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BIOL6381 – Sec02

Assignment for Week 4

1. Why is infertility such a serious problem in North America?

New data released this year in August from the Federal Government regarding fertility rates in the United States shows that the percentage of married women ages 15-44 who were infertile fell from 8.5% in 1982 to 6% from 2006 to 2010. The median age at first marriage is also the highest ever: 26.6 years of age for women and 28.6 years of age for men. This is according to 2012 data from the U.S. Census. Anjani Chandra, a health scientist at the National Center for Health Statistics, the author of the government's reporting data attributes the seemingly opposing data to medical intervention.

Anjani is quoted in the August 14th, 2013 issue of USA Today[1] regarding the reports data, "The level of infertility is being counteracted by their pursuit of medical help to have a child. Both together are bringing down the percentage we see as infertile when we do our survey."

It would appear that our infertility problem with respect to natural conception and child birth is in fact increasing. Especially, when we account for couples now relying on medical procedures in order to achieve pregnancy. Ever increasing numbers of the population are waiting longer to get married and try to conceive children. A women's fertility begins to decline at age 30, at which point 90% of her fertile eggs have been lost. This decline in fertility drastically steepens as women approach 40, leaving the average woman with only 3% of her viable eggs. A 2004 paper published in the Oxford Journals examines the ability of medical advances to continue to offset this trend notes “Under natural conditions, 75% of women starting to try to conceive at age 30 years will have a conception ending in a live birth within 1 year, 66% at age 35 years and 44% at age 40 years.”[2] “Even if we relax some of the assumptions, ART in its present form cannot make up for all births lost by the natural decline of fertility after age 35 years.”[2]

As couples wait longer to get married and attempt to conceive children when women have passed the peak reproductive years, natural child birth rates will continue to decline. Currently, they are being offset by advances in fertility treatments and medical intervention, but research has shown that current medical procedures can do little to fully mitigate the declining fertility rates in the United States long term.

Sources:

[1] <http://www.usatoday.com/story/news/nation/2013/08/14/infertility-trends-medical-treatment/2637511/>

[2] <http://humrep.oxfordjournals.org/content/19/7/1548>

2. You read a surrogacy case, look up the case In Re Baby M and summarize it in ONE paragraph. How is it different from Calvert v Johnson? Did you agree with the courts decision in both cases? Why or why not.

In Re Baby M, the Stern's entered into a contract with Mary Beth Whitehead to have her act as a traditional surrogate. Mr. Stern's sperm was used to inseminate Mrs. Whitehead. After the pregnancy, Mrs. Whitehead attempted to assert custody of the child. A New Jersey court ruled that the surrogacy contract was invalid according to public policy. The court recognized Mary Beth Whitehead as the child's legal mother, and ordered the Family Court to determine whether Mrs. Whitehead (the mother) or Mr. Stern (the father) should have legal custody of the child using the conventional “best interests of the child” analysis. Mr. Stern was awarded custody, and Mrs. Whitehead was given visitation rights.

The Re Baby M case differs in one rather significant issue regarding the genetic parents of the child. In Calvert v Johnson, the genetic parents contracted Johnson as a gestational surrogate. The Stern's however entered into a contract with Ms. Whitehead acting as a traditional surrogate. Mr. Stern's sperm was fertilizing Mrs. Whitehead's ova, making Mrs. Whitehead the genetic mother of the child. I feel that both courts, after taking this particular fact into consideration made rational decisions based on the facts presented.

In the case of Baby M, both custody and parental rights were legal issues to be considered as both parties were genetically related to the child. The court's decision to issue a judgment based on the best interests of the child made sense in that case. I also feel that the decision not to decide judgment based on the best interests of the child in Calvert v Johnson case to avoid conflating the issues of parentage and custody made sense given that the genetic parents were clearly the Calverts. The genetic lineage of a child should play a role in the court's decision when it comes to parentage. It is not the only factor to be considered in that of custody obviously, but it does speak to the situation and conditions surrounding the validity of a surrogate's contract violating public policy or not. Clearly there must be some form of demarcation to decide if and when a surrogate contract is in violation of public policy. Since the genetic lineage and therefore parentage of a child is easily discernible using modern genetic tests I feel this is a clear cut standard that can be applied with respect to a surrogate relinquishing parental rights prior to the birth of a child. As Ms. Johnson was not considered a parent her contractual obligation to act as a surrogate was not in violation of pubic policy.