

## Case 4: My Baby, My Choice?

“I find myself in a difficult situation with my surrogate, Maria...”

In California, a thirty-three year old man’s desperate Reddit post went viral. John (a pseudonym for simplicity) and his husband Roman had decided they wanted to have a child. The joyful couple settled on using surrogacy, with a woman named Maria as their donor. After signing legally binding documents with John and Roman, Maria carried the fetus until the eighth month of pregnancy, when she “dropped a bombshell”, according to John’s Reddit remarks. She desired to keep the child for herself and terminate their agreement.

Surrogate motherhood is the process of having a child through a third-party woman. The process usually costs \$150,000 to \$200,000, a hefty price. Couples who have trouble conceiving, or cannot physically conceive, can hire a surrogate mother to carry their child. There are two main methods of surrogacy: traditional, which uses the male parent’s sperm and the surrogate mother’s egg; and gestational, which uses both the sperm and egg of the donor parents. This means that in a traditional surrogacy, the surrogate mother is biologically related to the baby, while in a gestational surrogacy, the surrogate mother has no biological relation. Maria served as the surrogate mother in a traditional surrogacy.

The ethics of surrogate motherhood are twisting and complex. Proponents of surrogacy argue that this service harms none. Families who wish to have a family of their own, but are unable to due to various reasons (same-sex couples, infertility, medical risks, etc.) should be able to experience the joy of parenthood. John and Roman are an example of a real-life same-sex couple who would be able to start a family through a surrogacy. Surrogate motherhood can empower couples like these in a way that hasn’t previously been attainable. In addition, advocates argue that surrogate motherhood legitimizes and properly compensates women’s unacknowledged physical labor in childbearing.

However, opponents of surrogacy point to the murky rights floating around the surrogate mother and child. They argue that when something so precious as human life and motherhood itself can be priced and manipulated, it signals a moral failure within society. The surrogate mother becomes a commodity, to be bought and paid to endure pregnancy, labor, and the eventual pain of parting with (in some ways) her own child. In addition, due to the financial incentives of such a role, many surrogate mothers are from low-income demographics vulnerable to potential abuse and exploitation. This could become a new form of uniquely-female physical and economic exploitation.

John ends his plea to Reddit with a tense but resolute statement. “I suggested that if she had any more issues, she should speak to my lawyers, but as far as I was concerned, the baby was ours, mine and Roman’s. Whether she liked it or not.

So, Reddit, AITA in this situation?"

Discussion questions:

1. California state law stipulates that surrogate mothers of a *traditional* surrogacy are the legal mothers, regardless of any written legal documentation, including any ownership contracts between her and donor parents. Beyond Maria, what does this imply about traditional surrogacy? Can this be extended to gestational surrogacies as well? Why or why not?
2. Who can claim ownership of a child: the donor parents or the surrogate mother? Does any entity have full claim over the baby? If not, how is it determined who can ultimately keep the child?
3. Beyond law, what truly defines "motherhood" and custody over a child? Is it physically carrying an embryo to birth, or being the genetic parents of that baby?
4. Can a baby be commodified in ways that surrogacy requires? Should it, if it provides a way for couples to have a child when they physically cannot?

Sources:

- <https://www.newsweek.com/surrogate-keeps-baby-debate-1843420>
- [https://www.reddit.com/r/AITAH/comments/17nythc/aita\\_for\\_refusing\\_to\\_let\\_my\\_surrogate\\_keep\\_our/](https://www.reddit.com/r/AITAH/comments/17nythc/aita_for_refusing_to_let_my_surrogate_keep_our/) (original Reddit post)