



Ethics: Bioethics (Fall 2014)

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ETHICS OF SURROGACY

For Consideration...

- What sorts of emotions and visceral responses are there to surrogacy contracts?
 - How should we analyze these responses?
- How important is the context of a particular surrogacy practice to assessing its moral permissibility?
 - E.g., web-based company in the U.S. vs. clinic in India



In the United States (2:40-)



In India

To Start



- **traditional vs. gestational surrogacy**
 - TS: surrogate provides ovum
 - GS: embryo implanted (so no biological material from surrogate)
- **IVF (in vitro fertilization)**
 - Form of ART (assisted reproductive technology)
 - Eggs inseminated outside the woman's body; cultured embryo implanted
- **Pronatalism**
 - Policies, attitudes, or practices that encourage higher birth rate

Baby M

- What moral questions does this case raise?



Different Questions to Ask

- Is surrogacy intrinsically morally wrong?
 - The type of service it is?
 - Inevitable negative consequences attached to it?
- Are surrogacy *contracts* wrong in themselves?
- Is *paying for* surrogates wrong in itself?
- Are there (only?) particular circumstances that make surrogacy problematic?
 - E.g., wealthy individuals requesting this service from impoverished, socially disadvantaged women?

Purdy's Argument

- **Benefits to surrogacy**
 - Reducing barriers to having children for infertile, non-heterosexual couples, or single adults
 - Good reasons to transfer burden, risk (for women and for fetus)
- **Not wrong in themselves:**
 - Asking a woman to take on burden of pregnancy for another
 - To separate sex and reproduction
 - To separate reproduction and child-rearing

Purdy's Argument

- **On exploitation**
 - No clear moral delineations between surrogacy and other forms of risky work
 - Not akin to prostitution, either.
 - Should not deny autonomous abilities of women, including those who are in financial need
- **On baby-selling**
 - Cannot own a person, so cannot sell a person
 - No clear, inevitable harms to women or children

Discuss

- Do you Purdy has adequately dealt with the exploitation concern?
- Are you convinced that this practice does not constitute “baby-selling?”
- Purdy lists some contractual clauses that will be wrong. Are there others that would concern you?

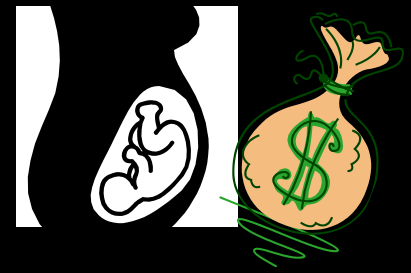
Macklin's Argument

- **Exploitation of women?**
 - Paternalistic worry: “It questions women’s ability to know their own interests and to enter into a contractual arrangement knowingly and competently” (60)
 - Treating oneself as a mere means?
 - Cannot ever use take advantage of one’s body to serve others, even to receive some gains? ... counterexamples

Macklin's Argument

- **Informed consent**
 - Barrier to understanding...perhaps, but doesn't make informed consent *impossible*
- **Contractual worries**
 - Increased restrictions—might not be negotiable
 - Increased policing (privacy losses)—to enforce contract

Macklin's Argument



- **On paying to “rent a womb”**
 - Poses a problem for *voluntariness* – offer she cannot (reasonably) refuse
 - Due/undue inducement distinction not easy to discern...depends on particularities of the surrogate
 - How much money is fair? (minimum wage per hour of pregnancy would be cost-prohibitive...)
 - “Medical and other health services are a special social good, one that should not be subject to the same market forces that govern the sale of pork bellies” (63)

Discuss

- Has Macklin sufficiently argued that surrogacy is not necessarily a case of treating oneself as a mere means?
- Purdy concludes that contractual, commercialized surrogacy is *not* morally wrong. Macklin concludes that the commercial aspect of surrogacy *is* wrong.
 - **Who has made the stronger argument?**

Questions? Comments?
