

# Surrogacy standoff sees more couples heading abroad

Since China implemented the universal second-child policy at the beginning of last year, more than half of the 90 million newly eligible couples include women age 35 or older, according to the National Health and Family Planning Commission.

Geng Linlin, deputy director of the clinical center at the commission's scientific research institute, said many of these women are past prime fertility so they find it difficult to have a second baby.

Fertility declines as women age, according to Geng, who added that nearly 90 percent of women age 45 and older are unable to conceive or carry a pregnancy to full term. Moreover, women age 35 and older stand a greater risk of miscarriage.

Other factors, such as environmental pollution, the widespread use of chemicals and exposure to electromagnetic radiation, can also affect people's ability to reproduce.

The World Health Organization estimates that 15 to 20 percent of the global population is infertile, which translates to about 15 million couples in China.

"Declining human fertility has become a social problem," said Wang Lina, a veteran fertility specialist at the Peking University Third Hospital in Beijing.

She pointed to altruistic surrogacy—where the surrogate mother receives no financial reward—as a new option, particularly for women who are unable to become pregnant because of physical limitations but still long to have a second child.

At present, the only regulation governing surrogacy was issued by the commission, the nation's top health authority, in 2001. It prohibits medical facilities and professionals from performing any form of surrogacy.

Since then, the government has repeatedly launched raids on underground clinics across the country, but the "womb business" has never ceased completely.

However, largely as a result of the government ban, a rising number of well-to-do Chinese have begun to seek surrogacy services in countries where the procedure is legal and is performed under the correct conditions.

## **Failed attempt**

Liu Li has a deformed uterus, which prevents her from becoming pregnant naturally or safely carrying a baby to term, but she still produces eggs.

The 39-year-old Shanghai native decided to seek treatment in the United States after an attempt at underground surrogacy failed. Almost three years ago, Liu found a surrogate via an agency in the municipality, but the woman disappeared after the embryo had been implanted.

"I spent a large sum, but I didn't get my baby," Liu said, declining to give details of the amount she paid. She didn't report the incident to the police because "surrogacy is illegal, and I didn't want other people to know".

Inspired by ads she saw at the fertility clinic she had attended, Liu turned her eyes to California, where surrogacy is legal, and approached an agency in China.

In August 2015, she first met with her surrogate, Amanda, a young white woman, in a fertility clinic in the US state.

Amanda had already undergone a series of health checks and psychological tests to ensure that she would make a suitable surrogate, according to Liu: "I liked her at first sight, so we signed the surrogacy contract quickly."

Having supplied the egg and her husband's sperm, Liu welcomed her baby daughter in June. As she and her husband are the child's biological parents, the baby's features are undeniably Chinese.

The entire procedure cost about \$150,000. "It would have been cheaper and easier for us if surrogacy were allowed in China," she said.

Wang, from the Peking University Third Hospital, suggested the government should ease the ban to help women such as Liu to have a child.

Volunteer surrogacy is allowed in many countries, and commercial surrogacy is also available, especially in some US states.

"China should follow suit. But purely commercial programs must be strictly prohibited," said Wang, who has treated many young women who have had their ovaries removed because of diseases such as cancer.

"They are so young and shouldn't miss the chance of having their own child. Surrogacy can help them fulfill their dreams of motherhood," she said.

According to Wang Yifang, a professor at Peking University's institute for medical humanities, legitimate surrogacy could also help couples who have lost their only child as a result of accident or illness, but the wife is now too old to conceive naturally or carry a pregnancy to term.

"Ethical concerns should not undermine reasonable application of this helpful medical procedure," he said.

### **Caution advised**

However, Xue Jun, a professor of law at Peking University, advised caution, noting that there are many concerns surrounding surrogacy, including gender selection and the potential for legal disputes between surrogates and the

intended parents.

Liu Ye, a lawyer in Shanghai, is strongly opposed to surrogacy. He cited potential health hazards facing surrogates, such as hypertension, uterine discomfort, abnormal fetal position, pain during delivery and even death.

Also, “poor women may be used as reproductive tools by the rich”, he added.

In response, Wang Lina stressed that only altruistic, unpaid surrogacy should be legalized, and the procedure should be performed for women with clearly defined existing conditions, such as uterine problems, or who have failed with other fertility treatments.

In gestational surrogacy, the intended parents use in vitro fertilization to produce an embryo that is genetically theirs and then have it transferred to the uterus of the surrogate. However, the likelihood of pregnancy varies widely because of the high average age of the donors.

In other cases, the surrogate also donates the egg. That was the case for Geng Le, CEO of the gay social-networking app Blued which has more than 21 million registered users in China.

Geng’s baby boy was born in San Francisco a few weeks ago via a Western surrogate.

“Both commercial surrogacy and egg donation is legal here (San Francisco). I chose a white surrogate so I could have a mixed-blood baby—they are usually prettier and smarter,” he said.

Surrogacy is the only way for gay men across the world to have a baby, but Geng said that even excluding the policy restrictions, affordability is a major concern.

A gay man in Chongqing, who declined to be named, said he would prefer to visit clinics in the US or Europe, but the “complicated procedures and high cost deterred me from the idea of ‘surrogacy tourism’”. He didn’t think China would legalize surrogacy anytime soon.

In a potentially tricky development, the final amended Law on Population and Family Planning, which took effect on Jan 1 last year, didn’t outlaw surrogacy. That omission, which means acting as a surrogate is not a crime in China, has led some commentators to claim the move demonstrates a cautious and prudent approach to the procedure.

However, in February, Mao Qun’an, a spokesman for the National Health and Family Planning Commission, reiterated that surrogacy remains a complicated issue in relation to the law and medical ethics.

“The commission will continue to crack down on such practices,” he said.

### **Fact box**

Surrogacy is an arrangement in which a woman carries and delivers a baby for

someone else. The woman who carries the baby is the surrogate. The parents-to-be are known as the intended parents. They are involved in the pregnancy, are present at the birth and become the child's (legal) parents after the baby is born.

## Methods

□ Traditional surrogacy: the surrogate serves as both the egg donor and the surrogate for the embryo. She is impregnated using a procedure known as intrauterine insemination. The surrogate is also the child's biological mother.

□ Gestational surrogacy: the surrogate's eggs are not used, meaning the child is not biologically related to her. The embryo is created via in vitro fertilization by using sperm from the biological father and an egg provided by the biological mother. Once the embryo has been implanted in the surrogate's uterus, she will carry it until birth.

## Legal status of surrogacy worldwide

□ Countries such as France, Germany, Italy, Spain, Portugal, Bulgaria and China prohibit all forms of surrogacy.

□ In countries such as the United Kingdom, Denmark and Belgium, surrogacy is allowed if the surrogate mother is not paid or is only paid reasonable living expenses. Commercial surrogacy is illegal.

□ Surrogacy is fully legal in some US states, and in countries such as India, Russia and Ukraine.

*Source: The World Health Organization and the US Centers for Disease Control and Prevention*

## **California becomes favored center**

The number of Chinese seeking surrogacy services at the Southern California Reproductive Center in Los Angeles has risen gradually in recent years, according to Mark Surrey, the center's chief medical officer.

Last year, more than 100 Chinese clients opted for the center's surrogacy services, accounting for about 50 percent of all Chinese who used the facility, Surrey told China Daily in an email exchange.

As a result of physical factors, the average age of clients for surrogacy services is 40, he wrote. In addition, about 50 percent of Chinese people undergoing the treatment were trying to have a second child.

Usually, the process usually takes about two months, from egg retrieval to the transfer and embedding of the embryo. Patients pay \$30,000 to \$35,000 for the procedure, excluding the fee paid to the surrogate mother.

Surrey said the center wouldn't be affected if the Chinese authorities decided to legalize surrogacy: "We have patients from all over the world. Our

business is not only about surrogacy services. It will be beneficial to many patients if China legalizes surrogacy services in the future and the SCRC will always wish all the best for all patients.”

In addition to surrogacy, the center provides services such as in vitro fertilization, egg freezing and the preservation of embryos.