

§1 THE earliest known description of surrogacy is an ugly biblical story: in Genesis, the childless Sara sends her husband to bed with her maidservant, Hagar, and takes the child as her own. It is this exploitative version of surrogacy that still shapes attitudes and laws today. Many countries ban it outright, convinced that the surrogate is bound to be harmed, no matter whether she consents. Others allow it, but ban payment. Except in a few places, including Greece, Ukraine and a few American states, the commissioning parents have no legal standing before the birth; even if the child is genetically theirs, the surrogate can change her mind and keep the baby. Several developing countries popular with foreigners in need of a surrogate have started to turn them away.

§2 These restrictions are harmful. By pushing surrogacy to the legal fringes, they make it both more dangerous and more costly, and create legal uncertainty for all, especially the newborn baby who may be deemed parentless and taken into care. Instead, giving the gift of parenthood to those who cannot have it should be celebrated—and regulated sensibly.

§3 Getting surrogacy right matters more than ever, since demand is rising. That is partly because fewer children are available for adoption, and partly because ideas about what constitutes a family have become more liberal. Surrogates used to be sought out only by heterosexual couples, and only when the woman had a medical problem that meant she could not carry a baby. But the spread of gay marriage has been followed by a rise in male couples turning to surrogates to complete their newly recognised families. And just as more women are becoming single parents with the help of sperm donation, more men are seeking to do so through surrogates.

§4 The modern version of surrogacy is nothing like the tale of Sara and Hagar. Nowadays, surrogates rarely carry babies who are genetically related to them, instead using embryos created in vitro with eggs and sperm from the commissioning parents, or from donors. They almost never change their minds about handing over the baby. On the rare occasions that a deal fails, it is because the commissioning parents pull out.

§5 A modern surrogacy law should recognise those intending to form a family as the legal parents. To protect the surrogate, it should demand that she obtain a doctor's all-clear and enjoy good medical care. And to avoid disputes, both parties should sign a detailed contract that can be enforced in the courts, setting out in advance what they will do if the fetus is disabled, the surrogate falls ill or the commissioning parents break up.

§6 Laws should also let the surrogate be paid. Women who become surrogates generally take great satisfaction in helping someone become a parent. But plenty of jobs offer rewards beyond money, and no one suggests they should therefore be done for nothing. The fact that a surrogate in India or Nepal can earn the equivalent of ten years' wages by carrying a child for a rich foreigner is a consequence of global inequality, not its cause. Banning commercial surrogacy will not change that.

§7 Better to regulate it properly, and insist that parents returning home with a child born to a surrogate abroad can prove that their babies have been obtained legally and fairly. Becoming a parent should be a joy, not an offence.

**Question 1:** According to *The Economist*, why should surrogacy be legalized? Answer the question in your own words (80 ± 10%)

1. Principle: "the gift of parenthood" should be celebrated and regulated
2. Harmful if kept outside legal boundaries because:
  - a. More costly, More dangerous
  - b. Creates legal uncertainty for newborns especially
3. All the more important as demand is rising
  - a. Because fewer children for adoption
  - b. More liberal families: same-sex couples (notably male) may want children
4. Today's surrogacy doesn't involve the genetic material of the surrogate
  - a. Through medical advances (IVF)
  - b. So, far fewer surrogates refuse to let go of the baby after the birth

Surrogacy should be legalized on several grounds. Firstly, it is honorable to give people who cannot have children the opportunity to become parents. Secondly, regulating this practice will prevent abuses and the legal limbo babies and parents currently live in. Thirdly, with fewer children up for adoption and more same-sex couples (notably men) wanting children, there is a pressing demand for surrogacy. Lastly, as today's surrogacy, thanks to IVF, no longer involves the surrogate's genetic material, the risk of legal disputes over the baby has all but disappeared. **88 words**

En revanche, les derniers paragraphes (§5-7) répondraient à la question : How should a law legalizing surrogacy be worded ?

**Question 2:** Do you agree that a surrogacy law should let the surrogate be paid? Answer the question in a personal way and illustrate your answer. (180 ± 10%)