to indicate directions in which exploration is needed. Our examination of surrogacy here is rooted in the American context; while urgent and important attention needs to be paid to cross border surrogacy practices and arrangements, that analysis requires attention to globalization, power disparities, gender relations and cultural clashes in more ways than we can undertake here.

We contend that society should regard surrogacy as akin to other practices like adoption, step parenting, parenting in blended families, co-parenting in same-sex families, and foster parenting; all of these create parent-child relationships other than through sexual coitus, and reconfigure to some extent the traditional nuclear family. By contrast, when surrogacy is used to imitate the traditional family it moves into troubling territory. There is a risk of undervaluing the gestational labour and caregiving relationship between the surrogate and fetus. Whole new sets of relationship are being created through surrogacy that we are just beginning to understand: relationships between surrogates and intended parents, between the surrogate and the fetus, between the gamete donors and future child, and between the surrogate's family and the intended parents and future child.

To be forthright about our own position, we do not think that surrogacy is inevitably or inherently unethical, but find that current ways of conceptualizing and understanding what surrogacy 'is about' run grave risks of contributing to the exploitation of individual surrogates and the oppression of women as a group, and are often inadequate, misleading and harmful representations of the human relationships and responsibilities entailed in this kind of family formation. We begin our discussion by noting the consequences of the fact that much of the discourse about surrogacy is shaped by the medical context that focuses attention on the medical treatment of infertility rather than on the social issue of family formation. This framework also influences legal discourse that examines the ethics and logistics of assigning legal parenthood in surrogate arrangements. Medical and legal discourses encourage a view of surrogacy as a contractual agreement between individuals or as a 'gift of life'. Both these conceptualizations focus on adult individuals and fail to capture the complexity of the relationships among intentional parents, surrogate

(and her family), and the person who will come into being as a result of their joint actions. We argue that a different framework is needed, one that draws attention to the profound interconnectedness, relationship and dependency that surrogacy involves; focuses on the wellbeing of the child; and publicly affirms a pluralism of family forms.

Traditional frameworks: Contract and gift

Heterosexual couples turn to surrogacy in the course of medical treatment for biological infertility either because the woman lacks a womb or has suffered repeated miscarriages, and gay couples or single men turn to surrogacy to deal with what has become known as ‘social infertility’, their inability to have a biologically related child without a gestational surrogate and in some cases gamete donor(s). Likening it to ‘The Inferno’, Melanie Thernstrom described her struggle with infertility as finding herself in a ‘dark woods, the right road lost’ (Thernstrom 2010, 30). For people like her, surrogacy is usually the ‘last resort’ to bring a child into a family.

People either find a surrogate themselves (sometimes a friend or relative) or work through an agency that screens applicants and creates dossiers from which intended parents select a candidate. The intended parents often meet the selected surrogate (and perhaps her husband and children) in person. They settle on a fee (typically \$30,00–\$60,000), and draw up a contract. The contract may state expectations concerning ‘lifestyle’ issues like diet, smoking, exercise, and travel, and more serious matters such as whether the couple or surrogate may request (or demand) termination of a pregnancy. The surrogate then enters the medical realm for the testing, hormone injections, embryo transfer, and post-transfer monitoring.

Doctors whose practice includes in vitro fertilisation (IVF) and surrogacy understand themselves to be bound by the norms of medical ethics. Psychological evaluation and counselling for all parties seem warranted in order to insure fully informed consent. The American College of Obstetricians and Gynecologists argues that it is imperative that both the commissioning parents and the surrogate have separate legal counsel, since ‘unless independent legal representation and mental health counselling are mandated, women serving as surrogate mothers may be particularly vulnerable to being exploited’ (ACOG 2008, 3). Some people suggest that the surrogate have her own doctor monitor the pregnancy, since the intended parents’ doctor, in an effort to achieve a birth, might tolerate risks that the surrogate’s physician might not accept.

It is important to note that the focus of all these proposals is on forging a mutually acceptable agreement among adults. The biomedical solution to the unfulfilled longing to raise a child makes ‘patients’ of both intended parents and surrogate (and gamete providers, if any) (Mamo 2007), and the role of

ethicists and oversight bodies (medical associations, bar associations, the state) is to insure that the participants be protected from harm and that their consent be fully informed and not subject to any kind of coercion. The background picture or understanding of what is going on is the coming together of rational and self-interested parties to agree on the terms of their cooperation and future action. Medical regulation of assisted reproductive technologies (ARTs), Naomi Cahn remarks, are ‘focused on gamete safety or truth in advertising, [and] cater only to the parents as patients, not to the families they are creating’ (Cahn 2012: 49). Because egg extraction, IVF, and introduction of the embryo into another woman’s womb are medical procedures, it is easy to overlook the fact that the *goal* of treatment is not medical (these procedures do not after all, ‘cure’ infertility), but rather social – the establishment of a parent-child relationship.

In addition to articulating expectations, anticipating disagreement, and avoiding discord, the surrogacy contract is intended to make it clear that the surrogate is not assuming the role of a ‘mother’, and to establish the new family on firm ground. This is a significant departure from both cultural and legal traditions that regarded the woman who gave birth as the child’s mother. By contrast, the surrogacy contract specifies that the intended parents will be the child’s legal parents and the contract is the instrument by which motherhood is transferred from the woman who has borne, to the woman who will raise, the child.

In the early days of surrogacy, married heterosexual couples turned to alternative insemination to have the surrogate conceive using the husband’s sperm; the surrogate therefore had both a genetic and gestational tie to the fetus. (Some critics argued that a surrogate should not be called a ‘surrogate mother’ but rather a ‘surrogate wife’.) In the ‘Baby M’ case, the New Jersey Supreme Court ruled that the surrogate mother, Mary Beth Whitehead, and the intended father, William Stern, were the legal parents of the child, citing the fact that Whitehead was the genetic as well as the gestational mother. The judge granted custody to Stern and his wife Elizabeth, and visitation rights to Whitehead, based on his perception of the best interests of the child. But as gestational surrogacy has eliminated the genetic tie between surrogate and fetus, the surrogate’s claim to be recognised as a legal parent has diminished; gestation is characterized as a kind of labour and the surrogacy contract as an employment contract.

Concerns about the ethics of surrogacy have grappled with the assignment of parental rights through contract from the outset. Barbara Katz Rothman condemns contract pregnancy as a manifestation of ‘liberal philosophy [that] is an articulation of the values of technological society, [reflecting] the vision of everything, including our very selves, as resources’ (Rothman 1989: 63). Selling reproductive labour risks turning a woman into simply a vessel or carrier, distorting or denying the bonds (physical, psychological, and emotional)

between mother and fetus (Anderson 1990: 81). Even without a genetic link between surrogate and fetus, argues Carole Pateman, the 'logic of contract as exhibited in surrogate motherhood' is to 'sweep away any intrinsic relation between the female owner, her body and reproductive capacities', an extreme instance of the alienation of the self entailed in wage labour (Pateman 1988: 216). Against this position, other feminists like Debra Satz argue that people who 'conceptualize the problem with pregnancy contracts in terms of the degradation of the mother-fetus relations' often read into the social practice of pregnancy a 'maternal instinct, a sacrosanct bonding that takes place between a mother and her child-to-be' (Satz 2010: 22). Satz insists that this essentializes both women and mothers; not all women want to become mothers, and not all mothers feel an indissoluble or sacred bond to their fetuses or children. Rather, both having and raising children are not simply 'natural' functions for women, but should be the result of conscious and informed decisions that effect not only their bodily experience, but also of their life's trajectory.

The role of liberal ideology and 'contract' in legitimating contracts for procreation, and in creating and sustaining the distinction between gestational surrogate and 'mother', is striking. The surrogacy contract relies on individual choice, consent and market mechanisms to create a framework that makes assigning legal parenthood predictable and unambiguous. Charis Thompson captures the way in which liberal premises make the transmission of parenthood from gestational surrogate to intended parents possible in her account of the surrogacy agreement between intended parents, Ute and her husband, and the gestational surrogate, Vanessa. Ute and her husband took Vanessa out for meals and bought her fancy clothes during her pregnancy; Vanessa spoke of how exhilarating the intimacy with the couple was during the pregnancy. But after birth Ute and her husband gradually cut off their relationship with Vanessa. Thompson comments that they regarded their relationship to Vanessa as a labour contract regulated by the norms of capitalism: they paid Vanessa and appropriated the product of her reproductive labour, the baby. '[O]nce the baby was born, Vanessa was in many ways just like any other instrumental intermediary that had been involved in establishing the pregnancy, such as the embryologist or even the petri dish. ... Because she had been commercially contracted, the logic of disconnection was the same' (Thompson 2005: 165). In her study of surrogacy, anthropologist Hélena Ragoné speculated that the primacy of the 'hegemonic biogenetic model of kinship' (the 'blood tie') in US ideologies of kinship made intended parents more solicitous of and likely to maintain contact with traditional surrogates than with gestational surrogates (Ragoné 1999: 74–76). The trend to gestational surrogacy could therefore promote the notion that once the contract is fulfilled a 'clean break' between surrogate and the intentional parents' family is appropriate.

Arms-length liberal market transactions do not always remain arms-length, however, and create highly complex human relationships. Despite the crucial

role of the surrogacy contract, both surrogates and intended parents use the language of 'gift' to describe the nature of the surrogate's contribution. One intended mother wrote that she 'kept having this random baby fantasy that M is pregnant during Christmas time and I wake up Christmas morning to a phone call from her in which she plays our baby's heartbeat for us. There is nothing greater that could be under the Christmas tree' (Sara 10/13/09 <http://mumbaimaybe.blogspot.com/>). Surrogates also use the language of gift because 'it reinforces the idea that having a child for someone is an act that cannot be compensated' (Ragoné 1999: 71). Ragoné speculates that surrogates speak of their gift to the intended parents because 'gift' suggests that the relationship survives despite the monetary exchange. 'Even though surrogates are discouraged from thinking of their relationship to the couple as a permanent one, surrogates recognise that they are creating a state of enduring solidarity between themselves and their couples' (Ragoné 1999: 71). And in acknowledging that the surrogate is giving them the 'gift' of a child, the intended parents seem to 'accept a permanent state of indebtedness to their surrogate' (Ragoné 1999: 72).

It is crucial to recognise that neither the language of 'choice' – central to our society's understanding of contract – nor the language of 'gift' does away with the enormous disparity in economic status between most surrogates and intended parents. Women who become surrogates in the US are not desperately poor (because intentional parents want women who are in good health and with whom they feel comfortable, and class is relevant to both these considerations). But a payment of \$30,000 is a significant enticement to a potential surrogate. Because surrogacy is not covered by medical insurance, the out-of-pocket cost of at least \$100,000 to the intentional parents means that it is a practice only the rich can afford. Money translates into political and social resources and power, and the disparity of wealth means that the intentional parents have many more resources to enforce their will than does the surrogate. (Economic disparity is far greater and so more worrisome in most inter-country surrogacy.) Additionally, in traditional surrogacy, intentional parents sought surrogates of their race; with gestational surrogacy a woman of any race will do since the physical characteristics of the surrogate will not be passed on to the child. Clearly the demands of social justice require that surrogacy be regulated in order to limit the vulnerability of surrogates and of the persons who come into being as a result of surrogacy (ACRJ 2005). To conceptualize surrogacy adequately more is needed than choosing between the competing images of surrogacy that portray it as a free market transaction or a priceless gift (understood by different commentators as either contributing to women's autonomy or their oppression). Fortunately, new understandings that attend to the complex relationships formed by surrogacy, to the wellbeing of the future person, and to the new family form that surrogacy creates are emerging, in large part from participants themselves.

Emergent frameworks: Collaboration and care

Thinking about surrogacy not as just a strategy for ‘solving’ infertility and creating a legal parent-child relationship for the intended parents brings into focus often overlooked dimensions of the practice. Both intended parents and surrogates regard the surrogate’s ‘job’ as protecting and nurturing a developing life before separating from it at birth. Bringing someone into being through IVF and gestational surrogacy is an act both of production using raw materials (gametes), technology and incubation, and also of caregiving. To provide that care requires the cooperation and collaboration of intended parents and surrogate akin to that in other non-traditional, non-nuclear families, and suggests the need for both specific medical and legal regulations regarding the formation of families by surrogacy.

The distancing that takes place through the medicalization of surrogacy and the contracting of the surrogate’s body and labour is complicated by the fact that the ‘product’ of the labour is a human being who develops not simply within but as part of the surrogate’s body. Our everyday language reflects the distinctness of mother and fetus when it says that pregnant women are ‘expecting’ the babies that doctors ‘deliver’ to them (Rothman 1989: 100; Young 1990: 167). Pregnant woman and fetus, however, are not yet, or are not in every way, distinct entities; nor are they the same. Adrienne Rich describes the fluidity of the boundary between self and other during pregnancy: ‘In early pregnancy, the stirring of the foetus felt like ghostly tremors of my own body, later like the movements of a being imprisoned within me; but both sensations were my sensations, contributing to my own sense of physical and psychic space’ (Rich 1976: 47). Iris Young points out that the pregnant woman ‘experiences herself as a source and participant in a creative process. Though she does not plan and direct it, neither does it merely wash over her; rather, she is this process, this change’ (Young 1990: 167). Mother and fetus are connected through placental tissue and a constant exchange of blood and body fluids. They are at one and the same time distinct and interrelated entities, and during the period of gestation the woman’s wellbeing and that of the fetus are inextricably related. In order to take care of their child, the intended parents must promote the wellbeing of the surrogate.

We don’t yet have the language to describe the many new relationships that form during surrogacy between gamete donors, parents, children and surrogates. For example, Melanie Thernstrom calls her egg donor ‘Fairy Goddonor’ and suggests labelling the relationship between the surrogates’ children and her children born through surrogacy ‘gestational siblings’, ‘they don’t share a mother, father or genes, but they were carried in the same body and they learned its fathomless chemical language’ (Thernstrom 2011: 33).

The closest many surrogates come to describing the relationship between themselves and the child born is that of an aunt with her nephew or niece, or a friend’s child. Surrogate Mom writes in her blog, ‘Do I love the first little

boy I gave birth to? Absolutely! But like an aunt loves her nephew. I'll spoil him when I see him and on birthdays and holidays... but beyond that I'm not worried about him' (Surrogate Mom 01/29/10 <http://surrolife.blogspot.com/>). TXSurromom uses a similar image: 'I respect any IPs [intended parents] that need their privacy afterwards (although I'm secretly thrilled that E&J want me to be sort of aunt-like figure!) but it warms my heart to know that I'll get to see their baby hit his/her milestones!' (TXSurromom 06/29/10 <http://www.txsurromom.blogspot.com/>). Of course, although these surrogates hope to be an 'aunt-like figure' in the child's life, they have no control over what the relationship will be in the future, and might find themselves being treated as an 'instrumental intermediary' once the baby is born.

Jennifer Parks suggests that caregiving activity should include both of the intended parents (not simply the intended mother) spending time with the pregnant woman during the course of the pregnancy. While Parks is writing about intercountry surrogacy, her observations are relevant to domestic arrangements as well:

On one account, the couple forms a contract with the relevant parties, makes payment, and returns to their home country until the point of birth, at which time they go back to pick up the 'product' of their contract. On another account, the couple develop a relationship with the surrogate, providing not just monetary, but other forms of support; they are physically present for periods of the pregnancy. The attitude of care and concern for their surrogate and their child is instantiated in their physical presence, and establishes (for emotional, relational, as well as legal purposes) the fact of their intention to parent. Such actions recognise that the story that will be told to their child one day could significantly impact his or her identity: a couple cannot simply claim 'we wanted you and welcomed you', but have to express that moral attitude in action. Being present and available for the pregnant surrogate long before the point of birth establishes the child-to-be as a particular other to whom the commissioning couple have an obligation of care and concern. (Parks 2010, 337–38)

The reasons to care for the surrogate during pregnancy have to do with both her (and therefore the fetus's) physical wellbeing, and with the psychological and emotional wellbeing of all parties engaged in this collaboration to create a new family.

Parks' consideration of the 'narrative difference' the commissioning couple's physical presence during pregnancy makes for those who are born from a surrogacy arrangement brings those persons – who are far too often ignored in discussions – into sharp focus. In thinking about their possible concerns and interests, it is important to keep in mind that they are not simply 'children', but persons who will become adults for whom personal and social identity are of life-long importance.

Two interests of these offspring cry out for recognition and regulations: they have a right to full information about those who contributed to their conception and birth, and to parent(s) who are unquestionably legally responsible for them. Adult adoptees have performed valuable service in

making the public aware of the importance of open records; recently, a lawsuit in British Columbia declared that donor conceived offspring have equal rights with adoptees to know their genetic forebears (*Pratten v. British Columbia* 2011). In 2011, Washington became the first US state to ban anonymous sperm and egg donation. When offspring conceived from Washington sperm and egg donation banks or agencies reach age eighteen they can access their donors' medical histories and their full names, unless a donor has specifically refused to have his or her name released. While secrecy or deception about whether a surrogate bore the child is unlikely (the fact that the child's mother was not pregnant is obvious), offspring should have a right to learn not only the fact that they were carried by a surrogate, but also the identity of the surrogate and of any gamete provider. As Parks argues, the child born of surrogacy deserves 'the same opportunity to be enveloped in a family history and narrative as their naturally conceived counterparts', a narrative that begins not at birth but well before. It is not simply medical information that is at stake, but a full sense of social location (Blythe and Firth 2009; Ravitsky 2010). Melanie Thernstrom points out that the family narrative can be important to the parents as well: 'When I tried to think about why I don't want to have donor-and-surrogacy amnesia, it isn't that it seems unfair to them (although it is), but that it erases our own experience of how our children came to be' (Thernstrom 2011: 43).

Persons born through surrogacy also have a right to legally recognised parents. In many jurisdictions legal parentage is clear, but some states do not have statutes that assign legal parentage in surrogacy. It is crucial to have the intentional parents be unequivocally responsible for the person from the moment of birth; cases continue to arise in which intended parents refuse to take custody because of a change of mind or marital status, or because of a disability in the child. (And in Michigan, a surrogate challenged the parental rights of an intended mother months after birth because she learned the mother suffered from mental illness.) One of us argued twenty years ago that surrogacy contracts should be unenforceable if the surrogate changed her mind during pregnancy or immediately after giving birth due to intense bonding with the child (Shanley 1995). This may still be desirable as a way to insist on the significance of the embodied relationship during pregnancy, but both of us now prefer trying to devise other ways to recognise the surrogate's labour, her dignity, and her relationship to the fetus/child/adult.

Numerous accounts from participants in surrogacy suggest that clarity about the rights and responsibilities of intended parents can occur along with a positive relationship between intentional parents and surrogate. Many surrogates and intentional parents regard themselves as involved in a new process of *family formation*. Their 'extended family' relationship can begin at the time of conception or at the initial contact between commissioning parents and surrogate. Alexandra Kuczynski was present at the embryo transfer and accompanied Cathy, the surrogate, to doctor's appointments throughout the

pregnancy. Cathy, for her part, invited Alex to feel the baby move in her uterus and consistently referred to her as the 'Mama' during pregnancy (Kuczynski 2008: 64). Kuczynski comments, 'I searched the literature for a way to understand our relationship, one that is unprecedented in the history of human association ... When Cathy told me that she considered the couple for whom she gave birth a year earlier as close as extended family, I wondered: Do we all have to have Thanksgiving together? If so, for how many years? And which husband carves the turkey?' (Kuczynski 2008: 74).

The new kinds of relationships intended parents and surrogates are forging bear some resemblance to those between adoptive parents and birth mothers in open adoption. The movement for open adoption that began in the 1970s insisted on opening records and facilitating contact between relinquishing parent(s) and child. Open adoption focuses attention on the child's interest in a full narrative of his or her origin. The language and imagery of 'gift' has been central in open adoption, portraying the birth mother as an agent capable of making responsible and informed decisions concerning her offspring (Modell 1999; Yngvesson 1997, 2002; Cahn 2012). Judith Modell observes that 'the adopted child in an open arrangement is alienated neither from his blood parent nor from his legal parent' (Modell 1999: 40). Open adoption entails not a one-time transfer of the child from one 'owner' to another, but rather makes possible ongoing relationships of 'reciprocity, gratitude, responsibility, and compulsory solidarity' (Modell 1999: 57). Surrogacy arrangements that recognise the collaborative basis of the process of family formation join adoptive families in advancing the acceptance of diverse family forms, and insisting that the moral imperative of both these practices is not to supply a child to needy adults but rather to provide legal parents and stable homes to all children.

Foster parenting does not transfer the status of legal parent to the foster parents but is a powerful reminder both of society's obligation to provide care for children and of adults' capacity to act cooperatively on behalf of children. Despite the fact that foster families are most frequently in the public eye when they are the site of abuse or neglect, many foster homes provide children with the physical and emotional care they need to thrive (Wozniak 1999). Blended families, step-families, and multi-generational households all show that more than two adults can be in significant relationships with a child. Some scholars call for some kind of legal status (not parental rights and responsibilities, but perhaps visitation rights) for significant 'other' adults in a child's life: 'Legally recognising a plurality of parental relationships may go a long way towards valuing and validating a variety of relationships valued by both adults and children and may move us away from viewing children as entities over whom adults should be driven to seek exclusive possession' (Narayan 1999: 86). Whether or how the law might acknowledge adults-child relationships other than those of the custodial parents is beyond the purview of this chapter, but our discussion shows that cabining 'the family' generated by surrogacy into

a model of the two-parent nuclear family fails to capture the nature of the complex relationships that surrogacy entails and to recognise that many other families chafe against this normative framework as well.

Conclusion

Surrogacy is a still new, and complicated, arrangement for family formation. Instead of the traditional man and woman engaging in heterosexual intercourse to produce a child, bringing a child into the world through surrogacy minimally involves intended parents, a surrogate, gamete donor(s), and the surrogate's family, in addition to surrogacy agencies, lawyers, nurses and fertility doctors. Negotiating and managing these relationships require breaking new ground and creating new practices and understanding, which is impossible when people cling to the notion that surrogacy is simply a variation on traditional family formation. As Melanie Thernstrom notes,

If you consider third-party reproduction to be simply a production detail in the creation of a conventional nuclear family – a service performed and forgotten – then acknowledging the importance of outsiders could make it all seem like a house of cards. But if you conceive of the experience as creating a kind of extended family, in which you have chosen to be related to these people through your children, it feels very rich. (Thernstrom 2011: 44–45)

To account satisfactorily for the intricacies and needs of this experience, we must first abandon the goal of making all families conform as closely as possible to the nuclear heterosexual family. It is only then that we acknowledge the extraordinary interdependency, caregiving, and ongoing connection that surrogacy requires. The discourse and practice of surrogacy will probably always vacillate between oppressive and free labour, biological and social ties, contract and gift, and autonomy and interdependence. Participants, medical and legal professionals, ethicists, and activists and theorists must continually engage the tensions generated by this method of forming families, creating and recreating new meaning and practices. But if we maintain a focus on the social relationships of all those involved – gamete donors, surrogates, intended parents and future children – we can more accurately recognise these emerging and diverse family formation relationships.

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