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Exploring Ethical Dilemmas: Using Brain-Dead Women as Surrogates

Published on September 18, 2023 · 



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A scientist's proposal of practicing whole-body gestational donation — or using a brain-dead woman's body to carry a pregnancy — has incited heated debate among experts.

Using [brain-dead women as surrogates](#) was the subject of a thought-provoking paper written by the University of Oslo, Norway, scientist Anna Smajdor and published on November 18, 2022, in the *Journal of Theoretical Medicine and Bioethics*. In the piece, Smajdor suggests that whole-body gestational donation, AKA using a brain-dead woman as a surrogate, could be an alternative for prospective parents who want children but cannot become pregnant or don't wish to carry a child.

Heavy opposition emerged after Smajdor's idea surfaced, raising questions about the **complex legal, financial, and ethical challenges associated with using brain-dead women as surrogates.**

For example, in an article published on August 22 in *Theoretical Medicine and Bioethics*, Erwin J.O. Kompanje and Jelle L. Epker, from Erasmus MC University Medical Center, Rotterdam, the Netherlands, expressed serious concerns about Anna Smajdor's thought experiment.

First, Kompanje and Epker say initial consent for an extended eight-month ICU treatment cannot automatically translate into consent for post-mortem body donation. These actions involve vastly different medical and ethical considerations.

Additionally, the scientists note that it's highly probable that a brain-dead woman's physical condition would be unsuitable for complex high-tech surrogacy, and there's a

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significant risk of inadequate embryo/fetal development due to her brain-dead state.

The authors also say that reserving an ICU bed for eight months may be perceived as unfair because of resource scarcity. The high costs associated with such prolonged ICU care far outweigh those of hiring a living, healthy surrogate. Both insurance companies and prospective parents are unlikely to bear the exceptionally high expenses for a deceased woman when a living surrogate is available at a fraction of the cost.

Moreover, the scientists say that utilizing a brain-dead woman as a surrogate raises the likelihood of harm to the child involved. And there's a serious concern that the whole-body gestational donation could infringe upon a woman's dignity and adversely affect the interests of her loved ones.

In a July 7, 2023 paper published in *Theoretical Medicine and Bioethics*, scientists from Spain also rejected whole-body gestational donation on four grounds. These include:

- The idea hinges on the contentious acceptability of surrogacy, even when considering women's autonomy in making choices about their bodies.
- Using a brain-dead female as a surrogate fails to address the potential harm inflicted upon the interests of deceased women.
- Whole-body gestational surrogacy overlooks the significance of safeguarding the interests of future generations or descendants.
- The concept of this type of surrogacy neglects the symbolic value associated with the human body and the interests of the deceased person's relatives, all of which are crucial aspects that cannot be disregarded.

[Kaitlin Puccio](#), a bioethicist and attorney who also hosts the Gray Matter bioethics podcast, told *Healthnews*, "With whole body gestational donation, it is undeniable that the donor must have the capacity to consent when she decides to donate her body for this purpose. The biggest question that remains, then, is the question of when is death?"

Puccio says higher brain death means a loss of capacity for consciousness, while whole brain death means brain stem death and a loss of capacity for consciousness.

"While it is debatable which definition is the right definition of death from a bioethical perspective, whole brain death is the legal standard for determining death in the U.S. and most of Europe," Puccio adds. "Legally, then, donors would be considered dead. The moral question that follows is whether — assuming that this process causes no harm to the fetus — our society could overcome the initial aversion to the idea of using a dead body in this fashion."

According to Puccio, the aversion to using deceased individuals for gestation stems from the idea that people must treat the bodies of the dead with respect and that using a woman's body as a vessel for this practice would be exploitative.

"However, putting forth this argument is tantamount to telling women that they do not have a choice about the way they use their bodies in the reproductive space, which is not an unfamiliar argument," Puccio asserts.

Exploring Surrogacy: Answers to

Frequently Asked Questions

While using brain-dead women as surrogates may not be ethically, legally, or financially sound, traditional or gestational surrogacy is a more viable option. Still, understanding the process can help prospective parents and individuals who are contemplating becoming a surrogate decide whether surrogacy is right for them.

Q: What is surrogacy, and how does it work?

Surrogacy is an arrangement where a woman carries and gives birth to a child for another individual or couple, known as the intended parents. There are two main types of surrogacy — traditional surrogacy, where the surrogate is genetically related to the infant — and gestational surrogacy, where the surrogate has no genetic connection to the child. In gestational surrogacy, an embryo created using the intended parents' or donors' genetic material is implanted in the surrogate's womb.

Q: Who typically seeks surrogacy and why?

Prospective parents who turn to surrogacy include couples struggling with infertility, same-sex couples, or individuals unable to carry a pregnancy due to medical reasons. Surrogacy offers them the opportunity to have a biological child when traditional methods are not an option. It can also be an alternative for those who wish to avoid passing on genetic conditions.

Q: What are the legal aspects of surrogacy?

[Surrogacy laws vary widely](#) by country, state, or province. Some areas have comprehensive legislation, while others have little or no regulation. Many surrogacy arrangements involve detailed contracts outlining the rights and responsibilities of all parties involved to prevent potential disputes.

Q: How do surrogates and intended parents find each other?

Matching surrogates and intended parents can occur through agencies, online platforms, or personal connections. Agencies often facilitate the entire process, from matching to legal and medical aspects. Prospective parents and surrogates may also find each other independently and work with lawyers and fertility clinics to navigate the process.

Q: What are the medical aspects of surrogacy?

For gestational surrogacy, the process involves in [vitro fertilization](#) (IVF) to create embryos. Medical professionals then transfer the embryo to the surrogate's uterus and closely monitor the pregnancy. Still, both gestational and traditional surrogacy pose pregnancy-related risks for the person carrying the child.

Q: What are the emotional and psychological considerations in surrogacy?

Surrogacy can be emotionally complex for all parties involved. Therefore, open and honest communication is crucial. Many surrogacy arrangements involve counseling and support to help surrogates and intended parents navigate the emotional aspects of the journey.

Q: What are the costs associated with surrogacy?

Surrogacy can be expensive, including medical, legal, and agency fees, as well as compensation for the surrogate. In addition, costs can vary widely depending on location and individual circumstances. For example, in the U.S., [surrogacy can cost between \\$110,000 to \\$170,000](#).

While the idea of using brain-dead women as surrogates continues to spark debate, traditional or gestational surrogacy still remains a viable option. However, it's essential to thoroughly research, understand the legal and emotional aspects, and seek professional guidance throughout the process.

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