

Introduction to the special edition

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In the early part of 2016, I organised a conference, as part of an ongoing project looking at the need to reform the UK's laws relating to surrogacy.¹ This followed on from the publication of a working group report, in November 2015, calling for much needed change in all aspects of surrogacy law from the limitations on who may apply for a parental order, to the way data is recorded.² This report contained a foreword signed by Baroness Mary Warnock and Professors Margaret Brazier and Susan Golombok, three women who had been instrumental in the way surrogacy is currently regulated, through their chairing of and involvement in the two different Committees of Inquiry set up to examine the way that surrogacy should be regulated.³ Obtaining these signatures made me hopeful that reform of the law was becoming increasingly more achievable.

The conference – ‘Surrogacy in the 21st Century: Rethinking Assumptions, Reforming Law’ – took place in London on 6 May 2016. Something I had hoped to achieve by organising this day, which over 100 people from all disciplines and backgrounds attended, was to bring together a range of voices speaking about surrogacy. This was certainly achieved. We started the day hearing from Mary Warnock, who told us that she believed she may have been wrong about surrogacy back in the days of the Warnock Report – a point she reiterates in the Foreword to this special issue. Continuing, we heard a keynote speech from Margaret Brazier, who also agreed that reform is now necessary, sooner rather than later. A further legal perspective – this time on the effect our regulation may have as one of the drivers of a growing market for international surrogacy – came from Emily Jackson. We also heard accounts from psychologists who have spent many years undertaking longitudinal studies looking at families created through surrogacy (Susan Golombok) in comparison to other kinds of ‘non-traditional’ families, and at the response of and effect on surrogates and their own families when a woman enters into this kind of arrangement (Vasanti Jadva). Specialist fertility lawyer Natalie Gamble and agency co-ordinator Helen Prosser (both from the non-profit surrogacy agency Brilliant Beginnings) spoke about the day-to-day legal and practical issues that arise in surrogacy, as well as their own reasons for supporting law reform. Later in the day we had papers

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¹ See www.kent.ac.uk/law/research/projects/current/surrogacy/index.html.

² K. Horsey, ‘Surrogacy in the UK: Myth busting and reform’, Report of the Surrogacy UK Working Group on Surrogacy Law Reform (Surrogacy UK, November 2015).

³ *Committee of Inquiry into Human Fertilisation and Embryology, Report Cmnd 9314* (1984) (London: HMSO) (‘the Warnock Report’) and *Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation, Report of the Review Team Cm 4068* (1998) (London: HMSO) (‘the Brazier Report’).

looking at potential different routes for reform, from Danielle Griffiths and Amel Alghrani, as well as solicitor advocate Colin Rogerson, who considered whether there is potential for international regulation.

Together, hearing about the flaws in the existing regulation, from those involved in its creation, as well as from academics' and a practitioners' perspectives, alongside the day-to-day experiences and in-depth knowledge of a surrogacy agency, as well as data showing that families created by surrogacy and surrogates and their own families were doing well – are not 'harmed' or put at risk by the process – cemented my thoughts that the law is ripe for reform. However, beyond Mary Warnock and Margaret Brazier, it was hearing the more personal accounts of Kim Cotton (the UK's first surrogate and chairperson of its oldest surrogacy agency, COTS) and members of agency Surrogacy UK (a panel including surrogates, parents through surrogacy, and those seeking to become parents through surrogacy) that really got everything going and provoked a great deal of discussion. This was my intention – to bring the voices of those who have been there and done it to speak in the same room as academics of a variety of disciplines, legal practitioners and others. And to be heard by an audience of academics, practitioners, students, social workers, law makers, policy makers, campaigners, surrogates, parents through surrogacy and more.

Many of those who spoke on that day have kindly written a piece based on their talk for this journal's special issue. Since the day of the conference, there have been other developments, for example, a declaration of incompatibility has been issued in relation to a single man unable to access a parental order following surrogacy; the Law Commission has consulted on whether surrogacy should be included in its thirteenth programme of law reform and a number of cases have been decided. Many of these developments have been able to be included and are discussed in the pieces contained in this issue.

I thank the contributors very much for their fabulous contributions and for helping me keep the debate on law reform going. The nature of the contributions make this a very varied, interdisciplinary collection, as well as something a little different, as it contains some of those personal accounts that made the conference so successful. The papers have been a pleasure to edit, and I hope this special issue will be as much of a pleasure to read. I also hope that it will be read widely, and especially by those considering how the law should be reformed, such as Nicola Blackwood MP, the Parliamentary Undersecretary of State for Public Health, and the Law Commission, which at the time of writing is considering whether to go forward with a project on surrogacy law reform. I sincerely hope that it will.