Global surrogacy markets are shutting down, putting American women at risk.

BY DANIEL WEISS

Australians David Farnell and his wife Wendy desperately wanted a baby, but after seven fruitless years, they began to despair—until an ad for foreign surrogacy arrangements gave them hope.

With commercial surrogacy banned in Australia, the Farnells went to Thailand, with its lax laws and low fees for gestational carriers. Working through an American surrogacy agency, the Farnells contracted 21-year-old Pattaramon Chanbua to carry their child. It seemed their dream would come true.
OPEN SEASON

In early 2014, the Farnells returned to Western Australia with their daughter, Pipah. She was delightful, everything they wanted. Seven months later, however, the dream began to unravel. Pipah was fine, but a news report revealed that her surrogate mother had also given birth to a twin brother, Gammy, whom the Farnells left behind. Gammy was born with Down’s syndrome and severe health complications, including a hole in his heart. Chanbua, who had been caring for him in Thailand since his birth, claimed the Farnells had not wanted him because of his health issues.

As international outrage began to grow, the Farnells decided to share their version of events on the Australian news show 60 Minutes in August 2014. They admitted they were upset when they learned about Gammy’s condition, and, if the pregnancy hadn’t already advanced so far, they would have requested a termination.

“I don’t think any parent wants a son with a disability,” Farnell told 60 Minutes. “Parents want their child to be healthy and happy and able to do everything that other children do.”

The global reaction to Gammy’s apparent abandonment was swift and severe. Within months, the Thai parliament banned all foreign surrogacy contracts, with one member telling the Sydney Morning Herald in February 2015, “This law aims to stop Thai women’s wombs from becoming the world’s womb.”

A month after Thailand closed its borders, India declared foreign commercial surrogacy unconstitutional, then prohibited all embryo implantation for surrogate mothers, ending the practice completely. Prior to these changes, India was the second most-popular destination for foreign couples seeking surrogates.

Over the past two years, several other countries have restricted foreign commercial surrogacy as well. Nepal issued a moratorium after Israel airlifted 26 surrogate babies to safety, but left their gestational mothers in a disaster zone after last year’s deadly 7.8 earthquake, according to TIME magazine. In Mexico, surrogacy has only been legal in the state of Tabasco. Recent changes now restrict it to married Mexican couples in which the wife is infertile.

Wesley J. Smith, a senior fellow at the Discovery Institute’s Center on Human Exceptionalism, applauds the efforts of developing nations to end surrogacy tourism by the rich. “It’s an urgent moral matter that destitute people in these poorer nations are protected from biological colonialism,” he tells Citizen.

Developing nations aren’t the only ones awakening to the dangers of surrogacy. Last December, the European Parliament voted to ban surrogacy, calling it “reproductive exploitation” and stating that it “undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity.”

According to Families by Surrogacy, an advocacy group based in Australia, there are now just a handful of nations that still allow commercial surrogacy for foreigners, including Georgia and Ukraine. One nation bucking the trend is Cambodia, where more than a dozen Thai and Indian fertility clinics relocated after their own countries’ crackdowns. It’s unclear whether Cambodia will welcome this development or move to ban surrogacy along with its neighbors.

But as the rest of the world awakens to surrogacy’s inherent dangers, the United States remains largely unaware.

LONE RANGER

Marcy Darnovsky, executive director of the Center for Genetics and Society, says the United States is the “Wild West of the fertility industry” because it has no federal laws prohibiting or even regulating surrogacy, which is part of the $3.5 billion Assisted Reproductive Technology industry, according to a report compiled by Marketdata Enterprises in November 2013.

Jennifer Lahl, who leads the Center for Bioethics and Culture (CBC), an advocacy organization based in California, has repeatedly pressed the presidential candidates to take a stand on the issue, but none have.

“It’s not part of our public discussion. It’s not part of our political debate,” she tells Citizen. “I don’t think our government has a clue about what the world is doing on surrogacy.”

Lahl is concerned that the absence of clear federal guidelines leaves American women more vulnerable to exploitation than ever.

“With the global crackdown on paid surrogacy, and with countries closing their borders to foreigners coming into their countries, this is open season on American women, where we have very permissive laws on paid surrogacy,” she says.
Without federal guidance, surrogacy policy in the United States has been developing on a state-by-state basis. The practice is illegal in Michigan, New Jersey, New York, Washington and Washington, D.C. Eight states—California, Connecticut, Delaware, New Hampshire, Maine, Nevada, Oregon and Rhode Island—have legalized it. The remaining 38 states either have no laws regarding it either way (which means it’s legal) or are guided only by a smattering of court rulings.

Very little has changed legislatively since *Citizen* last reported on surrogacy in July 2014. In many ways, this is good. Coalitions involving the CBC, Louisiana Family Foundation Action and the Minnesota Family Council have successfully fended off surrogacy in Minnesota and secured vetoes on bills legalizing it in New Jersey and Louisiana.

Currently, Washington, D.C., has an active pro-surrrogacy bill, as do Louisiana and New York, where the governor is seeking to make surrogacy available for homosexual couples.

Kathleen Benfield has followed Louisiana state politics for decades and has been fighting surrogacy there since 2013. As legislative director of Louisiana Family Forum Action, she is amazed by how difficult it’s been to convince others—including pro-life Christians—of surrogacy’s inherent dangers.

Even so, the link between surrogacy and abortion is growing harder to ignore, especially after two thorny legal cases arose last year in California. Two surrogates carrying triplets—Melissa Cook, 47, and Brittneyrose Torres, 26—were pressured by intended parents to abort one or more of the babies. In both cases, a clause in the contract authorized the intended parents to request “selective reduction” in the case of a multiple pregnancy. Life advocates point out how those situations reveal the irredeemable flaw in commercial surrogacy arrangements—the commoditization of human life. A life that can be purchased is a life that can also be “selectively reduced” through contract law.

Stories like these are the reasons Lahl opposes even regulating surrogacy, as California does. “You can’t regulate something and make it abuse-free,” she explains. “If you have slavery and you just regulate it so you can’t beat your slaves and you have to give them a day of rest, would that be OK? It’s an inhumane practice. You can’t regulate it and make it acceptable.”

Benfield believes the public perception of surrogacy will not begin to change until stories like Cook’s and Torres’s are more widely known. This is one reason she’s excited about Alana Newman’s arrival in Louisiana.

**DARKER DANGERS**

Newman has become known in recent years for her passionate opposition to all third-party reproduction. Since 2011, her Anonymous Us project has collected and published stories from people adversely affected by donor conception. Newman, a married mother of two, has experience on both sides of the issue: She was conceived through donation and is also a former egg donor. Her most recent project is the Coalition Against Reproductive Trafficking (CART), which seeks to educate people about surrogacy’s “Big 5” threats to human life and dignity: human trafficking, abortion, eugenics, broken kinship bonds and serious health risks to gestational mothers and their children.

Newman tells *Citizen* she has begun pressing into a well-hidden component of surrogacy, that of the trafficking and sexual exploitation of children.

The most complete lack of regulation, she says, means children born through surrogacy don’t receive the same protections that adopted children do, including criminal background checks and home studies for prospective parents. A few surrogacy brokers have begun conducting independent background checks on prospective parents, but so far, no industry-wide policies exist.

“Surrogacy is an easy way for predators to create children,” she said. “Obliterate the protective mother and create a facade that they are going to be a happy single dad by choice or a happy gay couple and they can essentially grow their own victim.”

Such scenarios seem absurd until you read the stories: The outrage against David Farnell came in part because he was a convicted pedophile who spent three years in prison for sexually assaulting young girls in separate incidents. Soon after Farnell’s past was revealed, the Telegraph reported another Australian man was charged with sexually abusing twin daughters he fathered with a Thai surrogate mother.

There was also Mitsukito Shigeta, a 24-year-old Japanese businessman whom The Associated Press described as having fathered 16 babies with 11 Thai women over a two-year span. Under investigation for human
trafficking, Shigeta told police he just wanted to create a large family (10 to 15 babies a year until he died) to vote for him when he entered politics.

The United States isn’t immune to such cases. In 2012, California reproductive rights attorney Theresa Erickson was convicted of creating an international baby-selling ring. She and her partners recruited surrogate mothers and sent them to Ukraine to be implanted with embryos created using donated sperm and eggs. Midway through the pregnancies, she would contract with unsuspecting couples looking to adopt and charge between $100,000 and $150,000 to complete the process. Erickson called her actions the “tip of the iceberg” for surrogacy abuse, according to NBC7 in San Diego.

In 2013, American Mark Newton and Australian Peter Truong were given 40- and 30-year sentences in an Indiana prison, respectively, for sexually abusing a boy they purchased from a Russian woman, using surrogacy as a cover. According to the Sydney Morning Herald, the couple started sexually abusing their son just days after he was born. They spent the next six years recording the abuse and uploading it to a Web site run by a notorious pedophile ring known as the Boy Lovers Network, which a U.S. postal inspector called the “worst ring I’ve ever heard of” at their sentencing.

GETTING TO THE TRUTH

Shedding light on the murky unknown motivates Kathryn Mollen, who serves as the policy and outreach coordinator for the Minnesota Catholic Conference. Rather than staying in a defensive fight with the fertility industry, the group and its allies have begun working with lawmakers to authorize a legislative study commission to examine the dangers of surrogacy. The idea is to take the debate out of the legislative session where Mollen says it can be “clouded by overheated rhetoric,” and allow a bipartisan team of lawmakers to carefully consider all sides of the issue.

The idea has encountered “significant opposition” from the surrogacy industry, which relies on happy stories and best-case scenarios to influence lawmakers. But she insists that legislation can’t assume a happy ending.

“We don’t make laws and public policy for best-case scenarios,” Mollen tells Citizen. “We make laws and public policy to protect people from worst-case scenarios.”

Despite opposition, Mollen is encouraged by what she sees in Minnesota. Through the creation of the Web site not4rentnot4sale.com, a broad-based coalition has been generating tremendous grassroots support to push back surrogacy. Mollen says the key to finding traction on this issue is to keep educating people.

“Surrogacy poses threats to the well-being of the women and children involved in a number of ways, from exploitative contracts to coerced abortions,” she says. “We believe the more people are exposed to the tragic stories that are the result of surrogacy situations gone bad, the more people will question whether it is a good idea to invite this multibillion-dollar industry into our communities.”

She has an ally in Newman, whose vision is to create a supportive community for victims and teach them how to share their stories.

“The first step is finding the storytellers who can illustrate why this is bad,” says Newman. “None of the surrogacy institutions are going to be stopped until we have a culture that is more sensitive to what should be for sale and what should not be for sale. Unfortunately, America is a country where anything is for sale, including people.”

Lahl is hoping for greater involvement from the church. She sees great promise among Catholics—Pope Francis condemned surrogacy in a recent apostolic letter—but feels that “evangelicals are MIA on the issue.” If anything is going to change in the culture, it has to first change in the church.

“Surrogacy and infertility is in the Bible,” she explains. “So pastors and clergy should have a total path to speak about it, because it’s right there in Scripture—the barren womb. But what isn’t spoken about and what we don’t teach on is in light of all these new technologies, how do we think critically about which ones are we allowed to use and which ones are we not allowed to use?”

Although the past two years have seen little change in the United States, Mollen and the others are encouraged by what is happening around the world. If surrogacy can be banned in India and Thailand, it can happen here. For Lahl, the end goal is clear.

“We need to join our European counterparts in opposing all forms of surrogacy,” she says, “so that as a world we reject the commodification and the exploitation of women and children.”

FOR MORE INFORMATION:

The Center for Bioethics and Culture has produced four films on third-party reproduction that can be screened in homes and churches. You can find them and download a free study guide at cbc-network.org/issues/making-life/surrogacy. For more details about surrogacy, check out not4rentnot4sale.com, reproductivetrafficking.org or anonymousus.org.