

Forum on surrogacy raises moral, medical, legal issues

Lawyers, physicians raise 'a Catholic voice'

By Teresa A. Parsons

In debate over the New Jersey case of Baby M, as in most discussions of surrogate parenting, a woman who bears a child for another couple through artificial insemination with the husband's semen has been customarily referred to as a "surrogate mother."

Monsignor William B. Smith believes there is something radically wrong with that terminology.

"Surrogate mother" is a misnomer," he said. "The real mother of Baby M is Mary Beth Whitehead."

Whitehead, the biological mother of the child known for the first year of her life as "Baby M," was denied custody of the child and visitation rights by the ruling of a New Jersey superior court judge this past March. The judge awarded custody to William Stern, the child's biological father, and his wife, Elizabeth based on a contract Whitehead had signed with the couple. Elizabeth Stern subsequently adopted the baby, now known as Melissa Stern. Mary Beth Whitehead has appealed the decision to New Jersey's Supreme Court.

Monsignor Smith is convinced that the impact of such misused terms as 'surrogate mother' goes beyond verbal nitpicking. "All social engineering is preceded by verbal engineering," he said. "If I'm not mistaken, what's at stake here is no less important than our understanding of human parenthood."

A professor of moral theology at St. Joseph's Seminary in Yonkers, N.Y., Monsignor Smith was one of three speakers at a forum Tuesday evening, June 23, at St. Mary's Hospital in Rochester. Sponsored by the Catholic Physicians' Guild and the St. Thomas More Lawyers' Guild, the forum featured discussions of the medical, legal and moral aspects of surrogate motherhood. Speakers included a local physician and the attorney who serves as New York counsel for Mary Beth Whitehead.

Lawyers' Guild President Scott C. Smith said that he helped organize the informational session prior to the March 22 release of the Vatican's instruction on bioethics and procreation, which condemned surrogate motherhood as "an objective failure to meet the obligation of maternal love, of conjugal fidelity and of responsible motherhood."

Smith and other organizers hoped to raise "a Catholic voice" specifically in response to legislation introduced last January by New York state senators John Dunne and Mary Goodhue. The bill, which has been shelved for the remainder of the current year, would recognize surrogate contracts as legal and make them enforceable in New York state.

Such legislation, according to all three of Tuesday evening's speakers, would reduce human infants to the level of products, and parenthood to the level of a commercial contract.

"Humans beings are persons, not things," Monsignor Smith said. "Even in our own tradition, even in our creed, if you will, we speak of people as begotten, not made... I'd say from a Catholic point of view, from a sound philosophical point of view, I don't think another human being could ever properly be the object of an enforceable civil contract."



Jeff Goulding/Courier-Journal

Nor could the bond between a biological mother and her child be severed simply by means of a contract, according to Dr. Barbara Fredericks, the former director of Nazareth College's Health Services and a member of Rochester Area Right-To-Life.

"(The surrogate mother) is told by that contract that she may not bond to the child in her womb or feel maternal feelings toward that child," Dr. Fredericks said. "Any woman out there who has had children knows that that's absolutely impossible. It's against the nature of a pregnant woman not to bond with her intrauterine child... If you choose to deny that, and are helped to deny that by the process which the surrogates go through prior to becoming surrogates, that denial will resurface. It might not be tomorrow, but it will resurface."

"Reproductive prostitution" is how Robert D. Arenstein, the New York-based counsel for Mary Beth Whitehead, describes surrogate motherhood.

"I really think that's what it is," he said. "It contravenes the prohibitions against the buying and selling of babies."

In contrast to the Dunne-Goodhue bill proposed at the state level, Arenstein pointed to a congressional bill that proposes to prohibit both mothers and commercial agencies from selling or profiting from surrogate services. Introduced in May by Congressman Tom Luken, D-Ohio, H.R. 2433 is being considered by both the House Energy and Commerce Committee and the House Judiciary Committee, but is floundering from a lack of sponsors.

Quoting Congressman Luken, Arenstein ob-

served that public policy deems the sale of bodily organs as inappropriate. "Why not the whole person?" he asked.

Along similar lines, Dr. Fredericks wondered why the 13th Amendment to the U.S. Constitution does not apply to surrogacy.

"Near the end of the 19th century, we stated that you could not buy and sell human flesh," she observed. "And in the beginning of the 21st century, we're pushing a process that, for the price of \$25,000, says you can buy a child."

Arenstein cited profit as one possible reason that the practice has flourished. Bringing surrogate mothers together with infertile couples has proven to be a highly lucrative business for people like Noel P. Keane, the executive director of the Infertility Center of New York. According to Arenstein, Keane collects \$10,000 per child produced by a surrogate for his clinic. So far, more than 155 children have been born to the New York clinic's surrogates, he said.

Contracts are hardly ever that profitable for the woman who bears the child, Arenstein noted. Mary Beth Whitehead's contract stipulated that, after bearing and offering up for adoption a healthy child, she would receive \$10,000 — less that half of what she'd earn at minimum-wage scale for nine months of work,

24 hours a day. If the child were stillborn, Whitehead would have received \$1,000, Arenstein said. If she miscarried, she would have received nothing.

If, on the other hand, the child borne by Whitehead was handicapped or disabled, the contract did not hold liable in any way the couple with whom she had contracted. According to Arenstein, Whitehead's only recourse would have been to sue William Stern for child support.

Regardless of the terms of individual surrogacy contracts, all three speakers agreed that the process discriminates against and exploits low-income women.

"There are an awful lot of people in our society who have never seen \$10,000 in a single check," Monsignor Smith said. "Who will be tempted to do something like this just for money? I doubt very much whether it will be women from the Rockefeller family or from the Ford family."

Whether a woman acts out of need for the money or from a sincere desire to help an infertile couple, she is not likely to realize the long-term effects of her decision. Dr. Fredericks warned that very little is known about the

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