



Phil 173: Surrogacy

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Intro

Terminology

- Surrogate – ‘alternate’
- Partial surrogacy – genetic link between person who gestates and the resulting child
 - Sometimes called ‘traditional surrogacy’
- Full surrogacy
 - No genetic link between the person who gestated and the resulting child
- Why might this difference matter?
- Current compensation: 50 000 – 75 000 US or more



Intro

Why might we think surrogacy **is** permissible?

- People ought to have broad reproductive freedom
- People ought to be able to enter into commercial arrangements so long as they are consensual
- Surrogacy arrangements provide a route for people to have children that might not otherwise be able to do so
- Surrogacy arrangements have an element of altruism
- Surrogacy arrangements are really not that different from widely accepted practices (daycare, nannies, adoption etc.)

Anderson's Argument Against Surrogacy

- Commodification = valuing something purely in terms of its use, according to market norms
- Commodification is problematic if we believe that the object under consideration has value beyond its usefulness
- Commodification of persons is wrong because we think that persons have value beyond their usefulness
- An example that does not involve people might be historical artifacts, pieces of art, etc.
- Some examples where commodification seems wrong?

Anderson's Argument Against Surrogacy

- Surrogacy agreements commodify gestational labour in a problematic way
 - Value gestating solely in terms of its usefulness to others (the intending parents)
 - Fails to consider the gestational mother as an individual deserving of respect
- Commodification of gestational labour results in three primary kinds of harms
 - Alienation from socially encouraged and legitimate attachment to the developing child
 - Degradation by implying that grief, transformation in values, harm of being separated from an attachment can be compensated for adequately in monetary terms. The magnitude of the toll is not given proper weight

Anderson's Argument Against Surrogacy

- Commodification of gestational labour results in three primary kinds of harms
 - Alienation from socially encouraged and legitimate attachment to the developing child
 - Degradation by implying that grief, transformation in values, harm of being separated from an attachment can be compensated for adequately in monetary terms. The magnitude of the toll is not given proper weight
 - Exploitation by appealing to sentiments (eg. helping others, value of pregnancy, etc.) to convince women to take part in very demanding activity
- How good are these arguments?
 - Exploitation might not be so strong, but what about the others?

Anderson's Argument Against Surrogacy

Other harms:

Commodification of children:

- ☐ Children seen as 'things' to be purchased
- ☐ Values for particular traits
- ☐ Parent-child love is something to be bought and sold

■ Children in general

■ Siblings

Anderson's Argument Against Surrogacy

- Should we have no surrogacy at all?
- Unenforceable surrogacy?
- What about people who cannot have biological children?
 - Adoption
- Is there a consent argument *against* surrogacy?

Is Anderson right?

- Could we see surrogacy as payment for a service?
 - Some think payment is for a child
 - But is this right? Think about other services...
- Are children 'commodified'?
 - Children are not treated like mere objects
 - Preference for certain traits does not mean children are loved only for those traits

Intro to Baby M

- Sterns entered into a surrogacy agreement with Mary Beth Whitehead
 - Ms. Whitehead would be inseminated with Mr. Stern's sperm
 - Ms. Whitehead would relinquish the child after birth
- Ms. Whitehead initially complied with the agreement and delivered the child to the Sterns
- Later she pleaded with the Sterns to have the child temporarily
- Ms. Whitehead then alerted the Sterns that she had changed her mind and did not want to part with the child

Intro to Baby M

- Initial ruling – contract valid
 - Dr. Stern legally adopts child
- On appeal, contract not valid
 - Mr. Stern is legal father, Ms Whitehead legal mother
 - Sterns have custody, Ms. Whitehead has visitation rights
- Initial thoughts?
- Does genetic relatedness make a difference?



Intro to Baby M

- Should we allow surrogacy at all?

- How should we regulate it?
 - Interests of intending parents?

 - Interests of child?

 - Interests of person acting as a surrogate?

 - Dignity? Harm to other children? Paternalism?