

## **Surrogacy motherhood –a global trade with women’s bodies**

*Discussions about surrogacy and its consequences for the surrogacy mother are relatively new. Most European countries do not have regulations or legislations on the issue. There is a need for an exchange of information and experiences to strengthen our knowledge and our arguments.*

### **The position of the Swedish Women’s Lobby**

The Swedish Women’s Lobby strongly opposes surrogacy motherhood. Our position is that surrogacy is a trade with women’s bodies and children, as well as a threat to women’s basic human rights and bodily integrity. In a joint statement at our General Assembly in 2011, the Swedish Women’s Lobby and its member organizations declared our support for the European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women ([2010/2209\(INI\)](#)). The resolution adopted states that surrogacy is an exploitation of the woman’s body and her reproductive organs.

### **Sweden and surrogacy – why we have reason to worry**

Surrogacy is presently not legal in Sweden. However there is no legislation that regulates the fact that Swedish citizens use surrogacy mothers abroad, and that children born this way have been brought to Sweden. In the last couple of years the issue has been up for debate and the Swedish government has issued an investigation to examine the possibilities of surrogacy in Sweden. The investigation is expected to be presented sometime during the summer.

Ahead of the investigation a tendency of how the issue will be framed has been observed in the public debate. In March this year, the Swedish Medical-Ethical Council commented on the report. A majority of the members declared that they were positive towards the possibility of opening up for altruistic surrogacy motherhood in Sweden.

The Swedish Women’s Lobby has reacted to this position. We have expressed concern about their unproblematic understanding of altruistic surrogacy, as well as the fact that the preparation of the investigation has been placed at the Ministry of Justice with reference to the regulation of the parental status. There is a lack of a women’s human rights perspective. The Swedish Women’s Lobby has been active in the public debate around the issue and has written several letters to the Ministry of Justice as well as the Social Ministry and the Medical-Ethical Council.

Together with several other women's organizations we have launched the campaign [Feministiskt nej till surrogatmödraskap](#) (*Feminist No to Surrogacy*). Through the campaign, we provide an alternative forum on feminist grounds where the focus lies on women's bodily integrity and not the rights for childless parents over women's basic human rights.

We also work actively to affect and engage the political parties in this matter. For example by arranging seminars and meetings to which we invite representatives from the parties.

### **Altruistic and commercial surrogacy motherhood**

Unlike commercial surrogacy, altruistic surrogates are expected not to ask for any compensation for sacrificing their bodies, but to do so on mere altruistic grounds. Altruistic surrogacy relies on the goodwill of other women, the self-sacrifice and disposition of their own bodies and reproductive organs without any remuneration for the entire process of pregnancy, where they are expected to give away a child they have been carrying for nine months.

Experiences from countries where altruistic surrogacy is legal, such as Great Britain, the Netherlands and the United States, show that when altruistic surrogacy has been legalized, commercialization has ensued. There are very little means to control that there will be no money or bribes involved in the process as well as a social pressure and power relation between the concerned parties, affecting the decision. These issues are of little concern in the public debate and have not been properly taken into consideration.

### **Social and economic inequality – prerequisites for exploitation**

In the majority of the cases of commercial surrogacy, the purchasers come from western countries and the surrogates from third world or developing countries. There is an unequal power-balance between purchasers and surrogates. Western people prey on eastern women's vulnerable economic situation in their quest for a child. Becoming a surrogate mother is a way for women in socially vulnerable positions to sell what fundamental human rights should protect them from being forced to sell – their own bodies.

To speak of free will and the women's own choice in these contexts is highly problematic. A study on surrogate mothers in Anand, India revealed that 50 % were illiterate and that many cannot themselves read the contract that they are signing to engage in this bodily commerce. Signing the contract means signing off the right to one's own body. They are dependent on someone else to ensure that they understand the terms of the commitment and their rights during the process of the pregnancy. These women often come from poor backgrounds and their conditions of living do not allow them a fair array of choices when it comes to making a living or to make a choice that does not compromise their bodily integrity.

The purchasers often make demands on how the surrogacy mother lives her life, for example regarding her diet, exercise and sexual activity. The consequence is temporary serfdom, since the woman no longer has the right to decide over her own body and lifestyle. It is also important to remember that legalization in western countries does not help surrogates in vulnerable countries. Clients who come from countries where surrogacy is legal, like Great Britain and the Netherlands still make use of surrogates from these parts of the world.

### **Medical consequences**

The effects of pregnancy, both physical and psychological, are impossible to predict. Every pregnancy is unique, just like every woman and child is unique. What we do know however is that being pregnant and giving birth is one of the most perilous things a fertile woman can commit herself to. A pregnancy is never risk free. Some of the risks, apart from death, are fecal incontinence (3 %), depression (12,5 %), preeclampsia (7 %) and graves' disease (6 %). The statistics refer to Swedish women under the conditions in our country, not the conditions in for example India. Children born by surrogacy mothers in India are more often delivered by a caesarean since the children are too big for the mother. This entails further risks of complications, both in the present situation and in future pregnancies.

### **Ethical concerns**

The right to enter into an agreement with another individual is not absolute, and never has been. It is forbidden to stipulate a crime, for example a murder, and you cannot enter into an agreement where you give yourself away as a slave to another person, even if both parties are in full possession of their faculties. Contractual freedom only goes so far. The Swedish Women's Lobby views surrogacy motherhood as a contract of temporary serfdom, where the surrogate mother waives her rights to bodily integrity during the pregnancy, and therefore the contract is to be considered invalid. The basis of a contract is the possibility to enforce its fulfillment. What if the surrogate mother changes her mind, are we to involve the police and force her to fulfill her contractual obligation? Can we deny her the right to abortion? Can the purchasers demand a refund or indemnity if she doesn't follow through or if she has a miscarriage? The judicial system cannot and should not enforce the realization of a contract where a woman waives her human rights.

### **Neglect of a human rights perspective in the debate on surrogacy**

The aspect of social and economic vulnerability, however tangible it may be, is not the primary reason why surrogacy should be illegal. Allowing surrogacy is to make use of women's bodies and reproductive organs for the enjoyment of someone else, to the detriment of the woman herself. We premiere the right to bodily integrity and fundamental human rights over the right to children, which is in fact not a human right, but has been treated as such in the discourse on surrogacy. We renounce the view of a liberal market-approach to surrogacy and the right of the paying buyers which are premiered whilst women's rights are negotiated.

The Swedish Women's Lobby is lifting the theme of this issue group because we are seeing a trend towards a dismantling of these fundamental rights in favor of the will and want of individuals to become parents in the name of their individual fulfillment. The issue of surrogacy has been treated within the discourse of reproductive rights and the means of childless parents to have a baby, when the human rights perspective is the only plausible in dealing with this issue. We find that the current investigation in Sweden is being issued on the wrong grounds and that the set of voices that are asking for an investigation are lacking a human rights perspective. We therefore call on the Swedish government to forbid surrogacy motherhood.

**An end needs to be put to the industry of surrogacy that reduces the female body to a container!**

Having a feminist approach to surrogacy means rejecting the idea that women can be used as containers and their reproductive capabilities can be bought. The right to bodily integrity is a right which should not be able to be negotiated by any form of contract. No matter the regulation or the nature of the contract, it still remains a trade with women's bodies and with children. The rights of women and children, not the interest of the buyer, must be the focus of the debate surrounding surrogacy.



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