Reproductive technologies: surrogate motherhood

New Reproductive Technologies

Some of the Possibilities

• Sex separated from reproduction
• Women pregnant in their 60’s.
• “Excess embryos” stored
• Surrogate motherhood
• Shopping for sperm, ova, embryos
• Genetic twins: one 60 years old, one 10
• Lesbian parents

How Should We Respond?

One view, technological optimism

“Laboratory reproduction is more human [than coital reproduction]

“…Man is a maker and a designer, and the more rationally contrived anything is, the more human it is.”

Joseph Fletcher (? not sure of attribution)
What Social Force Could Control Reproductive Technologies?

- Capitalism: not likely. If people want it, there is an incentive to market/sell it.
- Democratic government: maybe, but responds to short-term emotions more than long-term needs
- Government can’t control beyond borders; globalization overcomes boundaries
- Religion?

Natural Law Ethics

- A teleological view of the universe: it, and humans, are here for a purpose (telos = goal, end)
- Human reason can discover a true unchangeable “human nature” and natural laws are the basis for ethics.
- Example: the true “purpose” of sexuality is reproduction
- Our passions and emotions may distort.
- Problem: science rejects this; it explains phenomena through causes, not purposes.

Catholic Ethics Based on Natural Law

- Anything that separates procreation from the sexual act is unethical
- Human embryo must be respected as a person from first moment
- Surrogate motherhood immoral: “contrary to the unity of marriage and to the dignity of the procreation of the human person.”
- IVF and ET immoral even if sperm from husband because “it establishes the domination of technology over the origin and destiny of the human person.”
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Two Kinds of Surrogacy

• “Surrogate mother”: surrogate contributes ova and becomes pregnant. Sperm is from contracting husband.
• “Gestational surrogate”: surrogate is pregnant with child that is genetically unrelated to her.

Baby M Case

• Mary Beth Whitehead agreed to be surrogate mother, then changed her mind.
• Stormy history; eventually Court ruled for Sterns. Do you agree with its decision?
• Michigan law prohibits commercial surrogacy. Some other States won’t enforce contracts.

What should the law be? Some possibilities

• Enforce any contract parties agree to, just like any other contract.
• Put conditions on the contract. Examples:
  – Surrogate must have had children before?
  – Surrogate can change mind for certain period after birth?
  – Surrogate paid for service, not for “delivering the baby”?
• Make all commercial contracts illegal; allow noncommercial contracts.
• Distinguish between surrogate motherhood and gestational surrogate.
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**Steinbock Rejects Arguments for Prohibiting**

- Paternalistic: protect woman, perhaps because truly informed consent impossible
  - We allow people to make other decisions that may harm them
  - Also, we can require postnatal waiting period
- It’s coercive and exploitative of low-income women.
  - Many women choose this just as people choose unpleasant work for money. Some enjoy it.
  - Violates human dignity for woman’s body to be used for profit

**Steinbock (continued)**

- Harms the child
  - Depends on empirical data (not available)
  - Even if psychological damage, child better off than not having been born
  - Child only “wronged” if deprived of minimally decent life. Unlike, more like problems of adoptees.
  - However, if evidence develops of serious psychological problems, then good reason to ban surrogacy.
- Harms siblings
- Steinbock: good reasons for caution and regulation but not for legal prohibition.

**What happened to Autonomy?**

- Rachels’ principle:
  If a policy or practice benefits everyone concerned and violates no one’s rights, it is acceptable.
- Parties in a surrogate contract are making free choices
- Child benefited; otherwise would not exist
Krimmel (not assigned)

• Inherently wrong to separate the decision to create child from decision to parent.
• Wrong to create child with purpose of transferring; using child as a means
• This fundamentally changes the way we look at children in general
• No objection to gestational surrogate: "no worse than employing others to educate"
  (Clearly Anderson would disagree)

Commodification

• Anderson: some things are appropriately treated as commodities in free market
• NOT appropriate to treat other things that way; e.g., we ban selling slaves (and organs)
• Surrogate arrangements wrong because they commodify
  – Children
  – Women’s bodies

Virtue Ethics

• Often discusses “appropriate response” to situation, even aside from action
• David Cash watched his friend who molested and killed 7-year-old Sherrice Iverson.
• “It’s not my life” an inappropriate emotional response, even apart from action
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### Surrogacy and Children
- Appropriate parental response: "passionate, unconditional commitment to nurture"
- Market norms are not appropriate
- Commercial surrogacy "substitutes market norms for…parental love.”
- Children treated as commodities
- “Expressive significance”: surrogacy threatens all children because it changes the way children are valued.

### Special Value of Involuntary Genetic Ties (p. 705)
- Surrogacy undermines system of involuntary genetic ties of obligation
- Provides children with a “set of preexisting social sanctions which give them a more secure place in the world” including extended family.

### Women’s Labor as Commodity
- Requires surrogate to suppress natural love; alienated labor
- Denies pregnant woman’s perspective; her emotional labor and grief are disregarded.
- Surrogate often has “gift” values but degraded by market considerations