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## **Their Baby: Story of a Surrogate**

By Kate Hill

**In November this year, Rebecca will give birth to a baby who - at just a few days old - will belong to another couple.**



Rebecca, a former South East resident, has made the choice to become a surrogate mother. It's a decision she said came easily after a family member underwent a serious operation.

"I was thirteen and my sister had to have one of her ovaries removed. She had a cyst and since then, she was told she may have trouble getting pregnant herself...I knew at the time that if she couldn't... I would step up and act as a surrogate for her.

"It's always been something in the back of my mind...one day that I would do for somebody."

A mother of two already, Rebecca said her own pregnancies were uncomplicated and she felt she could help another couple unable to conceive naturally.

At first she didn't tell her husband but after her second child Taylor was born, she started to explore the possibility of becoming a surrogate further.

"Seeing my two kids and feeling as much love for them as I do, I couldn't imagine someone not being able to have that for themselves", she said.

### **Finding and establishing a relationship with intended parents**

A social media site run by organisation Surrogacy Australia was where Rebecca met Mary\* (not her real name), a woman who had struggled for eight years to become pregnant, undergoing countless IVF cycles in the process.

Initially more social to begin with, after months of communicating the talk turned more serious, with Rebecca offering to be a surrogate for Mary and her husband.

"It took a long time for us to make the decision that we were going to do it together. You need to really know the people you're doing it for and create a good relationship.

"We met them in the middle, we went to Melbourne, four of us - my family and her and her husband...we spent some time. Her and I spoke on the phone, three or four times a week for probably 12 months before we jumped into it.

"There's so many potential things that could come up and go wrong so you almost need to be able to pre-emptively know what their decision would be. You need to understand each other really well," Rebecca said.

### **Becoming pregnant for the intended parents**

After a flight to Sydney and fifteen minutes in a doctor's office, Rebecca was implanted with an embryo from the couple, falling pregnant on the first attempt.

Rebecca shrugs off suggestions she is a 'natural mother' but said she had never had any difficulty falling pregnant.

"I think they were happy when they heard it didn't take us long, with my own two, to get pregnant.

Everything was discussed, including what would happen if something went wrong with the baby, or if the pregnancy threatened Rebecca's life.

"We were happy with the way they handled topics like this, they always said they would not be able to live with themselves if something happened to me trying to do this for them...they would not recommend proceeding if it was looking to affect my health at all.

"Because I'm the one that's pregnant in the legal agreements, basically it's my body and I have the right to choose, along the whole pregnancy all the decisions that we make."

"That's how it works in surrogacy agreements, the intended parents can't tell the expectant mother how to manage that pregnancy - it's up to her to manage how she sees fit."

## **The legal aspects of surrogacy**

Rebecca said although commercial surrogacy was illegal in Australia, the intended parents would pay for her medical and legal costs, including small things such as travel to doctor's appointments and anti-nausea medication.

She said the most difficult part, once undergoing rigorous counselling was the legal minefield.

Even things such as who would hold the baby first in the delivery room were all written in a legal document and signed by both parents.

"We know when that baby is born, she will hold the baby first.

"That's what keeps you going through all the hours of counselling and paperwork...we're both looking very much forward to that moment now."

## **After the birth and into the future**

Mary\* and her husband will travel to Rebecca in country Victoria, to be there at the birth of their child and stay with them for several days afterwards.

Rebecca said she may breastfeed the child for a day or two, to provide the nutrient-rich colostrum that newborns need from their mothers.

Rebecca said that after giving birth, Mary\* and her husband would go to the Supreme Court to get a parentage order to officially change her name on the birth certificate, in effect, to become the legal guardians of the baby.

She plans on an enduring, open relationship with the new parents after they return home.

"We plan on having an relationship with them later on, so my children to know their child..."

"We will take photos along the way to explain to our children about the baby."

"I foresee it now that it would be a similar relationship that I would have with my nieces or nephews, that you do feel something just that little bit extra but I don't see it being much more than that.

"I would be happy to see that child being healthy and happy."

Rebecca has now reached the second trimester of the pregnancy, with scans every few weeks and the baby belly beginning to show.

Although she has dealt with a few negative responses, Rebecca said the delight she feels about the end result keeps her positive.

"We've had three scans so far...the third one they came down and got to see their baby a few weeks ago.

"There was tears all round in the ultrasound room."

Rebecca said she's comfortable with her choice and said she knows that when the time comes, she will be able to hand over the newborn she has carried for 40 weeks within her.

"I can completely understand how some people would struggle with that..."

"To me... I have my two beautiful girls and to see the look on their face when that baby is born and it is genetically their baby.

"To see their baby for the first time after eight years of trying, I can't imagine a feeling of wanting to keep that baby from them."

# Story of a Surrogate: the legal side

By Kate Hill



Chair of the Children and Youth Issues Committee from Law Institute of Victoria, Anna Parker, discusses the legal aspects of surrogacy. (lyricsart - Flickr CC)

Currently, commercial surrogacy is illegal in Australia but parents can find a surrogate mother through online forums or avenues, paying for legal and medical costs.

Complicating the process even more, each state in Australia has differing laws on surrogacy.

In [part-one of 'Their Baby: Story of a Surrogate'](#), we introduced surrogate mother Rebecca, who will give birth in November to a baby for another couple.

Rebecca is a former South Australian who now lives in country Victoria. Although she became pregnant in NSW, where the intended parents live, she will have the baby in Victoria.

After making the decision to become pregnant with their child, it was time for the lawyers to step in.

Every decision or possible outcome that affects Rebecca, the unborn child or the parents had to be discussed with independent lawyers.

## **Different laws for different states**

Anna Parker, the Chair of the Children and Youth Issues Committee, Law Institute of Victoria, said the laws governing surrogacy come into effect not where the baby is born but where the process of fertilisation took place.

"In Rebecca's situation if the commissioning or intended parents live in NSW and the procedure took place there, the parents will have to apply to the Supreme Court in that state," Ms Parker said.

Ms Parker said surrogacy contracts can be different in every case, depending on where the surrogate and intended parents live.

"It's very important to be aware of the specific law in the specific state where the procedure is taking place. Some states don't require a written contract at all."

### **When to seek legal advice on surrogacy**

But at what stage should those considering finding a surrogate mother seek legal advice?

"As early as possible," Ms Parker said.

"Certainly before the procedure takes place".

"A lawyer can help advise on what goes into an agreement and can also help draw up the agreement.

"They can make sure everything takes place in a way that is legal and that will not interfere with a parentage order eventually taking place."

The parentage order is sought by the intended parents after the birth of the child, by the parents attending the Supreme Court in their state, to become the legal guardians of the child.

Should Rebecca change her mind while pregnant, or after giving birth, Ms Parker said the contract becomes null and void, with no legal action able to be taken against the surrogate.

"The contract is not enforceable against the surrogate mother and she is legally able to change her mind."

"In that case, the child's parents could apply to the Family Court for an order for the child to live with them, but they wouldn't be able to enforce the surrogacy contract to actually become the child's parents."

Ms Parker said that surrogacy arrangements were generally successful but there have been cases where the surrogate mother had kept the child.

"Sometimes the surrogate does have trouble relinquishing the child and unfortunately there's no way to protect against that."

Ms Parker said she was aware of cases where surrogates had handed over the child on the day of their birth, or days following, but the parents still had to apply to the Court to become the child's guardians.

"Quite often, the initial bonding of the child is with the intended parents rather than with the surrogate mother," she said.

### **The rights of the child**

Ms Parker said in most states, surrogacy laws were designed to protect the rights of the child.

"The child is first and foremost.

"A parentage order will only be made if it is in the best interests of the child."

Mrs Parker said there was nothing legally stopping the child from returning to their birth mother at any age after they were born.

"If for whatever reason the child wished to live with the surrogate mother, there wouldn't be a legal prohibition on that matter."

There is also no legal barrier to the child finding out about their true origins.

Ms Parker said surrogacy was a 'developing' area of the law.

"My firm does a fair bit of surrogacy work, but it's still rare...an obscure part of family law."

"It's only been in recent times that legislation has been enacted in terms of surrogacy so it's becoming increasingly common."

"The states have moved to bring their legislation closer to each other in recent years.

"There is a move to nationalise laws regarding surrogacy however so far there's no national consistency but there is a plan underway."

# Story of a Surrogate: the intended mother

By Kate Hill

**After battling fertility problems for eight years, she was concerned she would never be able to conceive. This November, she'll hold her own baby in her arms. The intended mother shares her story and discusses her desire for a family.**



The intended mother shares her struggle with fertility and feelings about becoming a mother in November. (iNelsonRocha - Flickr CC)

Although not all women will have children, for many it's a basic progression of a loving relationship, a right of womanhood to be able to procreate.

But, due to many and varying factors, some couples struggle to conceive on their own, left on the sidelines to watch others who find it easy to build a family.

Mary\* (not her real name) was concerned she would never be able to conceive, after several operations to her cervix.

"They did tell me, 'it won't affect your fertility'.

"I did wonder about it, even before my husband and I were together.

"We were together for about a year and trying naturally and that didn't work. So we went to see a fertility specialist.

The couple tried IUI first, a procedure which involves tracking the woman's cycles to see when she was ovulating. After several attempts, the couple then turned to IVF.

"We did that for 5 or 6 years. It was pretty draining - each time you go through an IVF cycle you get hopeful maybe it will work and scared that it won't.

Mary described the ups and downs of the process as a 'rollercoaster of emotions'.

"It puts your life in a holding pattern.

The couple talked about giving up their battle, to live a life without children.

"I was probably the main instigator of us to keep it going."

The couple also looked into adoption and egg donation before exploring surrogacy.

### **Finding a surrogate mother**

Mary\* said she was unsure to begin with, not knowing a whole lot about the process and her husband was equally dubious.

"He initially said, that's pretty 'full-on', to get someone else to carry your baby, but he was open to thinking about it."

"He met Bec and she was really great and I guess that alleviated a lot of his concerns about it."

The couple met Rebecca online, through a social media page run by Surrogacy Australia. After talking online initially and then on the phone a few times a week - while Mary was undergoing egg donation procedures - the two women became close.

After twelve months, Rebecca made an offer to become a surrogate for the couple.

"We felt very privileged to have that offer.

"It's a massive deal for someone, for a friend to do that for you.

"I think one of the most important parts of it is being comfortable with your surrogate and their family and feeling that you can trust them.

### **Experiencing the pregnancy as an intended parent**

After ten minutes in a doctor's office in Sydney, Rebecca was implanted with the couple's embryo, falling pregnant on the first attempt.

Now well into her second trimester, Mary said although she is not carrying the child, she still feels a level of ownership.

"It has mine and my husband's genetic material. I think you go into surrogacy, knowing that is your baby and Bec treats it like that."

Mary said although she misses out on the pregnancy experience, including small things like when the baby kicks, she keeps in constant contact with Rebecca to hear about the daily trials of pregnancy.

"We're there for the big milestones. I haven't felt the baby kick yet, we were there for 12 weeks and it hadn't started yet so I'm really looking forward to feeling that."

### **The challenges of surrogacy**

Mary said one of the hardest parts about the process for her was the tremendous legal costs.

"It's a huge financial cost. The psychologist gets paid, the lawyer gets paid a lot, and the person carrying the baby is the only one who doesn't."

"It's a bit cost-prohibitive for a lot of people."

Mary said she and her husband had told their respective families and had introduced her own parents to Rebecca, but would wait before telling extended family, friends and work colleagues, preparing themselves for possible awkward conversations.

"Our family is really supportive, they just want us to have a child."

"I guess you tell people when you feel it's appropriate for that particular friendship."

"I certainly do advocate that openness and honesty in relationships. But then I guess if I had a sense that someone might feel uncomfortable with it or give me a hard time, I probably wouldn't disclose it to them."

### **Preparing for the birth**

Three weeks before the baby is due, the couple will travel to Rebecca in country Victoria, to wait for the arrival of their child, a factor important for both parties.

"I know it's really important for Bec that we're there for the birth as well, so we'll be waiting."

Rebecca has to notify the hospital beforehand to allow permission for the couple to be allowed into the delivery room, but ultimately Rebecca will be the one leaving the hospital carrying the baby.

"The birth mother has to leave the hospital with the baby, if Bec has to stay in, the baby can't be discharged into our care."

The couple plan to stay with Rebecca for up to a week afterwards, while the new parents adjust to life with a new baby and make sure Rebecca is dealing with the process.

"It's a big transition for Bec. Obviously I won't be able to breastfeed so hopefully Bec will be able to express. Mostly just to make sure she's going ok after, emotionally."

"Then back to where we live and I will be off on maternity leave. Like everyone else."

The couple are anxiously awaiting the 20 week scan, when they will find out the gender of their baby, but said they will be waiting until later in the pregnancy before buying baby clothes.

Mary said that when it came to time to leave the hospital she trusted Rebecca to be able to give the child to them, to become the parents.

"There's a lot of trust involved. You have to feel confident."

"We wouldn't have selected someone who we had doubts about, in that sense, who wouldn't be able to relinquish the child."

Mary said both she and Rebecca had been assessed by psychologists prior to the procedure and had examined the 'what-ifs' of the process.

"We have to always talk to Bec about stuff and hopefully feel okay that Bec will be able to talk to us when things come up.

"There's a lot more at stake so you have to have that honesty."

### **What they will tell their child**

When it comes to telling their child about its real mother, Mary said there was no option for them but honesty.

"We'll be open about that from day dot."

"Having openness in that process is really important for the child to help with forming their identity.

"We wouldn't want to make that a secret, as something that might be shameful, it's something to be celebrated."

The couple plan on a continuing relationship with Rebecca and her family in coming years.

"What we would like is for the baby to know that before, to have always known and keep it part of their story."

# Story of a Surrogate: the journey to parenthood

By Kate Hill and Georgia Wilson

**Sam Everingham shares the experience of finding a surrogate mother overseas and navigating the journey to parenthood with his partner.**



Hear Sam Everingham share the experience him and his partner faced with overseas surrogacy and the journey to parenthood. (ABC: Kala Lampard)

Last year, two hundred and sixty-nine babies were born to surrogate parents in Australia. This year, two hundred and fifty-four babies have been born through the process of surrogacy already.

It's a growing trend in Australia but is one that remains relatively uncommon.

Although commercial surrogacy is illegal in Australia, prospective parents have found their mothers-to-be online and via friends and family.

Others also seek help through the form of agencies such as Surrogacy Australia, which says it helps to support those planning on undertaking the process, sometimes finding prospective surrogate mothers abroad, in countries such as India and Thailand.

Sam Everingham is the founder of Surrogacy Australia. With his partner, the couple became parents to two baby girls via surrogacy. Their story has not been a straightforward matter and has involved many emotional moments and personal tragedy in their journey to parenthood.

## **Establishing the surrogacy agency**

"My partner and I had been on the journey of trying to have a family for a few years and we got to the point where we were sort of forced to go overseas to create a family," Mr Everingham explained.

"The fact that we weren't able to find a surrogate to carry for us in Australia and we weren't eligible for adoption under Australian law, those sorts of issues made it quite tough for us.

"We did a fostering course some years ago and then decided against that after finishing that course, it wasn't the right journey for us."

Mr Everingham said there were also issues with creating a family overseas and many hard parts of the process that got them thinking about establishing 'a better way'.

"There wasn't any support at the time for families who were going through this kind of turmoil of not being able to have kids of their own."

"What started as an at-home not-for-profit grew very quickly into a large national organisation, with hundreds and hundreds of families...it was certainly something that seemed to be needed."

### **Finding a surrogate mother abroad**

Mr Everingham and his partner sourced their surrogate mother from India, through a surrogacy agency.

"The clinics themselves will source a surrogate mum for you and you go from there but it's a very hard for someone like us in a country as far away as Australia to put their trust in a clinic on the other side of the world and in a surrogate mum we haven't met before."

Mr Everingham said in India, intended parents met surrogate mothers at the start and end of the process but that the level of contact was very limited.

"It's different if you're using surrogacy in the United States, it's much more a shared experience there because the cultural gaps aren't so large...or in Australia, where you can be very engaged with the surrogate mum."

"If you're using an overseas surrogate, the ideal is to use a surrogate who has already finished having her own family.

"The clinic is then engaged to screen the surrogate psychologically to make sure she is prepared to carry a child for someone else and she's doing it for the appropriate reasons."

### **The struggle of geographic distances**

Mr Everingham said a lot of intended parents missed out on being present for the birth of their child because of unexpected arrivals and added distances and travelling time required with overseas surrogacy.

"A lot of parents I've dealt with over the years have had a call from a hospital overseas saying 'you're baby's about to be born, hop on a plane right now'."

"That's a very stressful thing for many parents, to suddenly have to get up and rush over and often not meet their child until a few days after the birth."

In the case of Mr Everingham and his partner, they were able to meet their children for the first time about an hour after the birth took place.

Due to privacy reasons in India, intended parents wait in the room next door to the birthing suite. After two days, intended parents are able to take their child home with them.

When it comes to breastfeeding, Mr Everingham said some intended parents ask surrogate mothers to express milk. Him and his partner sourced breast milk for their children closer to home, from Melbourne mothers who could provide extra.

"I used to drive around Melbourne with an esky and pick up breast milk from a number of different mums, willing to donate their extra breast milk to our kids because I thought it was quite an important thing for them. Most parents will just feed their kids formula."

### **Communicating with surrogate mothers**

Before leaving for home with the newborn, Mr Everingham said the general practice was to meet the surrogate mother after she's recovered from the birth, with the potential to follow up and continue communicating in the future.

Depending on the situation, Mr Everingham said ongoing contact with surrogate mothers either happened or didn't, as both parties returned to their families and lives.

"We found that a bit hard because we were hoping to have a bit more ongoing contact than our mums wanted."

### **Telling their children about the process**

For Mr Everingham's kids, who are two 'and a bit' years old, he said it was important they knew about the surrogacy process and their beginnings.

"All parents going through surrogacy need to be really upfront and honest about where their kids came from. We keep a story book for our kids with pictures and names of their surrogate mum and their egg donor mum, their birth and the journey they had to come to that point."

Mr Everingham said it was also important for the kids to be able to seek out and re-connect with surrogate mothers.

"For that reason, we try to keep up contact with the birth mums.

"Unfortunately in India, when you're using egg donors they do so anonymously so it's very hard for Australians to keep up contact with the donors but the surrogates, it's more possible."

### **Citizenship and legal aspects of overseas surrogacy**

"There is now a standard process whereby Australia will award citizenship by descent for babies born overseas via surrogacy - that's based on a DNA test, proving paternity."

However, Mr Everingham said that current laws regard the surrogate mother as the legal mother when the child comes to Australia.

"The surrogate mum has to sign their passport applications, for example."

Having the surrogate mothers name on the birth certificate of the child also varies between countries.

"In India for example, for the mother it just says surrogate on the birth certificate...in other countries, if you're doing it in USA, often it's the intended parents, the Australian parents that would go on the birth certificate instead."

### **Loss, complications and the fight to create a family**

In trying for children via surrogacy, Mr Everingham and his partner faced the painful ordeal of losing two children, twin boys.

"Those boys were born at twenty-six weeks. One was stillborn, with the other going into intensive care.

"He was there for seven weeks or so in intensive care, that was a tough road for us because he didn't pull through."

Mr Everingham said the loss of the twins made the couple very aware of the dangers of twin pregnancies, particularly when overseas clinics transferred 'two, three or four embryos at a time'.

"In many surrogates, that will lead to multiple pregnancies and we see, quite commonly still these days, parents from Australia who are faced with the same situation we were, with a very pre-term birth and losing a child or having children in intensive care for many weeks or months."

Would he do it again?

"I don't know that I'd do it again overseas, it was a lot of hard work, a lot of stress but it was certainly worthwhile.

"We wanted a child badly and we, like many hundreds of families who go overseas every year, were prepared to take the good with the bad in order to create a family."

# Story of a Surrogate: future outcomes

By Kate Hill and Georgia Wilson

**In the final part of the surrogacy series, Cambridge University senior researcher Dr Vasanti Jadva discusses effects of the process on surrogate mothers and children after the birth and beyond.**



Dr Vasanti Jadva discusses effects of the process on surrogate mothers and children after the birth and beyond. (stock.xchng: scataudo)

The definition of surrogacy is one that takes the place of another, a substitute.

This week on Mornings, we examined the topic of surrogacy - the process of finding a woman to carry a baby for somebody else.

Earlier in the week, we heard from a mother of two, who is [currently pregnant as a surrogate](#) for another couple, and one of the [intended parents](#), who will become a mother for the first time in November when the child is born.

We've also examined the [legal side of surrogacy](#), discussing the ins and outs with a family lawyer, as well as speaking with the founder of Surrogacy Australia, a man who - with his own partner - experienced an emotional journey with surrogacy on the [path to parenthood](#) and establishing a family.

For those who assess the information available and decide on becoming a surrogate for another couple, what happens in five or ten years down the road? Do they still feel the same or differently about their experience?

Senior Researcher with Cambridge University, Dr Vasanti Jadva, has conducted a number of studies on the effects of the process on the surrogate mother and children born to surrogate mothers.

In the final part of the surrogacy series, Dr Jadva joined Mornings to discuss the findings and share the experiences of research participants.

"The first study we did was back in 2003 and at that time we were interested in the experiences of surrogates immediately after, a year after, they'd helped an intended parent have a child through surrogacy.

"That was looking at their experiences during the pregnancy and a year following.

When the child was aged one, participants recalled their feelings to the researchers about how they felt at the time of being pregnant, halfway into the process and when they relinquished the baby.

"It was about how they felt about it, their relationship with the intended parent, their own family relationships, so it was quite a detailed, in depth study."

As Dr Jadva explained, commercial surrogacy is not legal in the UK (is also illegal in Australia) and can only be carried out 'altruistically'. Dr Jadva also said there were no accurate figures on the prevalence of surrogacy in the UK.

Though, a recent study into parental order applications that were granted estimated around one hundred and fifty surrogacy's per year. But Dr Jadva said not everybody applies for the parental order.

"It's likely that that's an underestimate of what's actually happening."

In the first study in 2003, thirty-four surrogate mothers were interviewed for the research.

Questioning spanned their motivations for being surrogates, how they heard about it, how they met intended parents, their experiences of pregnancy, psychological health, feelings towards the handover, what the child should be told and ongoing communication with intended parents.

Recently, researchers went back to revisit the same group of women from the original study.

"Twenty of those original women took part and we also included additional women who had had a child around about the same time.

"The average age of the child was about nine to ten years. What we found was that some surrogates were actually doing subsequent surrogacies too. Some of them would have done them more recently and for others, that original surrogacy was the only surrogacy that they had done."

Researchers found that in no instance did the group of surrogate mothers have any doubt about handing over the child to the intended parents.

They also found that high numbers of surrogate mothers, around 70 per cent of cases, were in touch with intended parents and the surrogate child, in varying degrees. Majority of contact maintained between intending mothers and surrogates.

### **How the children view the surrogacy**

Researchers checked in with the children at one, two, three, seven and ten years of age.

Asked how they felt about being born via surrogacy, Dr Jadva said the children responded positively.

"They were able to explain it in basic terms to us...they were really aware of who their surrogate was in some cases, in others they hadn't met the surrogate, and generally felt very positive about their birth."

### **The after birth experience for surrogates**

Dr Jadva said the original study found that the first few weeks following the birth were difficult for surrogates, who reported feeling 'particularly down'.

"Sometimes they would explain this through their hormones, for feeling down, other times it would be explained in terms of... they've been so involved in the lives of the intended parents for so long, a journey they're going through together, once the baby's born they know that journey has ended.

"It was that that was leading to them feeling down, rather than having handed the baby over to the intended parents."

### **The effects of surrogate studies**

"I can only speak for the UK context because that's where the studies have taken place. We're very fortunate in that we do have some laws governing surrogacy here. I think what it shows is that when surrogacy does take place here, it can lead to very positive experiences.

"That doesn't mean it always goes right and there are media reports about surrogacy arrangements where things don't go right.

"But on the whole, we're certainly finding that the experiences are positive.

"The only time that surrogates perhaps feel a bit down is if they had intended to maintain contact with the intended parents...but then contact had stopped following the birth, they did report feeling quite upset about that and not having contact with the child, given it was something they'd planned to do."

### **What the surrogates told others**

Dr Jadva said participants had told others what they were doing, with some reporting negative reports from other people. Some intended families also indicated the same thing.

"Sometimes, it was people from outside who didn't really understand or had particular views about it but I think with the popularity of surrogacy growing, it's becoming something that's a lot more familiar."

### **The future of surrogacy**

"I think things are changing in surrogacy. A lot of people are travelling abroad for surrogacy and we don't really know about the experiences there. There is still a lot of unknowns in the

area of surrogacy so I definitely think more research and more exploring of the unknown is necessary."