

**Regarding Legislation Committee: New Inquiry into Human Reproductive  
Technology and Surrogacy Legislation Amendment Bill**

**Dr Susan Hawthorne, Adjunct Professor,  
Humanities, College of Arts, Society, and Education, James Cook University,  
Townsville QLD 4811**

**Is it acceptable for gay men to exploit surrogate mothers facing poverty,  
racism, eugenic forces and misogyny?**

I am a lesbian. In my political activism over more than forty years I have repeatedly spoken out against homophobia as well as fighting against misogyny, ableism, racism and classism among other oppressions. Today, in my talk, I am going to criticise gay men who engage women to be surrogates so that they can fulfil their 'desire' for children. My criticism is for anyone – straight or gay – who acquires children through surrogacy. I am a critic of violence against women and have been especially outspoken on violence against lesbians. Just as when men charge women with chauvinism, it cannot stick because men are the dominant group. Likewise, when a lesbian is critical of the politics of some gay men, we have to remember that gay men have more power under patriarchal structures than do lesbians.

My view that gay men should not be engaging in surrogacy is not a hatred of gay men, but rather a political difference: a difference that I will spell out in my talk. I am not the first person to criticise gay men, indeed other lesbians and gays have also done so (see Klein, 2017; Solis, 2017; Bindel and Powell, 2018).

I support the words of Julie Bindel and Gary Powell who write:

We are a lesbian and a gay man who have been involved for many years in the struggle for gay and lesbian equality and for broader human rights issues. We both unequivocally oppose all forms of surrogacy as unethical; as legally, medically and psychologically dangerous; and as an abusive commodification of women and of babies that also carries significant and barely-reported health risks for the women and babies involved (Bindel and Powell, 2018).

**Power**

Power is at the centre of surrogacy, and it is misuse of power that we are talking about here. When one person has access to, and can exercise more, power than another, it is a relationship of unequal power.

Consider the following sentences:

Kim Kardashian West has a baby through surrogacy. Kim Kardashian is very rich. Who does she 'choose' to be her 'surrogate'. A rich woman? Not likely.

I hated being pregnant, ... But as much as I hated it, I still wished I could have done it on my own. The control is hard at the beginning. Once you let that go, it's the best experience. I would recommend surrogacy for anybody (Fisher, 2018).

But, as contributors to *Broken Bonds* (Lahl, Tankard Reist, and Klein, 2019) make clear, giving up control is difficult and keeping control is more common among commissioning parents with dire consequences for the birth mothers.

Although she suffered *placenta accreta* during her own pregnancy, Kim Kardashian thought, nevertheless, that it would be okay for another woman to put her own health at risk in order that she, Kadashian, could have a third child.

Another sentence:

Elton John pays £20,000 to surrogate mother to have second son (*Daily Mail Reporter*, 2013).

The woman remains nameless, not only to the public but even on the birth certificate. Instead David Furnish (Elton John's husband) is named as the mother.

This is Orwellian. In the real world women are mothers; men are fathers. What a dinosaur, say the critics of my position. I say, no I care about language, about truth in language, about being able to trust what I am being told and not resorting to fake news.

Anca Gheaus (2016) argues an even stronger point. She writes:

... a gestational mother acquires the moral right to parent in virtue of having gestated the child. Moreover, the reasons for holding the right are such that *the right cannot be transferred to other individuals* (Gheaus, 2016, pp.21; *my emphasis*).

This phrasing reminds me of the inability of a person to legally sell themselves into slavery (though the practice continues). There is a moral integrity encapsulated in these human rights that makes them incontrovertible.

At the centre of the surrogacy industry is a system of classism, racism, ableism and misogyny. In addition, the logic of eugenics drives surrogacy.

**Classism:** Kardashians and John: These are clear examples of classism. Class and sex go together. Men earn more than women whether they are heterosexual or gay. Men are able to exploit women easily and a two-man family is probably even better off than one with a man and a woman. Analysis of classism and racism in surrogacy is not new. Gena Corea (1985), Renate Klein (1989), Robyn Rowland (1992) and Janice Raymond (1995) have all noted the power differences and exploitations based differences of class and race.

**Racism:** It is clear that racism is an integral part of surrogacy considering the places in which women are used as surrogates. Sheela Saravanan for her book, *A Transnational Feminist View of Surrogacy Biomarkets in India* (2018), interviewed at least fifty women for her ethnographic study.

Kajsa Ekis Ekman summarises the use of poor women in surrogacy:

At a clinic in Anand in northern India, women give birth to Western children. White women's eggs are inseminated with white men's sperm, and the embryo is implanted in the wombs of Indian women. The children will show no traces of the women who bore them. They will neither bear her name nor get to know her.

After giving birth to the children, the Indian women surrender them (Ekis Ekman, 2013, p. 125).

- Southeast Asia and South Asia have been leading places for surrogacy clinics and Sheela Saravanan documents how that has worked (Saravanan 2018) and the ways it continues in India (Saravanan in Lahl *et al*, 2019, pp. 91-100) even if foreigners are now technically no longer able to engage in surrogacy in India. Thailand, Cambodia and Nepal have now banned surrogacy. But Laos has opened clinics. Exploitation based on class and race continues.
- Ukraine, Russia, Romania, Hungary, Georgia are all places to visit to get a baby through surrogacy. While the women here are white, they are poor and women from Eastern Europe are often still regarded as lesser beings by Westerners (Lahl *et al*, pp. 25-26; pp. 43-46; pp. 761-74; pp. 107-110; pp. 117-120).
- In the US, where commercial surrogacy is legal in 11 states, it is African-American and Hispanic women who are frequently used by the surrogacy industry and if white women are, they are poor white women (Lahl *et al*, pp. 121-126). In the US, you can order twins born with two different fathers (*Daily Mail*, 2019).

**Ableism:** the Baby Gammy case in 2014 made headlines around the world. A child with Down syndrome "left behind in Thailand by his Australian commissioning parents, sex-offender father and his wife" (Klein 2017, p. 1; see also pp. 39-40). The push for a eugenic reproductive approach is the ultimate political oppression, namely the erasure of an entire class, sex, caste, religion or ethnic group. Children perceived as 'less than perfect' (Place, 2019) will be eliminated. As I put it:

When we hear of this it is usually referred to as ethnic cleansing, genocidal rape, mass murder and almost to a person—a decent person—it is regarded negatively. But when it comes to the erasure of people with disabilities before birth such negative connotations rarely manifest themselves (Hawthorne forthcoming 2020).

Surrogacy enables the intending parent to specify the genetic characteristics of the child and, in particular that the child should not be born with a disability.

Women who go through surrogacy as part of their contract can be required to undergo a 'foetal reduction' when multiple embryos develop. They can be forced to have a termination in the event that the expected child shows a disability in utero. Women can be left literally 'holding the baby' and not being paid the amount of money they agreed to because of a disability either in utero or appearing at birth.

**Misogyny:** As Renate Klein argues so cogently in her book, *Surrogacy*, three women are negatively affected by a surrogacy arrangement:

- The birth mother 'the surrogate' who puts her life at risk for the commissioning parents.

- If there is an egg donor – and in the case of gay men wanting a child, this is always the case (Eastman in Lahl *et al*, pp. 27-36) – then the egg donor's health is jeopardised. The process of donating eggs is not simple and as Maggie Eastman points out it has left her with serious physical (terminal breast cancer) and psychological repercussions.
- In a heterosexual couple, the new 'mother' can feel at a loss, can feel she is a failure and be deeply resentful towards the baby and the woman who gave birth to her/him..
- The child of the new parents will also end up questioning what has happened. Was I bought? Why did my birth mother never contact me (she was probably prevented from doing so)? Who are my blood relatives? These are the same questions adopted children ask (Mackieson, 2015).

### **Rights**

A sentence I hear regularly in the media and in debates about surrogacy is that gay men have a 'right' to 'family formation'.

Whose rights are we speaking about here? Not all gay men are rich, but I would venture a guess that the gay couples who engage a surrogate are not on low wages, are not working class.

People say, "I'm against surrogacy, but how else will those poor gay men have a baby?" Women are socialised to give and to continue giving at their own peril.

Before critics accuse me that none of this applies to Australia where we have only so-called altruistic surrogacy, women continue to provide their bodies to others. It is not unusual for lesbians to have children for gay men.

*There is no right for anyone to have a child.* Under the rules of the Convention on the Rights of the Child (CRC) numerous protocols are broken including that of selling of children and as Renate Klein documents the surrogacy industry violates Article 7 and Article 35 of the CRC (Klein, 2017, pp.100-101).

Julie Bindel and Gary Powell point out that an argument of 'equality' is being used to make it acceptable for gay men to engage in 'surrogacy'. But as I noted at the beginning, there is no equality here, but rather a relationship of unequal power. Spanish writer, Raul Solis (2017 cited in Klein, 2017, pp. 153) coins the word 'gaypitalismo' to express his concern that gay men are swapping 'being oppressed' with becoming the oppressor after years of support from lesbians and heterosexual feminists in their battles against criminalised homosexuality.

Surrogacy is an industry in which we are creating a new stolen generation with consequences of transgenerational trauma as we have seen in the *Bringing Them Home Report* (1997) and Julia Gillard's National Apology for Forced Adoptions (2013). But this time it is inherently a part of the industry. The baby is conceived in order to be taken away at birth. As Renate Klein points out in *Surrogacy*, pets are better treated and puppies and kittens are usually not removed from their mothers until 6 to 8 weeks old (I am not recommending this, simply pointing it out).

The surrogacy industry in Australia has a number of prominent gay men at its helm (Sam Everingham; Stephan Page). Surrogacy is also a big money earner: for IVF clinics; for lawyers; for brokers. And coming up in Taiwan is a kind of Baby Fair:

New York-based non-profit Men Having Babies (MHB) stages events across the world to provide advice and support to all LGBT+ people who want to become parents and plans to stage its first annual Asian event on March 9-10 in Taipei, Taiwan.

The two-day event, described as a 'boot camp' will include prospective 'surrogate' mothers, egg donors as well as lawyers, doctors and local clinics.

So whose rights are we talking about here? We need to be talking about the rights of poor women, of women whose poverty or desperation is caused by structural racism, of the disabled rejected because they did not fit the model of the perfect baby; of women once again subjected to misogyny.

Gay men in these days of equal marriage laws are perceived by the mainstream as a progressive force. And some gay men do behave as a progressive force. However, there is a distinct class of wealthy mobile gay men who are promoting surrogacy as a new freedom for gay men. But there is nothing progressive about exploiting women on the basis of poverty, ethnicity, disability or sex. There is no place for an industry based on misogyny, racism, classism and ableism.

I urge you to say no to this Bill.

### References

Bindel, Julie and Gary Powell. 2018. 'Gay Rights and Surrogacy Wrongs: Say "No" to Wombs-for-Rent" '. Stop Surrogacy Now.  
<<http://www.stopsurrogacynow.com/gay-rights-and-surrogacy-wrongs-say-no-to-wombs-for-rent/#sthash.bHZ7o5ve.dpbs>>

Corea, Gena. 1985. *The Mother Machine: Reproductive Technologies from Artificial Insemination to Artificial Wombs*. New York: Harper & Row.

*Daily Mail Reporter*. (21 January 2013). 'Last of the big spenders! Elton John 'paid £20,000' to surrogate mother for giving birth to second son Elijah.' *Daily Mail*.  
<<https://www.dailymail.co.uk/tvshowbiz/article-2265463/Elton-John-paid-20-000-surrogate-mother-giving-birth-second-son-Elijah.html>>

Ekis Ekman, Kajsa. 2013. *Being and Being Bought: Prostitution, Surrogacy and the Split Self*. North Melbourne: Spinifex Press.

Fisher, Luchina. (14 March 2018). 'Kim Kardashian West explains why she chose a surrogate for her third child'. ABC News.  
<<https://abcnews.go.com/GMA/Culture/kim-kardashian-west-explains-chose-surrogate-child/story?id=53715998>>

Gheaus, Anca. 2106. 'The normative importance of pregnancy challenges surrogacy contracts'. *Analyze—Journal of Gender and Feminist Studies*. New Series. Issue No. 6. pp. 20-31.

Gillard, Julia. 2013. 'National Apology for Forced Adoptions'.  
<<https://www.ag.gov.au/About/ForcedAdoptionsApology/Documents/Nationalapologyforforcedadoptions.PDF>>

Hawthorne, Susan. 2020. 'Medical wars against the less than perfect: The politics of disability'. Forthcoming in *Vortex*. Mission Beach: Spinifex Press.

Klein, Renate. 1989. *Infertility: Women Speak Out about Their Experiences of Reproductive Medicine*. London: Pandora Press.

Klein, Renate. 2017. *Surrogacy: A Human Rights Violation*. Mission Beach: Spinifex Press.

Lahl, Jennifer, Melinda Tankard Reist and Renate Klein (eds.) 2019. *Broken Bonds: Surrogate Mothers Speak Out*. Mission Beach: Spinifex Press.

Laing, Lucy. (27 January 2019). 'Baby "twins" have two different fathers after gay couple were both able to fertilise an embryo of a surrogate mother'. *Daily Mail*.  
<<https://www.msn.com/en-au/lifestyle/lifestylefamilyrelationships/baby-twins-have-two-different-fathers-after-gay-couple-were-both-able-to-fertilise-an-embryo-of-a-surrogate-mother/ar-BBSNeDA>>

Mackieson, Penny. 2015. *Adoption Deception: A Personal and Professional Journey*. Melbourne: Spinifex Press.

Place, Fiona. 2019. *Portrait of the Artist's Mother: Dignity, creativity and disability*. Mission Beach: Spinifex Press.

Raymond, Janice G. 1995/2019. *Women as Wombs: Reproductive Technologies and the Battle over Women's Freedom*. Mission Beach: Spinifex Press.

Rowland, Robyn. 1992. *Living Laboratories: Women and Reproductive Technologies*. Sydney: Sun Books. Available from Spinifex Press.

Saravanan, Sheela. 2018. *A Transnational Feminist View of Surrogacy Biomarkets in India*. Singapore: Springer.

Solis, Raul. (25 March 2017). 'Los Vientres de Alquiler: La cara mas brutal del "Gaypitalismo"'. Paralelo 36 Andalucia;  
<<https://www.paralelo36andalucia.com/los-vientres-de-alquiler-la-cara-mas-brutal-del-gaypitalismo/>>

Taylor, Michael. (22 February 2019). 'Gay parenting 'boot camp' moves to Asia to meet growing demand from China'. *Essential Baby*.  
<<http://www.essentialbaby.com.au/news/current-affairs/gay-parenting-boot-camp-moves-to-asia-to-meet-growing-demand-from-china-20190221-h1bkz2?btis#ixzz5hoc28NYI>>

Wilson, Ronald and Dodson, Mick. 1997. *Bringing Them Home Report: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Australian Human Rights Commission.  
<<https://www.humanrights.gov.au/publications/bringing-them-home-report-1997>>