

# Hidden from view: Canadian gestational surrogacy practices and outcomes, 2001-2012

Pamela M White

Specialist Associate Lecturer, Kent Law School, University of Kent, Canterbury, UK. Correspondence: p.white-229@kent.ac.uk

**Abstract:** *This paper raises some troubling questions about the fertility treatments provided to Canadian gestational surrogates, women not genetically related to the child that they carry. Using information published between 2003 and 2012 by Canada's Assisted Reproduction Registry, the paper traces the growing incidence of births to gestational surrogates. The transfer of more than one embryo increases the chance of pregnancy and the incidence of multiple births, and while the incidence of multiple births has declined overall since 2010, gestational surrogates consistently experience a higher proportion of multiple births and experienced higher levels of multiple embryo transfers. In 2012, just 26% of gestational surrogates received a single embryo transfer compared to 47% of other in vitro fertilisation (IVF) patients. The paper suggests that renewed attention needs to be paid to the counselling provided to gestational surrogates and treatment consenting mechanisms used by IVF clinics and that review of the 2007 Canadian Medical Association surrogate treatment guidelines is warranted. Finally, the paper describes the difficulties in obtaining accurate data about Canadian assisted reproductive medicine. Without good data, it becomes far more difficult to identify the possibility of potentially harmful practices. © 2016 Reproductive Health Matters. Published by Elsevier BV. All rights reserved.*

**Keywords:** gestational surrogacy, ART registries, Canada, single embryo transfer, multiple IVF births

## Introduction

The practice of a woman conceiving and carrying a child for an individual or couple, who for medical or social reasons are unable to have their own children, has been characterized as morally troubling as it breaks the assumed closed link between genetics, gestation, and motherhood.<sup>1,2</sup> The discourse and practice of surrogacy raises tensions about contracts, altruism, autonomy, and independence and about its potential to commercialise human reproduction and commoditise the body.<sup>3-5</sup>

In Canada, both 'traditional' surrogacy, where the surrogate is genetically related to the child she bears for the intended parent(s), and 'gestational' surrogacy, where the surrogate has no genetic link to the offspring, are lawful provided that the surrogate arrangement is altruistic, though expenses incurred by the surrogate can be reimbursed.<sup>6</sup> For an increasing number of childless Canadian couples and individuals including gay men, surrogacy may be the only way to have biological children. A 2012 survey reveals that surrogacy is neither a taboo topic nor an unrealistic reproductive option for many Canadians; one-

quarter of childless adult women and 40% of childless adult men would consider using a surrogate should they or their partner not be able to carry and give birth to their biological child.<sup>7</sup> Personal testimonials featured in popular magazines,<sup>8-10</sup> newspaper articles reporting on out-of-province and out-of-country surrogate births,<sup>11-13</sup> and exposés of media celebrities including Joël Legendre and his husband, who forced the Quebec government to pay their surrogacy costs,<sup>14</sup> lead one to conclude that surrogacy as practiced in Canada is an acknowledged, albeit controversial, twenty-first century family-making activity.

Despite Canadians' increased acceptance of surrogacy, comparatively little is known about the practice. Lack of data,<sup>15</sup> social stigma associated with infertility,<sup>16</sup> perception of legal uncertainty about surrogacy,<sup>15-17</sup> and reproductive tourism<sup>18,19</sup> have been cited as factors contributing to a shortage of reliable and comprehensive information about Canada's surrogacy practices.

This paper seeks to fill this knowledge gap, and in so doing, it raises several troubling questions about the fertility treatments gestational surrogates receive. While there are limitations with

the data source – the Canadian Assisted Reproduction Technology Registry (CARTR) and Better Outcomes Registry and Network (BORN) – used to analyse gestational surrogacy trends and outcomes, the paper demonstrates that assisted reproduction technology (ART) registry information yields important insights.

### Canada’s Assisted Reproduction Technology Registry: CARTR-BORN

The science of embryology, the practice of reproductive medicine, and the regulation of fertility treatment data collection systems play pivotal roles in the structure of ART registries and the management of fertility treatment knowledge.<sup>20</sup> These factors shape the medicalised narrative structuring what “*we know and do not know*”<sup>21</sup> about fertility treatment in general and surrogacy in particular.

Unlike their American<sup>22</sup> and British<sup>23</sup> counterparts, Canadian fertility clinics are not required by law to report AR treatment information to a recognised public health authority. When Canada’s *Assisted Human Reproduction (AHR) Act* 2004 was passed, CARTR, as it was then known, could have been replaced or possibly merged into the federally legislated Personal Health Information Registry, but it was not. The 2010 *Reference re AHR Act* decision<sup>24</sup> ended the federal government’s ability to establish ART and donor registries when the Supreme Court of Canada ruled *ultra vires* the sections of the Act regulating areas deemed to be under provincial constitutional authority, namely the practice of medicine and research. In 2010 Quebec regulated the practice of fertility medicine<sup>25</sup> and by early 2016, Ontario was funding one stimulated cycle of IVF.<sup>26</sup> To date, no provincial government has created fertility treatment or donor registries, though the Canadian Fertility and Andrology Society (CFAS) recently recommended the creation of a national donor registry.<sup>27</sup>

CARTR-BORN, a voluntary ART registry established and governed by Canada’s IVF clinic directors since 1999, functions as the country’s principle source of information on IVF medical practices. Regarding surrogacy, the registry contains data on the IVF treatments provided to gestational surrogates defined as:

*“A woman who carries a pregnancy with an agreement that she will give the offspring to the intended parent(s). Gametes can originate from the intended parent(s) and/or a third party (parties).”*<sup>28</sup>

In instances of conception occurring as a result of donor insemination, a practice more typical of traditional surrogacy, the registry does not record this type of information. While IVF could be performed on traditional surrogates, Canadian fertility clinics like their American counterparts offer IVF services to gestational surrogates,<sup>30</sup> thus, Canadian and American ART registries shed no light on traditional surrogacy practices. In contrast the UK Human Fertilisation and Embryology Authority (HFEA) records fertility treatments provided to both traditional (genetic) and gestational surrogates but does not routinely publish this information.<sup>31</sup>

CARTR-BORN presents a national picture of IVF treatments provided to gestational surrogates, however, its focus and structure contribute to data limitations. It holds no socio-economic information or information on fertility treatments undertaken outside Canada, and little demographic data on patients. Yet, it could tell us about the use of Canadian IVF clinics by non-residents as the address of patients and intended parents is collected, though not all clinics consistently submit this information to CARTR-BORN.<sup>32</sup>

The organisation of fertility treatment information by IVF cycle<sup>\*</sup> reflects embryological and ART medical practices, telling us more about gametes, embryos, and fertility procedures than about the patients receiving treatment.<sup>20,36</sup> However, by analysing this information over time, the emerging picture of gestational surrogacy practices reveals important differences in fertility treatments provided to surrogate compared to non-surrogate mothers.

### Methods

Between 2001 and 2007, Canada’s ART treatment statistics were published in the journal *Fertility and Sterility*. From 2008 to 2012, annual data reports were made available to CFAS members and disseminated via the organisation’s website.<sup>37</sup> Beginning in 2013, only media overviews have been released. Customised tabulations are made available to approved researchers by BORN, the organization now hosting the registry on behalf of IVF clinic directors.<sup>28</sup>

\*A treatment cycle is considered to have “started” when a woman undergoing ovarian stimulation receives the first dose of gonadotropins or, in a non-stimulated cycle (e.g., for Frozen Embryo Transfer (FET)), when monitoring is begun.

Download English Version:

<https://daneshyari.com/en/article/7527164>

Download Persian Version:

<https://daneshyari.com/article/7527164>

[Daneshyari.com](https://daneshyari.com)