

# PHI 202 | Notes on commercial surrogacy

Michal Masny | 04 December 2019

## Readings:

Anderson, E. (1987). Is Women's Labour a commodity? *Philosophy & Public Affairs*.

### 1. Overview

*Commercial surrogacy* involves paying money to a woman to bear a child for other people and terminate her parental rights, so that these people may raise the child as exclusively their own.

Anderson offers a *Kantian argument* against commercial surrogacy. Kantians claim that things should be *valued in an appropriate way*. To value something in accordance with a 'lower' mode of valuation than appropriate is to *degrade* it. Anderson presents a series of considerations which suggest that commercial surrogacy *inherently* involves degrading *children* and *women's labour*. This makes commercial surrogacy objectionable.

### 2. The Kantian argument against slavery

Kantians maintain that, in virtue of having rational capacities, persons have *dignity*. The appropriate way to value such beings is to *respect* them. *Respecting* a person involves, among other things, taking their interests into consideration. An action or practice that fails to take the individual's interests into consideration is objectionable. Now, slave owners use slaves to satisfy their own needs without proper regard for the interests of the slaves. So, they fail to respect these people. This makes slavery objectionable.

*Contrast*: Arguably, non-human animals do not have rational capacities. So they lack dignity and their interests need not be respected. Thus, they can be traded, used, and killed to satisfy our needs.

*Question*: Would Kantians have an objection to a situation in which the slave owner, as a matter of fact, is benevolent and never interferes in the life of the slave?

### 3. Degradation of children

According to Anderson, the appropriate mode of valuing children by their parents is to *love* them. Anderson understands parental love as "passionate, unconditional commitment to nurture one's child, providing it with the care, affection, and guidance it needs to develop its capacities to maturity". Parental rights and responsibilities may be discharged but only in the child's interest.

Anderson argues that commercial surrogacy degrades children in three ways:

- (1) Parental rights and responsibilities are discharged not in the interest of the child, but in the interest of the surrogate mother and the receiving couple's interests. They are treated as kind of commodity which can be properly bought and sold.
- (2) The surrogate industry provides opportunities for adoptive couples to specify traits of the mother in the expectation that these traits will be passed on to the child. This goes against the ideal of valuing children unconditionally.
- (3) The contract and the broker are in place to weaken the relationship between the surrogate mother and the child. This impairs or prevents parental love on part of the surrogate.

Thus, the child is not valued how a child should be valued. Instead, it is valued in the way in which it is appropriate to value a *commodity*. This form of degradation is *commodification*.

**Questions about this part of the argument:**

- (A) Do you find Anderson's account of what parental love should involve compelling? If we opted for a less demanding account, what implications would it have for her argument?
- (B) Which, if any, of these features are inherent to commercial surrogacy and which are merely contingent (and thus could be avoided through effective regulation)?
- (C) What implications does this argument have for adopting children? For instance, is it degrading to adopt a child which has specific traits?
- (D) What implication does this argument have for giving up a child for adoption or placing it in, say, its grandparent's care?

**4. Degradation of women's labour**

According to Anderson, the appropriate way of valuing a person involves treating with respect and consideration. To treat someone with *consideration* is to respond with sensitivity to her and her emotional relations with others, refraining from manipulating these for one's own purposes. Commercial surrogacy violates norms of respect and consideration in three ways:

- (1) *Alienation*. The surrogate mother is forced to repress whatever parental emotions she feels for the child. She is forced to regard pregnancy as a merely biological practice rather than as a social practice.
- (2) *Manipulation*. The commercial surrogacy industry has a strong incentive to and often does manipulate the surrogate's mother perspective on pregnancy, in order to prevent her from seeing her involvement from the perspective of a parent rather than of a labourer.
- (3) *Exploitation*. The social meaning and circumstances of pregnancy, and the socioeconomic situation of many surrogate mothers prevent surrogate mothers from entering surrogacy contracts on equal footing with the surrogate agency.

**Questions about this part of the argument:**

- (A) Which, if any, of these features are inherent to commercial surrogacy and which are merely contingent (and thus could be avoided through effective regulation)?
- (B) Which of these features unique to surrogacy and which pertain to other professions? That is, does it argument generalise to other occupations?