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## Surrogacy, America and me

'It's not every day you ask someone to have your baby over Skype' — Ginanne Brownell on her journey to motherhood

**Ginanne Brownell** MARCH 13 2021

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Two decades ago, I got a tattoo of an Akua'ba statuette on my inner right ankle. A female fertility symbol in Ghana, the disc-headed figure comes from the Akan legend of Akua, a woman who went to a priest for advice because she was having trouble conceiving. He instructed her to have a small wooden statuette of a child carved and to care for that surrogate baby as though it were her own. She was soon pregnant.

Years later, as I was struggling to conceive, the irony was not lost on me that not only did I carry my infertility permanently around on my ankle but that I too needed a surrogate, albeit of a different kind, to help me become a mother.

Like countless other women across the globe, I put off having children while I focused on my career — journalism in Washington DC and London, with assignments taking me around the world. I had frozen five eggs right before my 40th birthday — jokingly calling them my “in case of emergency, break glass” eggs — and so, having married when I was 43, my husband and I tried IVF several times. We used both frozen and fresh embryo transfers, but nothing worked. We tried other assisted reproductive technology too — endless procedures, everything from flushing my Fallopian tubes with dye to being put through temporary menopause to recalibrate my cycle.

Nothing happened. Though we lived in London, I often travelled for work to Europe and sub-Saharan Africa, and it became tough to be home for the barrage of treatments while trying to fit in long-haul assignments. After yet another negative pregnancy test in July 2015, my gynaecologist told me I had unexplained infertility. She doubted I could ever carry a child to term. It was a devastating blow; it felt like the end of my road to motherhood.

Surrogacy was not something I had ever considered. The only people I had heard of doing it were celebrities such as Nicole Kidman, Elton John and Angela Bassett or those much richer than me and my husband. It is notoriously expensive in the US: upwards of \$100,000, thanks to legal fees, fertility treatments, medical insurance, escrow funds and surrogacy compensation.

The Baby M controversy of the late 1980s, where a surrogate decided to keep the baby despite having signed a contract, gave the process a horrifying reputation and prompted many states to make surrogacy agreements illegal.



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But things have begun to change. According to the US National Institutes of Health, infertility affects around [15 per cent](#) of couples globally, which is no small group. Storylines in books, films and television, if often melodramatic, chart the arc of why couples may choose surrogacy.

Over the past decade, a number of US states have either updated or created surrogacy-friendly laws. Between 1999 and 2013, according to researchers at the US Centers for Disease Control and Prevention, “the number of IVF cycles using gestational carriers in the United States has more than [quadrupled](#)”, accounting for more than 18,000 births.

So when a gay Israeli couple, close friends of mine, said they were working with a surrogate in Oregon to expand their family, I told them we wanted to learn more about it, especially how they were going to cover the costs. My friends had cobbled together their savings and done some refinancing; their argument was that instead of saving money to buy a bigger flat, they'd rather hear children's giggles bouncing around their current one.

If two of the most down-to-earth people I knew were opting for surrogacy, I thought maybe I could too.

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**Choosing where to have your surrogacy**, let alone who should bear the child, has never been a simple matter. I'm American and my husband is from Serbia, and although we live in the UK we decided not to pursue surrogacy here because the waiting list for a gestational carrier at the time was about 18 months or longer. (A gestational surrogate is not biologically related to the child, unlike a traditional carrier, who is also the egg donor.) It would have been considerably cheaper, however, costing between £50,000 and £60,000.

In theory, UK surrogates are not supposed to be paid, but they can receive "reasonable expenses", which often are upwards of £25,000. In the US, however, surrogacy can be commercial, involving a for-profit third party that sets up the surrogacy and compensation for the surrogate. In the UK, the surrogate and her partner or husband are the legal parents until a parental order is granted by the courts, which can take more than nine months, whereas in some US states the intended parents are the legal parents from birth.

America, where (luckily) I had healthcare insurance even after being an expat for 20 years, made more sense to us, a couple without time to waste, but difficult decision after difficult decision still faced us. The first hurdle was that my home state of Michigan was, in 2015, one of a handful of states where surrogacy contracts were not only illegal but where we could face a fine of up to \$10,000 or a year in jail if we pursued one.

For a long time, the state had been a global pioneer in surrogacy. Not only was it the [first place](#) where a formal surrogacy contract was negotiated back in 1976 but it is where the world's first baby was born via a gestational carrier in 1985.

**Infertile women such as myself often choose not to get too involved in those early days: there has been so much loss that we can't run the risk of having hope**

But Michigan's progressive reputation ended in 1988 when it became the first US state to make surrogacy a [felony](#), following the Baby M backlash, and it has not significantly changed its rules since. We had to cast our net wider and ended up with a Boston-based agency.

The politics of choosing a surrogate are — perhaps justly — fraught. In the early days of surrogacy, radical feminists argued that it commodified the womb and exploited women based on their reproductive capabilities. They warned that poor women of colour would be taken advantage of by wealthy white heterosexual couples desperate to have a child.

“What we learn from experience today is that a lot of surrogates are white and tend to be lower middle class, so empirically this has not held true,” says Cornell University law professor Sital Kalantry, who has written extensively on surrogacy in both the US and India.

“People who . . . have never spoken with a surrogate before have these deep assumptions about it,” says Heather Jacobson, the author of *Labor of Love: Gestational Surrogacy and the Work of Making Babies*. “If the concern of so many people is the exploitation of women in surrogacy, well then talk to them.”

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**It's not every day** you ask someone to have your baby over Skype.

Before long our agency had matched us with Julie and Chad, a couple in Illinois who explained in a letter their reasons for wanting to be part of a surrogacy journey. They both have MBA degrees and work in management, and they have five children between them. Julie wrote that she had really enjoyed her three pregnancies and, since being a mom was the most important thing in her life, she wanted to share that with someone who could not otherwise have kids.



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There are, of course, concerns that can't be covered in a letter or surrogacy contract. "The intended parent and surrogate relationship can be a sensitive one to navigate," says Ellen Trachman, a Colorado-based family formation attorney. What intended parents think of as giving the surrogate space, the surrogate might see as a lack of interest. Trachman adds that while there is a common fear that a gestational carrier may want to keep the child, most surrogates view the experience as the "equivalent of extreme babysitting".

Infertile women, such as myself, often choose not to get too involved in those early days: there has been so much loss that we can't run the risk of having hope.

## **Persistence is as important to surrogacy as to scaling Kilimanjaro or writing the Great American Novel**

Our first attempt with my frozen eggs in June 2016 did not take, but by August Julie was pregnant from one of the frozen embryos we'd shipped from London to our clinic in California. At eight weeks, she miscarried. I was in Tanzania on a reporting trip when she texted me and I remember howling into the blustery wind blowing off the Indian Ocean. That was the

last of our genetic material. We could not have felt more despondent.

But persistence is as important to surrogacy as to scaling Kilimanjaro or writing the Great American Novel. With the help of an egg donor, two healthy embryos were implanted into Julie in the early spring of 2017. Soon afterwards, Julie called to tell us that we were expecting twins.

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**Going through the trauma of infertility**, you learn to temper your expectations quite quickly. While we were hopeful, my husband and I did not allow ourselves to get excited until that summer, when we met Julie and Chad for the first time at a Chicago Cubs game. As I watched her waddle down the concrete steps at Wrigley Field stadium, I was excited that she and the babies seemed to be thriving — but also melancholy that I was not the one who got to carry and grow them.

To the sounds of bats cracking and the crowd cheering, the four of us bonded over our families' varied reactions to the surrogacy. While mine were excited, I had to explain the more technical processes to them. One of Julie's in-laws, meanwhile, thought my kids were going to be her children's siblings.

“To say just ‘surrogacy’ is asking a lot of . . . people,” says Karla Torres, senior human rights counsel at the Center for Reproductive Rights in New York. “Once you parse it out and explain to people what it actually entails, that is really helpful.”

According to Judith Daar, author of *The New Eugenics: Selective Breeding in an Era of Reproductive Technology*, there is growing acceptance. “You see the legal landscape in the United States shifting,” says Daar, “and that is a sign that the normalisation is well under way.”

Part of that normalisation has come from the LGBT+ community, which in New York state helped finance and lobby for a surrogacy law that included a Surrogates' Bill of Rights, giving carriers the freedom to make their own healthcare decisions. "It's gay men that drove the issue at the end of the day," says Amy Paulin, the assemblywoman who worked for 14 years to get the legislation passed. This February, [New York](#) became the latest state to make surrogacy legal.

Michigan is the last full holdout. That's not necessarily because surrogacy is any more controversial there; in fact, a recent case of a Michigan couple having to [adopt](#) their biological twins from their carrier has caused local consternation and outrage. But there isn't yet much political will.

Organisations such as Resolve: The National Infertility Association have lobbied to create more surrogacy-friendly laws. This is not just about legality: only 19 states in the US currently mandate insurance coverage for infertility.

Given the expense, surrogacy needs not only political will but also social funding. Some of this comes from clinicians and agencies that now offer payment plans and discounts, while non-profits such as the Cade Foundation focus on awarding grants and stipends to intended parents who struggle to afford aspects of the process. Some grantmakers give to particular groups: Fertility for Colored Girls to black women and Men Having Babies to gay men.

I finally became a mother in January 2018, when Julie had a healthy boy and girl — now three-year-olds, my fiery and independent daughter and my cheeky and thoughtful little man. I always say that, on that day, Julie didn't just give birth to my twins, she also gave birth to me as a mother.

*Ginanne Brownell is writing a book on cross-border surrogacy around the globe*

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