

A Case for Paid Surrogate Motherhood

Liezl van Zyl

Department of Philosophy and Religious Studies

University of Waikato

Introduction

It has become commonplace to distinguish between altruistic and commercial surrogate motherhood. Altruistic surrogacy refers to cases where the surrogate mother is motivated by care or concern for an infertile couple, usually friends or relatives, to bear a child and then to transfer parental rights to them. Although she may be reimbursed for expenses associated with the pregnancy, she is not paid. Commercial surrogacy, on the other hand, is arranged through an agency which puts potential surrogates in contact with people wishing to employ their services. In addition to her expenses, the surrogate mother is paid a fee. Although both forms of surrogacy are morally controversial, the dominant view is that altruistic surrogacy is morally superior to, or at least less problematic than, commercial surrogacy. For example, the UK's Brazier Report states a clear preference for unpaid surrogacy:

4.36 – We believe that the core value here, on which many social arrangements in the United Kingdom are based, including blood and live organ donation, is the 'gift relationship'.

5.13 – In the UK, bodily parts may be donated only as a gift for which no payments are allowed. We believe that surrogacy should be informed by the same values.¹

Some segments of the medical profession openly support altruistic surrogacy arrangements within families as a way of treating infertility:

¹ M. Brazier, A. Campbell & S. Golombok, 1998. *Surrogacy: Review for Health Ministers of Current Arrangements for Payments and Regulation. Report of the Review Team*. Cm 4068. London: HMSO.

IVF surrogacy, when the commissioning woman has absolute infertility and the surrogate is a close friend or relative who has completed her own family and volunteers for altruistic reasons, possibly represents the most acceptable form of surrogate pregnancy, with minimal complications.²

In South Africa, the Law Commission guidelines preclude payment of the surrogate mother, although the intending parents do pay reasonable costs such as travelling, maternity clothing, and any expenses relevant to the unborn child's welfare. According to Dr. Thinus Kruger, head of Tygerberg Hospital's unit for reproductive biology, surrogacy in South Africa is "an act of selfless love." He says that women usually find their own surrogate mothers, either old and trusted friends or relatives, although occasionally the unit is approached by women who selflessly want to help childless couples. He notes that at Tygerberg, an average of one couple a month is helped through surrogacy, although the unit gets more requests than it can fulfil. Yet this shortage has not made Kruger supportive of paid surrogacy, which is likely to increase the number of available surrogate mothers. He emphatically states that "[surrogacy] must not become a money racket and no one in our programme is paid for being a surrogate." The only reason offered for this view is that "it takes a very special woman to offer herself as a surrogate mother... They are one and all, loving, unselfish people."³

A quick consideration of the difference between a typical commercial transaction and a gift relationship provides some explanation for why the latter is thought by so many to be a preferable model for regulating and perceiving the relationship between surrogate mothers and commissioning parents. In its simplest form, a commercial relationship consists of two parties who have entered an agreement with each other to exchange a specific product or service in return for money. Both parties are motivated to enter the agreement by personal gain, and given that each has something the wants, both have some power to negotiate an agreement that is favourable to them. Buyers can 'shop around' to find the deal that best suits their wants or needs, whereas the seller is similarly free to advertise their goods and services in order to secure the best

² J. Leeton, C. King & J. Harman, 1988. Sister-sister *in vitro* fertilization surrogate pregnancy with donor sperm: the case for surrogate gestational pregnancy. *Journal of In Vitro Fertilization and Embryo Transfer* 5: 247-248.

³ D. Caelers, "Rent-free wombs a labour of love" *The Star*, April 10, 2001.

price. The parties are usually free to enter the agreement, but once they have done so, their liberties are restricted in accordance with the terms specified in the contract: Each has a set of clearly defined rights and responsibilities, and neither has the power to renege on the agreement without incurring some penalty. Once the transaction has been completed, that is, when both parties have held up their end of the bargain, the relationship ends, neither party owing the other anything.

By contrast, the kinds of exchanges that occur with a gift relationship are not motivated by personal gain but by care or concern for the other party. Such exchanges most often occur between friends or family members, but may also occur among strangers. The exchange is entirely voluntary: beneficiaries do not have a right or moral claim against their benefactors; benefactors do not have a duty to give: the giving is supererogatory – beyond the call of duty. In the case of ongoing donations, benefactors are both morally and legally free to cease donation at any time. Beneficiaries incur a ‘debt of gratitude’, but they are entirely free to determine the form the repayment is to take (for example, they may give a gift in return at a later time, maintain a friendly relationship, or simply say ‘thank you’). Relationships between parties to an altruistic exchange are typically more enduring and complex: although each party may have very specific expectations of the other, these are rarely made explicit. An unfortunate result of this is that friendly relationships between people often go sour, with one or both parties feeling that their expectations have not been met, or that, because of their kindness, they have been taken advantage of. This does not usually provide people with a reason to avoid such relationships, or to set up a clear list of demands and expectations. To do so would diminish the value of these relationships, which lies exactly in their voluntariness, in the knowledge that, for example, my friend is helping me because she wants to and cares for me.

I take it as a given that the type of commercial relationship described above is inappropriate as a model for governing the relationship between surrogate mothers and intending parents. We certainly do not want to see potential surrogate mothers competing with each other to offer the best deal at the best price to infertile couples, (with women who wish to continue smoking during pregnancy perhaps offering a special discount to attract customers). However, I will argue that it is a mistake to assume that it follows from this that surrogate mothers ought not to be paid, and that

the relationship between surrogate mothers and intending parents is best organised according to the norms of a gift relationship. Instead, I argue that surrogacy is best viewed as, and organised according to the norms of, a semi-profession, in that:

1. Surrogacy is a vocation which is aimed at serving the public good.
2. The surrogate mother is motivated by altruism or the good of others, yet receives a fee.
3. The process is overseen, facilitated and regulated by an organisation or agency responsible for screening and selecting potential surrogate mothers, providing the necessary education and psychological support, and setting standards and expectations, with regards to both surrogate mothers and their clients.

For the sake of simplicity my focus in this paper will be on cases of gestational (or full) surrogacy, which entail *in vitro fertilisation* (IVF) of the surrogate mother using the egg and sperm of the intending parents or donors. I will not consider genetic (or partial) surrogacy, which involves the insemination of the surrogate mother with sperm of the intending father or donor.

Debts of gratitude

It is uncertain whether acts of ‘pure altruism’, understood as acts of helping others without receiving any kind of reward, exist at all, for in most cases benefactors either are or expect to be rewarded by a sense of achievement, an enhanced reputation, and other immaterial rewards. However, there are many examples of altruistic acts where the benefactor does not obtain (or expect to obtain) any kind of *material* reward from the beneficiary (or a third party), such as making a (non-tax deductible) donation to a charity organisation, rescuing a child or animal from drowning, helping an elderly neighbour with their housework, and so on. We generally admire and encourage such acts of selflessness, but it should be noted that they typically occur within a relationship already characterised by material inequality, where the benefactor has much to give, and can do so at relatively little cost to himself, while by contrast the beneficiary is weak, poor, or otherwise disadvantaged. The benefactor may see himself as being in a privileged or advantaged position, as giving something back to the community, and thereby somewhat lessening the degree of inequality that exists

between them. I would therefore argue that not all acts of selflessness, or non-reciprocal altruism, are morally acceptable. In cases where the beneficiary is not worse off, all things considered, than the benefactor, and capable of giving something in return, I think most people would agree that it would be indecent for her not to. This is because beneficiaries incur a debt of gratitude, and this is so even if the benefactor makes it clear that they do not expect anything in return. In discharging this debt, beneficiaries are to some extent free to decide on the nature of the counter-gift, but there are certain social and cultural norms that determine whether the counter-gift is appropriate and adequate in a particular situation. These norms involve the nature and value of the original gift, the means that the beneficiary has at her disposal, as well as the needs and desires of the benefactor.

In the case of gestational surrogate motherhood, the following argument can therefore be made: To allow the infertile couple to have a child, to become parents, the surrogate mother undergoes a significant amount of pain and discomfort associated with IVF, pregnancy, and childbirth. She assumes a risk to her health, and some of the physical effects of pregnancy and childbirth are permanent. Her freedom with regards to diet and other life-style choices may also be significantly curtailed. To be sure, she is better off than the intending parents in at least one way, namely that she has the ability to gestate and give birth to a child, but she may not be better off overall. It would therefore be indecent for the intending parents not to give something of considerable value in return if they are capable of doing so. As in other cases where beneficiaries incur a debt of gratitude, they should have some freedom to decide the size and nature of the counter-gift, but there seems to be no reason why, in principle, the gift could not be money.

Against this some might want to argue that whereas non-monetary gifts may be appropriate, the moment that an exchange of money occurs we no longer have a gift relationship but a commercial one. And one reason why this is thought to be inappropriate in surrogacy is that it puts a price on something which has

immeasurable value, thus reducing the value of women's reproductive labour to a mere commodity.⁴

In response I would argue that the mere fact that an exchange of money takes place between two parties is not sufficient for the relationship between them to be deemed a commercial one rather than one of reciprocal altruism, where one person performs a service or makes a sacrifice for another person who then reciprocates in some way so that the sacrifice of the provider is balanced by a corresponding service or sacrifice by the recipient.⁵ Money can be a gift, and indeed, in many instances money could be a better – more thoughtful – gift than something made or something bought. For example, when choosing birthday presents for one's grandchildren, money may be a good option, for it allows them the opportunity to choose something for themselves, which is something children often value very much. Thus it is not the exchange of money that turns the relationship into a commercial one – rather, it is the fact that both parties regard the giving of money as 'full and final payment for services rendered', and hence as the act whereby the client fully discharges his obligation towards the person who provided the good or service, thereby ending the transaction.

A strong case can be made, then, for allowing intending parents to give money as a symbol of their gratitude, and as a way of reciprocating the surrogate mother's great act of kindness. However, if our goal is to defend paid surrogacy, the 'debt of gratitude'-argument doesn't get us very far. It only shows that intending parents should not be prevented from giving some amount of money (or some other gift) as a token of their gratitude. This is a far cry from contending that surrogates ought to be paid a set amount for their services. Indeed, the debt of gratitude-argument seems to

⁴ Another reason given by some is that a surrogate mother who receives money is in effect selling the child. I will not deal with this objection here, except perhaps to note that if paid surrogacy amounts to baby-selling, then non-paid surrogacy amounts to giving away the baby as a gift, which seems objectionable for the same reason, namely that it involves treating the child as an object. For a good discussion of the objection that surrogacy commodifies children, see S. Wilkinson, 2003. *Bodies for Sale: Ethics and Exploitation in Human Body Trade*. London: Routledge. For the author's views see Van Niekerk, A and Van Zyl, L. 1995. 'Commercial Surrogacy and the Commodification of Children: An Ethical Perspective' *Medicine and Law* 8.

⁵ For an analysis of reciprocal altruism see Robert Trivers, 1971. 'The Evolution of Reciprocal Altruism', *Quarterly Review of Biology* 46: 35-57 and C. R. Badcock, 1986. *The Problem of Altruism*. Oxford: Basil Blackwell, chapter 1. For a general discussion of altruism from a moral perspective, see L. Blum, 1980. *Friendship, Altruism and Morality*. London: Routledge & Kegan Paul.

point against that conclusion, for a gift can only function as a token of gratitude if it is seen to be freely given.

In what follows I give two arguments for why the norms of the gift relationship are inappropriate for governing the relationship between the surrogate mother and the intending parents.

The argument from lack of freedom

One attractive feature of the typical gift relationship is that the act of giving is both free and voluntary.⁶ It is free, in that no-one forces the benefactor to act as one, and it is voluntary, in that (a) the benefactor chooses the act of giving from a number of acceptable alternatives and, in addition, (b) is able to decide what to give and thus also how much of her resources to spend. In cases where the giving extends over an indefinite period of time, such as volunteering to read at the local library, or helping a friend in the garden, the benefactor is free to quit at any point. Continued acts of giving are – and must be appreciated as – voluntary act of kindness. The benefactor has a degree of power over the beneficiary, in that he can withdraw or cease his acts of kindness at any time, for example, if he were to suspect that the beneficiary no longer appreciates his kindness, or is taking advantage of him.

In the case of altruistic surrogacy, the surrogate mother has much less freedom than the typical benefactor. In many cases unpaid surrogate mothers do not volunteer their services but are approached by an infertile couple. Given that she will know that they are likely to have exhausted all other means of having a child and that surrogate mothers are not easy to find, her available options will be extremely limited. Simply put, her choice is between becoming a surrogate mother and making the infertile couple happy, and not becoming a surrogate mother and possibly forever depriving

⁶ I follow Serena Olsaretti's definition of voluntary action as one where there is an acceptable alternative, where 'acceptable' means conforming to some objective standard (which Olsaretti suggests might be well-being). Freedom, by contrast, is defined as pure negative liberty: an agent is free to perform an action if there exists no preventing condition on their doing so. S. Olsaretti, *Liberty, Desert and the Market* (Cambridge: Cambridge University Press, 2004), p. 139. See also her 'Freedom, force and choice: against the rights-based definition of voluntariness', *The Journal of Political Philosophy*, 6 (1998), 53–78; and 'The value of freedom and freedom of choice', *Politeia*, 56 (2000), 114–21.

them of the prospect of having a child. And as Anleu points out, guilt may be more powerful than financial incentives as a means of making a friend or relative act as a surrogate mother.⁷ In addition, an unpaid surrogate is not free to decide what to give, or how much time, money or effort to put into the gift, for what the intending parents need and want from her is something very specific – her reproductive labour. They are also likely to expect her to follow a healthy diet and to refrain from enjoying alcohol and other substances that are potentially harmful to the child, to have the pregnancy closely monitored, and to include them in the whole process. The fact that she may happily do these things, the fact is that once she is pregnant she is not free not to do them. Finally, whereas benefactors are usually free to quit their acts of beneficence at any time, this is not true of a surrogate mother. Once she becomes pregnant, she has a moral – and possibly also a contractual – obligation towards the intending parents to remain pregnant and to hand over the child at birth. She may for some reason come to find the prospect of continuing with the surrogacy arrangement very unattractive, but the alternatives – to have an abortion or to sue for custody of the child – may be even less attractive or acceptable.

In short then, whereas a woman may be more or less free to act as a gestational surrogate mother, once she is pregnant her freedom is curtailed in various ways, not by the intending parents or any other party, but by the fact that she now incurs a strong moral responsibility towards the intending parents as well as the unborn child. Following a healthy diet is no longer a gift or a favour that she can freely bestow on others, but a moral responsibility. The implication of this is that it is inappropriate to regulate the relationship between the intending parents and the surrogate according to the norms of a gift relationship. A further point that can be made in this regard is that were we to insist that the intending parents should be free to decide how to reciprocate her act of kindness – whether to give money, or gifts, an ongoing friendship or simply a sincere ‘thank you’ – there would exist a considerable imbalance in the amount of freedom that the two parties possess, which distinguishes it from most other forms of reciprocal altruism. This leads us to a second argument against viewing surrogacy as a gift relationship, namely that it is unfair towards the surrogate mother.

⁷ S. Roach Anleu, 1990. ‘Reinforcing Gender Norms: Commercial and Altruistic Surrogacy’. *Acta Sociologica* 33, 1: 70.

The argument from fairness

A woman who undertakes a surrogate pregnancy for altruistic reasons is much more vulnerable to exploitation and injustice than the standard participant in a gift relationship. This is not so much because she is a woman, or may be disadvantaged, uneducated, or incapable of giving informed consent, as is sometimes argued. Rather, I want to argue that she is vulnerable to exploitation simply because of the nature of what she gives.

When we give a gift or do someone a favour, we expect that our kindness will be reciprocated at some point in the future. We do not tell others this, not only because they ought to be aware of it already, given the norms of our society, but also because we want them to know that we are giving the gift because we care, and not as a means to a counter-gift. At the same time, we also want them to want to give us something in return because they care for us, and not simply because we pestered them into doing so or because they feel obligated to do so. Many relationships go sour because one or both parties feel they are receiving inadequate or no reciprocation, but because people generally give a series of small gifts and favours rather than one large one, neither party is likely to be seriously disadvantaged, or at least not for long, for they can stop giving at any time, or even end the relationship altogether. This process of reciprocal giving, together with the 'exit option', goes some way towards ensuring fairness and preventing systematic exploitation of one party by the other.

In the case of unpaid surrogate motherhood, the surrogate mother may have various expectations of how the intending parents would or should respond to her great act of kindness. She may expect continued friendship, ongoing contact with the child or regular updates, or may expect to receive material goods, but she is unlikely to make her expectations explicit. One reason for this is that she may find it obvious and therefore insulting to suggest to them, for instance, that she expects them to support her throughout pregnancy, or would like to be included in their family as a special friend or second mother. Another reason is that, as suggested above, a gift or favour loses much of its symbolic value when it is a response to a request or demand rather than freely given, and this is especially so where immaterial goods such as friendship

are at stake. Like other givers of gifts, her act of giving puts the surrogate mother in danger of disappointment and makes her vulnerable to exploitation. However, neither of the safeguards against injustice and exploitation that are typical of other gift relationships, exist: Her contribution does not consist of a series of small, independent gifts and favours, but of one big package, her reproductive labour, and she does not have the power to quit giving whenever she feels unappreciated. As noted above, once she is pregnant with the genetic child of the intending parents, she has a strong moral obligation towards them and towards the unborn child to continue to act in what that are beneficial to them.⁸ An additional factor that increases the likelihood of the surrogate mother not getting anything in return and thus being unfairly disadvantaged is the portrayal of surrogate mothers as selfless givers – as special women who expect nothing in return, which may be used by the intending parents as a justification for their failure to reciprocate.

It can further be argued that, regardless of her motives and expectations, and even regardless of whether the surrogate mother is satisfied with the outcome, if she doesn't receive a substantial reward in return then her act becomes one of self-sacrifice and morally unacceptable for the same reasons that selfish acts are: Being a party to a self-sacrificing act, where the giver has nothing to gain and possibly much to lose from the act of giving, suggests that the beneficiary's needs are more worthy than those of the benefactor. Acts of self-sacrifice enhance the position of beneficiaries to the detriment of benefactors and are to this extent exploitative and thus morally unacceptable.⁹

Harm to children

The arguments from lack of freedom and fairness point towards arrangements between intending parents and surrogate mothers where the responsibilities of both parties towards each other as well as towards the foetus or child are clearly outlined, and which includes a stipulation that the surrogate mother receive payment for

⁸ Interestingly, one UK study found that a significantly higher proportion of surrogate mothers who had a previous relationship with the commissioning couple were disappointed with the relationship after the birth and reported emotional or psychological difficulties in the year following the birth of the child. V. Jadvá, C. Murray, E. Lycett, F. MacCallum & S. Golombok, 2003. Surrogacy: The Experiences of Surrogate Mothers. *Human Reproduction* 18 (10): 2196-2204.

⁹ C.R. Badcock, 1986. *The Problem of Altruism*. Blackwell: Oxford.

services rendered. There have been various objections to paid surrogacy, for instance, that it involves commodification of children¹⁰ and exploitation of women, but in this paper I will assume that adequate responses can be given to these objections and will instead focus on a different objection, namely that surrogate mothers who are motivated by money are more likely to put the unborn child's health at risk than women who are motivated by altruism, and that altruistic surrogacy is therefore preferable to paid surrogacy. I argue that this argument may apply to commercial surrogacy, where the surrogate mother is motivated solely or primarily by profit, but that it is not valid for all cases of paid surrogacy. I argue in favour of viewing surrogate motherhood as a semi-profession, and of organising the relationship between surrogate mothers and intending parents along the same lines as those that exist between professionals and their clients.

It has been suggested that a potential problem with surrogate motherhood is that women may tend to distance themselves from the unborn baby, given their belief that the child they carry is not theirs, and that such detachment may make them more likely to put the unborn child's health at risk. While this could be a factor in all surrogacy arrangements, it could be argued that it is more of a problem with paid surrogacy. Since the intending parents cannot control all of the surrogate's dietary and life-style choices before conception and during the pregnancy, they have no alternative but to put their trust in the surrogate mother, and unpaid surrogates are more likely than paid surrogates to be trustworthy. Unpaid surrogate mothers care for and have an intimate bond with the intending parents, and this is what motivates them to do all they can to protect the welfare of the unborn child. By contrast, the argument continues, paid surrogates are motivated by money rather than by altruism, and are therefore more likely than unpaid surrogates to put the unborn child's health at risk, and less likely to follow a diet and life style that is optimal to the child's welfare.

In response to this argument, let us begin by accepting that it is true that people who are motivated solely by money to perform a certain task will tend not to put extra effort into doing it well unless there is a monetary incentive for doing so. This is not

¹⁰ See R. Macklin, 1996. What is Wrong with Commodification? In C. B. Cohen, ed. *New Ways of Making Babies: The Case of Egg Donation*. Indiana University Press; M. J. Radin, 1996. *Contested Commodities: The Trouble with Trade in Sex, Children, Body Parts and Other Things*. Cambridge, MA. Harvard University Press.

thought to be a problem in business ventures where the sole aim is to make a profit, as long as the desire for money is coupled with a healthy respect for the law. However, there are many roles or occupations where, in order for someone to perform well, he or she has to value the goods internal to the practice as ends in themselves, rather than as a means to making money. Examples of such occupations include nursing, teaching, lecturing at a university and serving as a fire-fighter or on the police force. It certainly does not follow that people who perform these roles should not be paid. For example, we do not conclude from the fact that nurses who care about the welfare of others are likely to do a better job than those who are 'simply in it for the money', that they should not be paid at all, or should only be reimbursed for their expenses. Payment does not preclude altruistic motivation. Most (if not all) nurses would not (and could not, given the need to earn an income) choose a nursing career were it not for the fact that they will be paid for their services, but this does not mean that money is their main motive for choosing a nursing career and that they are not in the first instance motivated by genuine altruism. I would argue that an act of giving can be motivated by genuine altruism even if it is conditional upon receiving something in return, as long as the giver does not profit from the exchange. Indeed, as Culyer notes, monetary benefits may induce altruistic behaviour that would otherwise be constrained if the full cost were on the donor.¹¹

In the same way, in the case of surrogacy it could be argued that even though it may be true that altruistically motivated women will tend to be better surrogate mothers than women who are motivated (solely or mainly) by money, it does not follow that surrogate mothers should not be paid at all, or only be reimbursed for their expenses. Although we can safely assume that more women will be attracted to paid surrogacy (if it were legal and well-regulated) than to unpaid surrogacy, it is a mistake to think that these women will be primarily motivated by money rather than by altruism. I therefore propose that surrogate motherhood as a semi-profession, insofar as surrogate mothers perform a service aimed at the public good, and are motivated to do so by altruism, yet expect to receive compensation for their services.

¹¹ A. J. Culyer, 1973. *Quids without Quos – A Praxeological Approach*. In A. Alchian *et. al*, *The Economics of Charity: Essays on the comparative economics and ethics of giving and selling, with applications to blood*. London: Institute of Economic Affairs, pp. 33-61.

A possible objection to this proposal is to argue that surrogate motherhood differs in important ways from professions such as nursing and teaching, that combine to increase the risk to unborn children. One such difference is that members of professions receive extensive education and training, and have to pass certain tests or examinations in order to be admitted to the profession. In addition, people who choose a profession such as nursing or teaching have many other options, so that we may safely assume that if they valued money above all else they would have chosen a different occupation. What attracts people to these occupations is that they involve activities that are valuable in themselves, and not simply as a means to financial reward. By contrast, one might argue, women who become paid surrogates, like people who sell, say, their blood or sexual services, may not be (or be able to become) fit or qualified for any other 'occupation'. These activities are unpleasant, uncomfortable, and degrading, so that only people who desperately need the money would choose to participate in them. This brings us back to the question, mentioned earlier, of whether the choice to become a paid surrogate is fully voluntary, but now the claim is not that a lack of acceptable alternatives is problematic in itself, but rather that we don't want women who have few acceptable alternatives to become surrogate mothers, for they are unlikely to be reliable or to do a good job.¹²

This argument depends on the truth of a number of empirical claims, which I cannot fully establish here. However, a few comments are in order. First, surrogacy agencies do and should screen women, both in terms of their physical health as well as their psychological state, to establish whether they will be suitable surrogate mothers. Second, although most women are able to become pregnant and have a baby without any kind of education or training, the same is not exactly true of gestational surrogacy, which may require repeated cycles of IVF, will have various implications for the woman's welfare in terms of her relationship with her partner, her other children, and society in general, and will thus be psychologically much more demanding than other pregnancies. The kinds of information and psychological support needed by surrogate mothers are best provided by a specialist body or

¹² This argument is similar to Richard Titmuss's argument against commercial blood donation, namely that market oriented supply systems often draw blood from lower class, unemployed males, who, needing money, have a reason to donate frequently and to conceal their medical history. This increases the risk of transmitting infectious disease. Given that it is not possible to test blood for all infectious diseases, truthfulness in the donor is the only known way to avoid the risk of infecting the receiver. See R. M. Titmuss, 1970. *The Gift Relationship*. London: George Allen & Unwin, ch. 8.

organisation. Further, and regardless of the inherent difficulties with being a surrogate mother, it appears that there are many women who find the prospect of helping a childless couple valuable in itself, and this (arguably) makes it very different from selling sexual services. Various studies of the motives of paid surrogate mothers have shown that contrary to popular belief about money as a prime motive, women say that they choose to bear children for others primarily for altruistic reasons. Although financial reasons may be present, very few women mention money as their main motivator. Instead, they mention empathy for childless couples, helping others experience the joy of parenthood, doing something special and thereby gaining a sense of achievement or enhancing their self-esteem.¹³ In this regard they are very much like school teachers and nurses who attach value to the activity in itself rather than simply as a means to making money.

Finally, we can conclude that the harm-to-the-foetus argument supports limiting payment to surrogate mothers, rather than an outright ban, so that it is high enough to entice potential altruistic surrogates to supply their gestational services but low enough to ensure that only women with some degree of altruism are attracted to surrogacy. However, it must be admitted that the argument possibly has more force in developing countries that have high rates of unemployment and offer few alternative ways of making a living, with the result that there may be a greater risk that women who are attracted to surrogacy will primarily be motivated by payment rather than altruism. This risk is further increased by high rates of HIV and other communicable diseases in some developing countries, so that government restrictions on paid surrogacy may well be justified from this perspective. Although I agree with Wertheimer that it would be unjust – ‘adding insult to injury’ – to deny poor women the opportunity to improve their overall welfare by embarking on a surrogacy arrangement, on the grounds that a decision between poverty and surrogacy is not fully voluntary, I believe the ‘harm to the child’-argument can justify such a restriction.

¹³ J. C. Ciccarelli & L. J. Beckman, 2005. Navigating Rough Waters: An Overview of Psychological Aspects of Surrogacy. *Journal of Social Issues*, vol. 61, No. 1, pp. 21-43.