

FEATURES

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Sisters and brothers from different mothers

While much has changed in the past two decades, turning to surrogate parents remains a controversial choice for many couples

BY JANE E. BRODY
NY TIMES NEWS SERVICE, NEW YORK



Top: Sarah Jessica Parker, far left, holds daughter Marion Loretta Elwell Broderick, while husband Matthew Broderick, second from the right, holds their daughter Tabitha Hodge Broderick on June 29 in New York. The twin girls were born on June 22 to a surrogate mother.

With the birth last month of twin girls for Sarah Jessica Parker and Matthew Broderick, surrogate pregnancy once again assumed center stage. After years of infertility following the birth of their son in 2002, the couple chose to have another woman gestate the embryos they created.

Much has changed in surrogacy in the two decades since the high-profile Baby M case, in which the surrogate was the baby's biological mother and unsuccessfully sought custody after the birth.

The legal proceedings in that case helped affirm the validity of surrogacy contracts in the US, which are now standard. Some states have laws that protect the commissioning parents in surrogate pregnancies. And in a vast majority of surrogate pregnancies today, the surrogate has no genetic link to the baby.

Still, surrogate pregnancy is illegal in some states, including New York, and it remains fraught with controversy despite that thousands of American couples — most of them not celebrities or especially wealthy — are happily bringing up children they could not produce on their own.

Joan Fleischer Thamen and her husband, Frank, of Miami Beach, Florida, are among them. They married when she was 38 and immediately began trying to start a family, "but nothing happened," she said in an interview. They nearly exhausted their savings with fertility treatments and seven attempts at pregnancy through in vitro fertilization.

"After the seventh failure I was emotionally worn out," Joan Thamen said. "Then someone told me a friend had found a surrogate through the Internet. That's how we found Cathy, who said 'I really want to do this for you.' We offered her what we thought was a fair amount — US\$12,000 — and said we'd hire an attorney to draw up a contract and we'd pay for her medical insurance."

Three embryos left from the Thamens' attempts at in vitro were implanted in Cathy's womb. Ten days later they learned

that one was viable. When Cathy was in her fourth month, Thamen discovered to her amazement that she, too, was pregnant and that their due dates were identical.

'COOKED IN DIFFERENT OVENS'

The Thamens are now the delighted parents of 5-year-old boys, David and Jonathan, born 23 days apart and "being raised as twins cooked in different ovens," as Thamen says she explained to the boys. Cathy and her husband and son remain good friends with the Thamens; the families visit often and the Thamen boys consider Cathy an aunt.

Surrogate pregnancies don't always blossom into lasting friendships, of course, and many people consider the process repugnant. It has been called a violation of natural law, a form of prostitution or baby selling, an exploitation of poor women, and a privilege of the rich and famous who may not want to disrupt their careers or their figures by giving birth to their own children.

Reputable agencies and lawyers who specialize in surrogacy guard against the exploitation of women who serve as surrogates and against spurious reasons for seeking a surrogate pregnancy. In virtually every case they process, the intended parents, like the Thamens, cannot produce their own children, yet want children biologically related to them or choose not to wait the years it can take to adopt.

People may choose to have a gestational carrier bear their children if the woman lacks a uterus or has a malformed uterus; must take medication incompatible with pregnancy; or has had repeated miscarriages or failures at in vitro pregnancies. Or, in the case of a male couple or single male, if there is no woman involved.

As for charges of exploitation and baby selling, Pamela MacPhee, who was a surrogate for her cousin and his wife, says most surrogates do it for altruistic reasons. In her new book about her experience with surrogacy, "Delivering Hope" (HeartSet Inc), she says the payment most women receive — typically US\$15,000 to US\$20,000 — "is for the services, time and sacrifice of the surrogate, not for the child directly." And the amount paid is well below minimum wage when factored over nine months of pregnancy and the hormonal preparations that usually precede implantation of viable embryos.

MacPhee, a married mother of three, volunteered to be a surrogate when cancer treatments left her cousin's wife infertile.

"I couldn't imagine my cousin and his wife not being able to have a family, and I wanted to help them," MacPhee said in an interview. She received no payments beyond a life insurance policy and medical expenses, as well as some luxurious gifts from the grateful parents-to-be, like a weekend at a spa.

But the two families were anything but casual about the matter. A psychologist evaluated the women and their husbands to make sure everyone was emotionally healthy, realistic and in agreement with the arrangement. A lawyer drew up a contract that guaranteed the baby would belong to the intended parents. MacPhee said that Hope, now an 8-year-old with her parents' genes, is thrilled about the special circumstances of her birth.

Arrangements for surrogate pregnancies don't always go smoothly or have happy endings, especially if they are undertaken without psychological screening and legal guidance. Care must

be taken to protect both the surrogate and the intended parents and to ensure that the parents' names — and not the surrogate's — will appear on the child's birth certificate.

FINDING THE RIGHT SURROGATE

Melissa Brisman, a lawyer in Park Ridge, New Jersey, whose three children were birthed by surrogates, specializes in such arrangements, helping to secure about 300 surrogates a year for people who cannot conceive or carry a child. The intended parents may provide their own eggs and sperm or those of a donor. In addition to heterosexual couples, her clients include gay male couples, single men and single women.

Surrogate qualifications differ slightly by agency, but Brisman's criteria are typical: The carrier must be between the ages of 21 and 44, must be a nonsmoker, must live in the US and must have given birth to at least one child. She said that laws prohibit acceptance of surrogates from Michigan, New Hampshire, New Jersey, New York, Washington and the District of Columbia.

Ohio, where the Parker-Broderick twins were born, is "a very popular state for gestational carriers," Brisman said in an interview. "In Ohio, you can get the commissioning couple on the birth certificate even if a donor egg was used."

"People don't become gestational carriers as a way of making money," she continued. "Rather, their motives are altruistic."

Furthermore, she has written, "most carriers enjoy being pregnant and are emotionally rewarded by the experience of helping an infertile couple realize their dreams of becoming parents."

MacPhee said that for her, surrogacy was a transformative and fulfilling experience that "has had a profound effect on how I view myself as a person and has resulted in a closer relationship with my children and my husband as well. It has helped me realize what is most meaningful in life."

[LIFESTYLE]

Practicing yoga is a question of faith in Malaysia

Though declared verboten by the country's Muslim council because of its Hindu heritage, the system of exercises enjoys widespread popularity

BY CHRISTIANE OELRICH
DAP, KUALA LUMPUR

Breathing deeply, Malaysian business woman Delilah, 49, concentrated on the warrior stance, before slowly going into the triangle, another yoga pose to strengthen balance.

"It relaxes me," she said. "I know what is good for me and what is not."

However, her country's religious authorities take a different view. In November last year, Malaysia's national fatwa council, which issues religious rulings, ruled yoga haram, which means forbidden for Muslims.

Yoga includes many elements of Hinduism and could weaken Muslims' faith, the council said in its ruling, which is non-binding, but faithful Muslims usually adhere to such rules.

About 60 percent of Malaysia's 25 million inhabitants are Muslims. According to the constitution, every ethnic Malay is Muslim by definition, only ethnic Indian or Chinese Malaysians can freely choose their religion.

But Delilah, who grew up a Muslim and has been doing yoga for five years, does not really care. She never regarded yoga as a religious activity, she said. "But even if it is, I would certainly embrace something that teaches us to love and respect our own body."

Her teacher Ninie Ahmad, 27, a yogi and a Muslim, just opened her own yoga studio, Beyoga, in a posh Kuala Lumpur shopping mall. After some stretching exercises on a mat in front of a mirrored wall, the yogi gracefully assumed a new position.

"It is a big joke," Ahmad said. The fatwa had triggered a lot of interest in yoga, she said.

For her, there is no conflict between yoga and Islam. "Ten years of practice made me a more profound Muslim," she said. "I found out what body and mind can do together, it makes me appreciate my body and maker more."

Statements like those do not sway the fatwa council, which fears yoga will erode its practitioners' faith in Islam.

"Yoga combines physical exercise, religious elements, chanting and worshipping for the purpose of achieving inner peace and ultimately to be at one with god," said council chairman Abdul Shukor Husin.

It is not necessary for Muslims to do yoga to relax, the council argues, they can pray to reach that state.

The edict is controversial in Malaysia, whose nine sultans constitute the country's supreme religious authority.

Sharafuddin Idrish Shah, the sultan of Selangor state, criticized the council, saying its members should have consulted the sultans before issuing the fatwa.

For non-Muslim yoga teachers, the whole controversy is even less understandable.

"The issue came up out of the blue," said Hoo, who was been running his yoga studio for four years. "Our classes are for fitness."

Chanting mantras for him was just about the sound of vibration that cleanses the body and affects the mind and energy, a good way to relax one's mind, he said.

Still, Hoo now leaves out the mantras in beginner's classes, in case Muslims felt uncomfortable about them.

Ninety percent of Malaysia's yoga practitioners are ethnic Chinese and Indians, and there is no indication that Muslims doing yoga have deserted their faith.

But Delilah said she knew some Muslims who have given up on yoga's more meditative aspects after the fatwa. But all in all, yoga teachers are convinced that the activity's popularity will grow further.

Ahmad thinks the whole controversy did one thing — stoke the interest in yoga among Malaysia's Muslims and a huge market may open up.

Delilah goes to her yoga classes two or three times a week. "I believe in common sense and follow my own conscience," she said.



Hundreds of Indians perform yoga exercises during a teaching session. Yoga, which means union in Sanskrit, is a family of ancient spiritual practices, and also a school of spiritual thought that originated in India.

PHOTO: AFP