

## **The proposed surrogacy law undermines the rights of mothers and children**

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The House of Representatives will soon decide whether to postpone consideration of the controversial surrogacy bill until after the elections. The bill, which is currently under consideration, would undermine the rights of surrogate mothers and children.

At the Cannes Film Festival, an activist from the feminist group SCUM walked the red carpet. She displayed her pregnant belly with the word "surrogate" written above a barcode in English. According to the collective on Instagram, the protest was to "denounce surrogacy, which is closely linked to the film industry." The collective claims that surrogacy is "rooted in capitalist ideology and international human trafficking. The products sold are newborns, and the means of production are their mothers' bodies."

In surrogacy, a woman agrees to become pregnant with another couple's or person's embryo. After giving birth, she hands the child over to the intended parents. In commercial surrogacy, the surrogate mother does so in exchange for payment. With the exception of a few countries, this practice is illegal in Europe. Altruistic surrogacy, in which the surrogate's expenses are reimbursed, is permitted in some European countries.

Surrogacy involves several people: the intended parents, the surrogate mother, and the child. Intermediaries arrange matters, and solicitors and judges record the agreements. This complex process often leads to problems. This is why a bill to regulate surrogacy is now on the table in the Netherlands. However, the mere fact that a practice causes problems does not mean that it should be regulated legally. The focus should be on what is best for everyone involved.

### **The desire to have children cannot be fulfilled at any price.**

It is sad when this desire goes unfulfilled. It's understandable that people with a strong desire to have children see surrogacy as a solution. However, a legitimate desire cannot be realized at any price. Certainly not if it involves others.

Criticism of surrogacy is quickly interpreted as criticism of rainbow families. Allowing prospective parents to choose for themselves seems liberal. After all, the desire to have children is personal, isn't it? However, the freedom of one person is limited where the freedom of another person is at stake, as the nineteenth-century philosopher John Stuart Mill said. This principle is inseparable from the important liberal principle that every human being has intrinsic value, regardless of age or intellectual ability. These principles also apply to the surrogate mother and the child.

### **The close bond between mother and child is broken**

For many, surrogacy is far removed from their lives. There is insufficient awareness that the rights of women and children are at stake. From the moment of conception, we know that there is a close bond between mother and child. This bond is of lifelong significance and an important foundation for healthy identity development. In surrogacy, however, that bond is deliberately severed after birth. This harms the child's rights and reduces women to wombs.

Now, children are being registered in the civil registry even though their birth certificates indicate that they no longer have a mother in cases involving foreign surrogate mothers. This is the result

of the court in The Hague's new, broad interpretation of Dutch family law. This abandons the fundamental Dutch legal principle, *mater semper certa est*, meaning "the mother is always certain." If the surrogacy law passes, parents with a foreign birth certificate that does not list a mother will not even have to go to a Dutch court. The mother and child will be unable to find each other.

### **Learning Lessons from Abuses in the Adoption Chain**

Following a highly critical report on years of abuses in the adoption chain, such as child trafficking, child abduction, and fraud, international adoption is largely prohibited. Given this information, it would be naive to assume that legalizing and legitimizing surrogacy in the Netherlands would not create new problems.

The law permits surrogate mothers to actively offer their services and prospective parents to actively search for a surrogate. However, the demand for surrogate mothers far exceeds the supply. International demand remains high. Prospective parents from the Netherlands will continue to travel around the world. Upon their return, their child will simply be recognized. In the meantime, surrogate mothers are vulnerable to coercion and exploitation. Their wombs become a means of earning money. A woman may be forced to give up her child or have an abortion.

The consequences for the safety and psychological well-being of these surrogate mothers should not be underestimated. In March, the Casablanca Declaration for the universal abolition of surrogacy was published and signed by over a hundred experts from seventy-five countries. The experts want states to take measures against surrogacy in all its forms, both paid and unpaid.

This appeal contrasts with the proposed law that normalizes and promotes surrogacy. This bill prioritizes the wishes of intended parents while neglecting the rights of surrogate mothers and children.