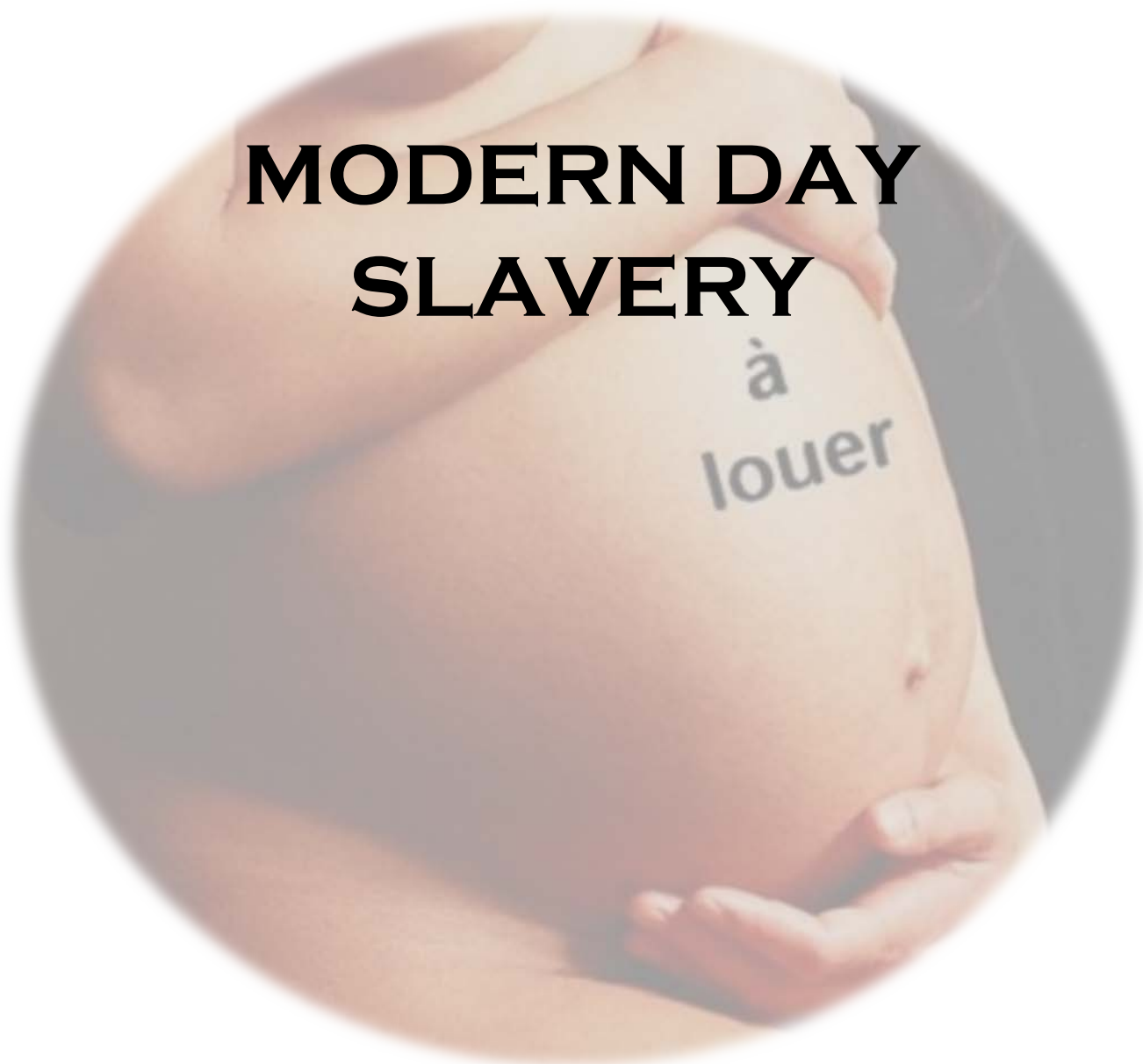


# **SURROGATE MOTHERHOOD**

# **MODERN DAY SLAVERY**



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louer

This pamphlet is produced by

**Pour les droits des femmes du Québec (PDF Québec)**

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Treasury Board of Canada's President, Scott Brison, his spouse, their twins born to a surrogate mother and the Prime Minister of Canada, Justin Trudeau.<sup>1</sup>

## **Surrogate motherhood: Modern day slavery**

This picture of two smiling dads, accompanied by the Prime

Minister, also smiling, while holding in his arms one of their cute baby twins, has been around a lot on social media. It magnificently symbolizes the public's perception of the use of surrogate mothers: a very "modern" image, a gay couple with their children, publicly congratulated by Canada's Prime Minister. However, we must look deeper to discover what is missing here: The invisibility of the mother who was paid to bring these children to life, as if she had never existed, and the silence on the fact that paying a woman for bearing a child for others is prohibited in Canada, which did not prevent the country's Prime Minister to publicly congratulate this illegal act (although legal in the United States), all this wrapped in a "progress" and "openness" aura.

Women and children's exploitation on which the surrogacy industry rests are never mentioned in the media; it is preferable to only discuss these couples' happiness who have chosen to manufacture a baby genetically linked to them rather than to adopt one who is already alive.

The industry has been able to adequately grow and develop thanks to a clever combination of couples' desire for children, marketing – vocabulary, images, media's compliance – structures and lobbies established with the aim of abolishing the remaining legal obstacles. How can we resist in front of these cute baby pictures and say no to this phenomenon which is constantly growing in magnitude?

We can speak of a real "manufacturing consent" media operation, as Noam Chomsky explained it so well, that is pushing the population to adhere to the industry's promoted policies surrounding surrogate motherhood, where the trade of human flesh and organized reproductive tourism take place.

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<sup>1</sup> Jesse Ferreras, «Justin Trudeau Photo With Scott Brison's Family Is Getting Lots Of Love», September 11, 2015 [http://www.huffingtonpost.ca/2015/11/09/justin-trudeau-photo-scott-brison-family\\_n\\_8514566.html](http://www.huffingtonpost.ca/2015/11/09/justin-trudeau-photo-scott-brison-family_n_8514566.html).

## Vocabulary demystification

This industry loves to use acronyms and simplified language which allow the creation of a nice smoke screen on its activities: GS (gestational surrogacy), MAP (medically assisted procreation), surrogate, surrogacy. **Pour les droits des femmes du Québec (PDF Québec)**<sup>2</sup> has chosen the term “surrogate motherhood” knowing it is not totally adequate.

Claude Hagège, a linguist, had already noticed that no language in the world had a word to speak about the parent who has lost a child, probably because the word would make real what should not exist. It may also be a good explanation for the difficulty in naming the practice of surrogate motherhood.

Childbirth for others, therefore, designates the pregnancy that a woman, called surrogate mother, goes through for individuals or couples in which generally one of them has provided the genetic material.

Maternity for others, reproduction for others, substitute maternity, gestation for others, uterus rental of poor women, are all synonymous. However, the practice proponents and defenders generally prefer to use the term “surrogacy”, “third party reproduction” or “childbirth for others” (mostly in French) which erases the mother who bears the child for nine months while leaving open a small window of altruism with the word “others”.

Additionally, parents that the industry likes to appoint as parents of intent are more precisely sponsor parents since anyone who wants to have a child is a parent of intent, whether they use natural methods, adopt, or pay a woman to bear their child.

Finally, regarding the term “surrogate mother”, even if it can be considered simplistic because a woman does not bear a child like she would carry a parcel, it is the most known term and in default of a better one, the one used by **PDF Québec**.

## The consequences of surrogate motherhood on women and children

Reports on surrogate motherhood show us beautiful babies in their sponsor parents’ arms who are all smiles but don’t show the flip side as much.

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<sup>2</sup> For Québec women’s rights

While we know that many adopted children remain scared by their biological mother's abandonment, why aren't we asking questions about what happens to the children when they find out they were conceived for sale? While psychiatrists and psychologists have spent decades blaming mothers whose child suffered from mental disorders, why are they remaining silent about these scheduled abandonments?

Could it be that with technology, the right to one's origins, for which many adopted individuals have struggled, would become suddenly insignificant?

Surrogate motherhood also has consequences on women who are reduced to being potential uteruses. Just as is the case with prostitution which transforms them into disposal bodies for sex buyers, their body is also becoming a commodity for buyers who have the money to use them and make sure the signed contract clauses are respected, most of the time under the auspices of the agencies that negotiated the trade.

Finally, for surrogate mothers themselves, in addition to any pregnancy's inherent danger, there are real possible complications related to medically assisted procreation techniques since more than one-third of women who have used them had to be hospitalized. This, on top of various psychological difficulties that can surely arise after having abandoned a child they have been bearing for nine months.

## **The current legal settings**

In 2004, Canada has adopted the Assisted Human Reproduction Act which Article 6 (1) stipulates that "*No person shall pay consideration to a female person to be a surrogate mother, offer to pay such consideration or advertise that it will be paid*". It is also prohibited to advertise, to pay intermediaries to find a surrogate mother, to buy gametes, etc.

However, Article 12 will allow, when it will come into force, compensation to the surrogate mother for the pregnancy costs incurred during the pregnancy. On October 1<sup>st</sup>, 2016, Health Canada published a notice (Vol. 150, No. 40) in which the Government invites Canadians to make comments on "*Regulations concerning reimbursement of incurred costs by donors and surrogate mothers and will put Article 12 of the AHRA into force*".

The Canadian Standards Association (CSA) has compiled a list of expenses which should be reimbursed.<sup>3</sup> If the federal government decides to endorse this list of reimbursable expenses, it will be easy to bypass the Act's prohibition of commercialization and to allow surrogate motherhood's commercial development. We will then have to admit that from the exception, recourse to surrogate mothers became an employment option for women, employment consisting in the rental of their uterus.

In Québec, the Civil Code (C.C.Q) contains several articles against surrogate motherhood. Firstly, the mother who gives birth is considered the legal mother (538.1 C.C.Q.) (which is not the case in the rest of Canada). In addition, Article 541 (C.C.Q) provides that "*Any agreement whereby a woman undertakes to procreate or carry a child for another person is absolutely null*". This article is targeted by industry and surrogacy promoters because it constitutes an important obstacle to the industry's development in Québec since it prevents sponsor parents from requiring that the surrogate mother give them the child, that she respect the contract terms, or prevent her from legal pursuit by the parents if she does not respect the contract.

Despite this prohibition, courts have had to decide the fate of certain children born under this illegal framework: until now, sponsor parents have had the right to adopt the child they illegally purchased and this, supposedly for the sake of the child. **PDF Québec** considers this to be child laundering. (We will discuss this aspect later)

*States parties shall take all the appropriate measures at the national, bilateral and multilateral levels to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*

**International Convention  
on Children's Rights, article 35**

At the international level, the International Convention on Children's Rights, Article 35, provides that "*States Parties shall take appropriate measures at the national, bilateral and multilateral levels to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*"

Finally, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also contains provisions against the trafficking of women and exploitation which Article 6 stipulates that "*States Parties shall*

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<sup>3</sup> Canadian Standards Association (CSA). Z 00\_2\_1-12EN Annex A - reimbursement of expenditures to donors and surrogate mothers, October 2016.

*take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."*

Though there are, theoretically, legal barriers to the expansion of the trade of women's uteruses and children, the industry uses all the means at its disposal to bypass or eliminate them.

## **From the infertile couple to the industry**

Surrogate motherhood is claimed at the therapeutic level as a stopgap solution to physical infertility, but also, and increasingly, as a response to a social demand. Consequently, the "take-out baby" would constitute an alternative to long and sometimes random adoption procedures, particularly for gay couples. It could also meet the comfort needs of some women by preserving their careers and their bodies.

By the infringement of women's equality and the rights of human beings to not be the subject of traffic, this request's dark underside is a fierce social regression. This decline in human rights is observed wherever surrogate motherhood liberalization is introduced. Thus, a real "belly rental" industry and oocytes trade is thriving in India, Ukraine, Cambodia and in the United States where agencies offer a "provision" leading to a "product" delivery – a baby– along with a catalog selection of oocytes donors based on their physical attributes, surrogate selection according to their performance and legal procedure setting up the filiation.

New reproductive technologies have emerged as a true miracle for infertile couples. Indeed, it seems on one hand that infertility problems are on the rise because education and the entry to the labor market are leading many women to postpone their maternity project, and on the other hand because according to some research, pollutants have an impact.

However, the increase in the number of infertile people (or so-called infertile) is also a consequence of the medical field's expanded definition of infertility, which now includes "social" infertility. In its brochure *Assisted human reproductive technologies* (2014), the Quebec Federation for Birth Planning<sup>4</sup> justifies the recourse to surrogate motherhood in some cases:

*"Surrogate motherhood is an option for women or trans\* individuals who don't have a uterus or for whom a pregnancy is too risky. It is also a possibility for women or trans\* people who wish to have a genetically-linked child or*

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<sup>4</sup> Fédération québécoise pour le planning des naissances (FQPN)

*not, but who do not wish to assume the childbearing (for social reasons, professional reasons, or other). It is also a way for single men or gay couples to conceive a child from their genes. "*

As noted by Professor Maria De Koninck during her presentation on the subject at University Laval's Summer Feminist University (May 2016), surrogate motherhood is, therefore, within the context of "*cultural and social change (including medical) [which promotes] the use of these techniques and an increase in the valuation of genetic lineage. Thus, we are not seeking to satisfy a desire for a child, but for a biologically-related child. "*

The industry invests extensive resources at the service of this desire: specialized agencies, contract drafting, surrogate mothers search at the lowest possible cost, support to anxious sponsor parents who wish to legalize the situation of an illegally obtained child, lobbying of governments and institutions to ensure the respect of human rights, intensive marketing based on the proven model of large pharmaceutical companies. And of course, specialized clinics, from the bottom bracket up to the very elite bracket. No stone left unturned in support of an exploding market.

## **Neocolonialism serving neoliberalism**

According to Professor Maria De Koninck<sup>5</sup>, "*bearing children for others is a practice whose social and economic anchorage enables women's exploitation and children's commodification (class inequities, neoliberalism, and globalization)*".

The example of India is striking. Until recently, this country was a preferred destination for the industry: there were more than 3 000 surrogate motherhood clinics. It is with one of these clinics that gynecologist Dr. Petra De Sutter, Department of Reproductive Medicine's director at Ghent University Hospital, works (and who, despite a possible conflict of interest, was mandated by the European Council to make a report on "Human rights and ethical issues related to surrogacy"). In 2012, 600 babies were born to surrogate mothers in India alone. One of the best-known clinics, directed by Nayna Patel, has manufactured up to 840 babies since 2005. The surrogate mothers' wage is five to six times lower than that of the United States'.

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<sup>5</sup> Maria De Koninck, PPT presentation, University Laval's Summer Feminist University (May 2016).



Why India? Why Nepal? Why Mexico? Why Cambodia? Because these are countries with rampant poverty, where the legal framework is less restrictive and where women are less protected than in Northern countries.

In addition, in industrialized countries where surrogate motherhood is legalized, the number of potential surrogates is lower despite a favorable financial compensation. In the United States, there has been a dramatic increase in the demand for surrogate mothers. In California in 2010, 53 babies were born to surrogate mothers, in 2015 it was up to 360. It appears that there have been more than 1 400 reported births to surrogate mothers between 2008 and 2015. Despite better conditions than in third world countries, there is a lack of surrogate mothers. Some agencies say they have 400 people on waiting lists.

The same phenomenon is found in Israel, where the surrogacy practice is legal but where there is a shortage of surrogate mothers. What are the consequences? In response to this demand, Israeli sponsors went to Nepal. This went on until that day in 2015 when a terrible earthquake revealed to the world the human trafficking of surrogate mothers and sold babies. Indian surrogate mothers who had been displaced to Nepal and who had, therefore, left their children in India were brought to Israel to give birth to the "Israeli" babies they were pregnant with and were then sent back to India.

Like all industries, the business of surrogate motherhood pursues profitability objectives. It consequently chooses countries where endemic misery is rampant and it drops women into "baby factories". Dr. Sheela Saravanan who has conducted studies on surrogate mothers for several years in India has produced data demonstrating to what extent good medical practices are flouted in the name of profit while at the Foundation for the universal abolition of surrogate motherhood (Paris, February 2016)<sup>6</sup>:

- *Up to five embryos transferred illegally into surrogate mothers*
- *In-utero selective abortions if more than two embryos succeed to fertilize (after conception)*
- *Compulsory Caesarean sections to save the child from going through the struggle of birth*
- *All this without appropriate consent from the surrogate mothers*

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<sup>6</sup> Assises du 2 février 2016 pour l'abolition universelle de la maternité de substitution.

For nine months, the surrogate mother's life is governed by a contract. She does not own herself, she belongs day and night, seven days a week to the baby's sponsors. She has no say if sponsors decide to eliminate an embryo which does not suit them, and when about to give birth, she will probably have to undergo a Caesarean section to be able to deliver the baby at a time fixed by the buyers who are to move back to their country after taking possession of the ordered baby. In regard to disabled children, they will probably end up at the orphanage or on the streets.

In other words, these women bearing children for rich couples are in a SLAVERY situation. This is also what Professor Fabre-Magnan and philosopher Sylviane Agacinsky, as well as many feminist groups under a European association, mention without hesitation when they recalled that the September 26, 1926 Slavery Convention's First Article defines slavery as "*the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised* "

According to this definition, slavery does not require, like in past slavery instances, the possession of the person as a whole. It is sufficient to appropriate their work or production. Childbirth for others is therefore very similar to a modern form of slavery. Sponsors gain concrete dominion over the woman's body since it is their prerogative to use this person and her body (pregnancy involving much more than just a uterus).

In addition, real eugenics is taking hold thanks to the availability of pre-implantation diagnosis which allows –for a financial supplement– selection of the child's sex and various attributes desired by sponsor parents. This "à la carte" system produces white children, most often for Western parents.

An international reproductive department has literally been created. Ova often come from poor women from former Eastern bloc countries – thus assuring these produced children will be "white"– but these ova will be implanted more and more into uteruses of third world women who are not likely to transmit their "exotic" physical attributes; and this at lower cost and with the "benefit" that they have fewer rights than in the United States, Canada or Western Europe. Ergo, this international reproductive branch brings a specialization of the various world regions in order for the "belly" industry to maximize its profits.

From this emerged a new business: reproductive tourism, moreover encouraged by Canada via its embassies. In fact, if it is illegal in Canada to pay

for surrogate mother services, it is perfectly legal in other countries. Canadian embassies obviously have no discomfort in promoting surrogate motherhood: they offer all the relevant information to people interested in buying a child and even provide lists of lawyers in various countries to facilitate the transaction. Thus, by allowing its citizens to do elsewhere what is illegal at home, Canada's Department of Foreign Affairs becomes an actor in reproductive tourism.

At the international level and at The Hague Conference, protocols are being written enabling countries to mutually recognize filiation of children produced by surrogate motherhood across the world. We are therefore leveling downward the supervision conditions to allow as many countries as possible to accede to the future protocol. Discussions have been ongoing for several years, without civil society, human rights associations or feminist associations being heard. Most consulted groups at The Hague Conference have been surrogate motherhood industry's protagonists and sponsor parents.

## **Paving women's exploitation with good intentions**

In Québec, even if the surrogacy situation is not as dramatic as in poor countries, there is a wealth and power gap between women likely to become surrogate mothers and those placing them under contract, namely sponsor parents who are directly dealing with a surrogate mother or, more frequently, well-organized agencies offering the "turnkey product", with legal and financial services, and of course, access to in vitro fertilization clinics. It is, in fact, these middlemen who really collect revenues while the surrogate mother take all the risks, and who must turn the child over to those purchasing it, in accordance with the contract.

In such a mercantile context, is it possible to trust those proposing supervised use of surrogates if the mother "voluntarily" consents to return the child to the sponsors? However, this consent notion is the cornerstone of the Québec's Family Law Reform, as proposed in June 2015 by the Advisory Committee on Family Law<sup>7</sup> chaired by lawyer Alain Roy. This is also the position of the Council on the Status of Women<sup>8</sup> as proposed in its February 2016 notice on surrogate motherhood.

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<sup>7</sup> Comité consultatif sur le droit de la famille

<sup>8</sup> Conseil du statut de la femme du Québec

Aside from a few rare family assistance cases, can we really buy into the altruism of such an act? Who can state beyond the shadow of a doubt the existence of free and informed consent by surrogate mothers when they have so little power compared to powerful agencies? And when consent is mainly derived from their economic vulnerability?

## **An anti-human dignity practice**

According to feminist lawyer and former Chairwoman of the Council on the Status of Women, Christiane Pelchat, surrogate motherhood is a violation of Québec's public order and a new form of violence against women, an infringement on children's rights and finally, an attack on human dignity.

In fact, in a document presented to The Hague Convention, a European feminist collective described "childbirth for others" as:

*" [...] The surrogate mother provides not only her uterus, but her entire body as well as her psyche for others to "manufacture" a child to be handed over after birth. There is, therefore, an a priori willingness by the mother to abandon her child to the sponsor parents. [...]*

*Even in its modern form, childbirth for others is an exploitative practice, alienating both for the surrogate mother and the child she gave birth to. She is the object of a gigantic market; whose trend is particularly troublesome. [...]*

*Thus, sponsors acquire a stranglehold on the surrogate mother's entire body and person to appropriate the child she bears and gives birth to, and this, in defiance of the risks that they make her take, in conditions not seen since the abolition of slavery. [...]*

*Legitimizing such human market would deal a blow to International Law."<sup>9</sup>*

Hence, many feminists who defend women's right to human dignity and equality consider that surrogacy is a direct and concrete infringement to women's dignity and integrity. A woman's body is not to be made available to all persons, not more so if there is financial compensation, and whether or not consent was given. Nobody shall place their body on the market and make

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<sup>9</sup> Comments on preliminary documents No. 3 B of March 2014 and No. 3A of February 2015  
[https://collectifcorp.files.wordpress.com/2015/01/surrogacy\\_hcch\\_feminists\\_french.pdf](https://collectifcorp.files.wordpress.com/2015/01/surrogacy_hcch_feminists_french.pdf).

a child while arranging their sale because of the legal principle called “the inviolability of the person”.

Surrogacy is the objectification of a person since a woman who puts her body in the service (free or not) of other individuals, in the same way as a commodity, is, in fact, available to buyers. For feminists, sending women backward to their reproductive function and inciting them to abandon their child to be born from the outset is a triumphant return to patriarchy. With surrogate motherhood, the woman is being re-appropriated by one or many men who wish to transmit their genetic heritage by having a “biological” child.

**541. Any convention by which a woman commits to procreate or to carry a child for the account of others is a nullity.**

**Québec civil code, 1991**

Moreover, the child becomes the contract’s object, sold before even being created. Worse still, if the product is not perfect, sponsors believe themselves to have the right to relinquish the child created specifically for them...

Facing such evidence, facing this absolute negation of legal principles and internationally recognized human justice, and like many other feminists, **PDF Québec** believes that any regulation or instrument which would seek to organize or supervise the practice of surrogate motherhood would be in contradiction with international texts currently in force. Countries purporting to women’s equality cannot endorse in any way regulating a practice contrary to human rights.

## **What can be done?**

Prohibition and immediate implementation of dissuasive measures are the only solutions to abolish this modern-day slavery and human trafficking that comes with it. This is why it is crucial that the federal government immediately applies severe criminal sanctions instead of the permissiveness in effect since the 2004 adoption of the *Assisted Human Reproduction Act*.

Giving the obvious industrialization of surrogacy, the federal government should criminalize this practice in the name of women’s right to human dignity and children’s right to not be the object of trade.

Child filiation, i.e. recognition of the (born to a surrogate mother) child’s legal parents, is at the heart of lobbies’ strategy to change the laws in countries where (like Québec and France) barriers are placed on surrogate

motherhood. Québec, which has constitutional jurisdiction to legislate filiation, has introduced in its Civil Code a very specific article on the absolute nullity of surrogate mothers' contracts (Article 541 (C.C.Q), already mentioned).

Since in the Québec law the legal mother is the woman who gives birth to the child, it is necessary to resort to judicial maneuvers for the mother to waive her parental rights. Adoption by sponsor parents must also be endorsed by a judge.

Up to now, judges have ruled on a case by case basis, on behalf of the child's interest – whose interest, of course, is to have parents. Even if a judge refused to endorse an adoption which aimed to make legal what had been obtained in an illegal manner, the Court of Appeal of Québec subsequently reversed the judgment. We are, therefore, seeing a child laundering operation on behalf of the “child's best interest”.

For its part, France was ordered by the European Human Rights Court (sic) to disregard its own laws – which prohibit surrogacy contracts – and to grant rights to sponsor parents who have deliberately chosen to circumvent the laws to get what they wanted. Of course, always on behalf of the child's interest.

In Québec, Professor Alain Roy, who chaired the Advisory Committee on Family Law's work<sup>10</sup>, interviewed by *Babies Unlimited's* author (2012, p. 166), used to be concerned about the slippery slope.

*"We cannot, for a unique case, overshadow all other children's rights and rights of women who bear them. I cannot go grab a baby in Haiti, keep the child at home with me for three years and then show up in court asking to adopt with impunity. At this stage, it is probably in the child's best interest to be adopted by me. But, was the child stolen? Was the child trafficked? The decisions must be in the greater good. In the surrogate mother's case, if we declare this practice undesirable because pregnancy can not be reduced to a transaction, we must be consistent. We cannot make exceptions to accommodate this particular child."*

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<sup>10</sup> Comité consultatif sur le droit de la famille (CCDF)

However, in June 2015, the committee he chaired opted for the regulation of surrogate motherhood in Québec and proposed an administrative process whereby parents and surrogate mothers can establish a notarized contract before the child's conception. Therefore, the committee recommends Article 541's (C.C.Q) elimination which renders null and void any regulation on childbirth for others. All this, accompanied by recommendations to abolish almost all barriers to surrogate motherhood. The only restriction remaining is that the surrogate mother and sponsors be 18 years or older, contrary to present federal law which set minimum age at 21. The Committee recommends to "*reformulate the filiation equality principle to proclaim the children's equality in the establishment of their filiation, without further consideration*"<sup>11</sup>. According to Jurist Suzanne Guillet, who has a dissenting opinion about recommendation 3.1, this means:

*"The surrogate mother contract would be above all laws, given the child's absolute right to filiation; this denies any other ethical consideration, including the marketing that is currently going on, and will allow the legal community's blindness on this marketing phenomenon. We are raising the desire for a child as an absolute right for all that can be obtained by all possible means because regardless of circumstances, the child's filiation will be recognized according to intending parents. "*

"We cannot, for a unique case, overshadow all other children's rights and rights of women who bear them. I cannot go grab a baby in Haiti, keep the child at home with me for three years and then show up in Court asking to adopt with impunity. At this stage, it is probably in the child's best interest to be adopted by me. But, was the child stolen? Was the child trafficked? "

**Alain Roy, 2012**

Several questions arise. In the short term, it must be decided what to do with the child already born to a surrogate mother, and ask ourselves if the progenitor's rights are absolute. In the long run, we must organize to obtain surrogate motherhood's universal abolition. **PDF Québec** believes that there exist solutions to achieve this.

Firstly, we must suppress the request at its origin by imposing heavy penalties to deter people who would consider resorting to a surrogate mother. As long as courts will do "children laundering" because they need to recognize a filiation to the child, sponsors will continue to exploit women and

<sup>11</sup> (Article 522 C.c.Q.)

to buy babies since they do not incur any negative consequence. Courts should, therefore, consider in their decision, not only one child's interest, but also the inviolability principle of the human body and women's right to equality. Why would it be in the child's best interest to be the son or the daughter of a person who has circumvented the laws to manufacture and buy them, and this in contempt of their dignity as individuals, under the only pretext they have genes in common? What about the mother's genes? Don't they have any relevance? What about cells and blood exchanged between her and her fetus for nine months?

Modern science has unequivocally shown us the importance of these interactions.

Countries have adopted an international agreement so that adopted children's dignity and laws are respected; people who want to adopt a child must go through an assessment process of their parental skills. In the case of parents who buy a baby, the only criterion is their financial capacity. Why not entrust manufactured and illegally sold children to parents who already wish to adopt and whose parental capacity have already been assessed? For **PDF Québec**, these filiations obtained by circumvention of the law and of public order – in other words, illegitimately and illegally – must be prevented (even penalized). Children will then have a filiation, which is their right, but a legal one. This way, we would dry up this reproductive trade at its source.

The progenitor's rights are not absolute. Let's remember the 1989 Supreme Court judgment in the Chantal Daigle case. Her spouse, Jean-Guy Tremblay, wanted to prevent the abortion under the pretext that he had rights as the progenitor. The Supreme Court refused to give precedence to the progenitor's "rights" and the mother's rights prevailed. Why should we turn back to 25 years earlier to the primacy of the progenitor's rights? In certain circumstances where an unlawful act has been committed, the father's rights are not absolute. Are we giving an absolute right to a rapist who has impregnated a woman or a girl? Are we giving an absolute right to a father who has had incestuous relations with his daughter?

Legal decisions refusing to recognize the child's filiation to the sponsors would have a deterrent effect on demand. However, more must be done: childbirth for others must be globally prohibited. Otherwise, a weak link will always remain which will benefit people who believe that having money allows them to do as they please, including purchasing children. That is why **PDF Québec** has signed the Charter for the universal abolition of surrogate



motherhood in February 2016, as well as the International *Stop Surrogacy* petition.

### **Charter for the abolition of surrogate motherhood**

Substitute motherhood, or surrogacy, which is practiced in several countries, is the loaning of women's bodies in order to give birth to children who will be handed over to those who ordered them.

We must also repeal the Canadian Assisted Human Reproduction Act to prohibit any use of surrogate mothers. In the meantime, it is necessary to provide protection for women who will have undertaken a pregnancy under a contract and whose sponsors have decided to withdraw.

The Hague Convention's work must also be monitored, which unfortunately is in the hands of people involved in the surrogacy and sale of children's market.

To act at the legal level, it is crucial to also change public opinion, which is currently blithely handled by the industry and the media that sell nice images of isolated cases, almost never showing the industry behind this market. Nowadays, the recourse to emotions replaces information, so that citizens are subjected to propaganda campaigns which are nameless. It is then necessary to better inform the public and politicians who hear the same publicity on these newly created families.

It is equally important to monitor the many lobbyist's efforts to sway politicians. In Québec, these lobbyists' first target is Article 541 of the Civil Code which makes null and void any contract with a surrogate mother. Pressure on the government is necessary to make sure this article remains.

Many are asking for the Article 541's (C.C.Q) repeal. They believe that, given the persistence of demand for surrogates, it is better to supervise the practice in the child's interest. As for the Council on the Status of Women, it no longer stands for Article 541's (C.C.Q) protection as shown in its 2016 written notice. It reaffirmed the free use of surrogate mothers' principle, pretending to ignore that, without Article 541, the inevitable shortage of "altruistic" surrogate mothers can only lead to marketing and reproductive tourism. According to **PDF Québec**, on the contrary, Article 541 (C.C.Q) is essential to counter the development of the surrogate mothers' commercial industry.

One can understand those who advocate for the acceptance of surrogacy by relying on the fact that it is now a reality and that it is better to regulate it.

However, remember that if feminists had only considered “faits accomplis” or the “acceptance of reality” arguments, there would not have been any law against domestic violence, or measures against sexual harassment. Murders and thefts have always existed and still exist, yet nobody proposes “regulation”!

Ergo, we must raise public and politician awareness for them to understand what surrogate motherhood represents. Québec’s “Left” also needs to be awakened, since until now the only opposition from them has been a thundering silence to this shameful exploitation of women and children.

Media must be made aware and shown another view rather than see only through the lobbyists’ rose-colored glasses argument. Finally, since many homosexuals invoke the barriers to adoption as a rationalization for their support of the surrogacy market, we must fight against this discrimination so that adoption is made more accessible for gays in countries where it is prohibited.

Humankind took action, not so long ago, to prohibit slavery and child trafficking. Is it acceptable that these practices be revived in the form of surrogate motherhood?

# **Charter for the abolition of surrogate motherhood**

Substitute motherhood, or surrogacy, which is practiced in several countries, is the loaning of women's bodies in order to give birth to children who will be handed over to those who ordered them. Far from being just an individual act, this social practice is orchestrated by human reproduction companies, in an organized production system involving laboratories, doctors, lawyers, agencies, etc. This system requires women as means of production so that pregnancy and childbirth become a functional process that has a usage value and a commercial value and is part of the globalization market of human bodies.

In countries where no law protects them, women's bodies are turned into resources for the reproduction industry. Some women consent to enter into a contract which will alienate their health, their lives and their selves, under multiple pressures such as familial, sexist, economic, or geopolitical.

Substitute motherhood makes the child a product with a market value so that the distinction between a person and a thing is lost. Respect for the human body and gender equality should prevail over individual interests.

Therefore, in the name of human rights, We, the signatories of the Charter:

- Denounce the utilization of human beings whose intrinsic value and dignity are done away with in favor of their usage value and market value
- Refuse the merchandising of women's and children's bodies
- Call upon countries to respect international agreements for the protection of human rights ratified by them and to firmly oppose any form of legalization of surrogate motherhood at a national or international level.

Furthermore, in the name of the equal dignity of all human beings, we also call upon them to act firmly to abolish the practice of surrogacy at an international level, in particular by promoting the elaboration, adoption and effective implementation of an international agreement for the abolition of substitute motherhood.

Sign the Charter at <http://www.abolition-gpa.org/charte/english/>