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Surrogacy and the best interest of the child

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Abstract

If altruistic surrogacy should be legal in Sweden, laws concerning screening of the parents should be mandatory and adoption should be promoted as an alternative to surrogacy to a larger extent. Both in surrogacy and adoption the best interest of the child should be a priority, but parents regardless of sexuality, income and to some extent age, should qualify as long as they can prove their ability as parents.

Key words: Commercial surrogacy, altruistic surrogacy, best interest of the child, adoption

Introduction

In surrogacy, altruistic or commercial, a woman offers her body to carry a child for another person or persons. In altruistic surrogacy someone offers her body for surrogacy without payment (more than expenses). In commercial surrogacy, the ordering parent or parents pay to have a child through a surrogate mother.

The purpose of this thesis is to investigate if it is possible, from a best interest of the child perspective, to use surrogacy as a method for having a child.

Questions that will be investigated in this thesis are: Can surrogacy be used and still have the best interest of the child as a priority? Is there an ethical difference between altruistic and commercial surrogacy? How can alternatives to surrogacy be promoted as an option?

Because of the limited space, the discussion will focus on the Swedish context even if an international perspective is discussed as well.

The first section will be about surrogacy in general and describe the difference between several methods and the current law in Sweden. In section two a Swedish case will be presented. In the third section motives for being a surrogate mother will be discussed. When we argue for the best interest of the child, such motives are important to consider. In section four, commercial surrogacy will be analyzed, with a discussion concerning the attachment theory, reproductive freedom or if children can be compared to commodities. I will then discuss aspects of the best interest of the child in commercial surrogacy. In section five I will discuss commercial surrogacy followed by if altruistic surrogacy can be an alternative, in section six. In section seven the importance of screening future parents will be discussed followed by section eight concerning the importance in making adoption easier. Section nine is a short conclusion.

1. Surrogacy

Today, surrogate mothers are allowed in 12 of 27 EU countries. Up until recently the issue of surrogate motherhood was not debated much at all in Sweden. Today, even if it is still not legal in Sweden, the debate has been more intense and an increasing number of Swedes are going to countries like India, USA and Ukraine to have a baby through a surrogate mother, in exchange for money.

The number of children born by surrogate mothers to Swedish parents is difficult to estimate. Fredrik Eng, Chairman of the Surrogacy Association (*Föreningen för Surrogatmoderskap*) states that it is probably one child a week that is born by a surrogate mother to Swedish parents. About 80-90 percent of Swedes that use a surrogate mother do this in India. The legal procedure is complicated when it comes to the Swedish bureaucracy. Some parents claim that they have given birth themselves to the child abroad (Radio Sweden, August 3, 2012).

In 2001, nearly 6000 children were born from purchased donated eggs and almost 600 were surrogate children in the U.S. through commercial surrogacy (Spar, 2006, preface). Today, approximately 300 babies are born each year through surrogate mothers only in the U.S. In UK, the figures are a bit more modest; 30-40 babies each year (Talbot, 2012, p. 173).

A surrogate mother can be the answer for those who want a biological child (Talbot; Bioethics, 2012, p. 173). The surrogate women are often being paid, by local standards, very good money. Some invest the money in houses, education for their children and other things they could not afford otherwise. Other women have to hide what they are doing from friends and family (Talbot, Bioethics, 2012, p. 174). And there is of course always a risk involved both physically and mentally for the women. Things can go wrong and even be life threatening (Talbot, 2012, p. 174). Another aspect to take into consideration is that some of these women are far away from their own biological children during the pregnancy, especially in India where many clinics have rules that forces the surrogate mothers to stay at the clinic during the pregnancy. In other cases, the biological children to the surrogate mother can suffer indirectly when their mother is going through different treatments and therefore are distanced to them emotionally (Ekis Ekman, 2011). Not all women are being paid well either, there are examples of women who are more or less forced or manipulated into this business.

The term "Fertility tourism" is indicating that this has become a business. People with different interests have turned the longing for a baby into a business in countries like India and U.S. In India the surrogate industry turns over 250 to 500 million dollars a year. One explanation for the interest of surrogate mothers in India is the relatively low cost for a surrogate mother, in comparison to the US and Europe (Talbot, 2012, p. 173). Another

reason can be that Indian women in general are quite healthy (Dagens Nyheter, March 8, 2014).

In India the legal system is such that the surrogate mother cannot make any claim to the newborn baby and she has no obligations towards it. It is the biological or social parents that stand on the birth certificate, something that can be troublesome if the parents change their mind.

Surrogacy is a complex ethical issue with many dimensions. It is important to consider the potential psychological consequences and potential pressure towards the surrogate mother (SMER rapport kring Assisterad befruktning – etiska aspekter, SMER rapport 2013:1, p. 5), but also the consequences for the child. How far can we go in our longing for a biological child?

1.1 Full and partial surrogacy

Often the future parents' own gametes are used for fertilization, but several variants are possible (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 5). Surrogacy involves a range of different methods. It can be so called partial surrogacy, where the surrogate mother is genetic and biological to the child and has been inseminated, either with the father's or a donor's sperm. It can be so called full surrogacy, where an IVF-treatment has been done. In this case there can be several possibilities; eggs and sperm from the parents, sperm from the father and eggs from another donor, both eggs and sperm from donors or eggs from the mother and sperm from a donor (SMER, Assisterad befruktning – etiska aspekter, rapport 2013:1, p. 155).

In full surrogacy, the surrogate mother is really a surrogate. In partial surrogacy the "surrogate mother" is the biological mother. These differences are important to have in mind when discussing surrogacy from an ethical perspective. The researcher Helena Ragoné has interviewed a number of surrogate mothers and has found that there is a difference in attachment between carrying your own biological child (partial surrogacy) and when it is a full surrogacy (Jönsson, 2003 p. 30).

Most surrogacy between strangers is conducted as a transaction, even when the surrogate mother is biologically related to the child. Even if many try to detach themselves from the baby during pregnancy, the process is not always easy emotionally for the surrogate mothers (The Iona Institute, 2012, p. 7).

1.2 The law in Sweden and the Swedish National Council on Medical Ethics (SMER)

All forms of surrogacy are illegal in Sweden today. In 1995, the Swedish National Council on Medical Ethics (hereafter referred to as SMER) wrote a report on the subject of involuntary childlessness that had a big impact on the Swedish law and legislations. Fifteen years later, in 2010, SMER organized a conference on assisted reproduction. Attitudes had changed and SMER suggested changes in the legislation regarding surrogacy. In their last report in 2013 they recommended to allow surrogacy as long as it is altruistic (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 2). All members of the council in SMER believe that commercial surrogacy is not an ethically acceptable method. Commercial forms of surrogacy could lead to the exploitation of women and the commercialization of the reproductive process of the child's conception (Smer, Assisterad befruktning – etiska aspekter, 2013:1, p. 7).

A majority of the council consider that altruistic surrogacy - under certain conditions - may represent an ethically acceptable method of assisted reproduction. One condition is that there is a close relationship between the surrogate mother and the potential parents. The surrogate mother should have been pregnant and have children of her own and she should not be the genetic mother of the child (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 5). The child should at an early age be aware that he or she is a surrogate child, and have the right to obtain information about the surrogate mother (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 5).

A minority in the Council believe that surrogacy should not be allowed in Sweden at all because it is not ethically acceptable (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 6). There are gaps in knowledge regarding the psychological consequences for both the surrogate mother and the child. It is also difficult to ensure autonomy and informed consent in surrogacy. The method is contrary to the principle of human dignity, in the sense that a human is used as a tool for other people's goals (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 6). They believe that the future child is also at risk of conflict if the surrogate mother changes her mind and does not want to surrender the child or if the potential parents no longer want to have the child (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 6). It is also unclear what impact it has on the child if the surrogate mother does not bond with the baby through pregnancy or what kinds of emotions the child will have in the future due to having been born through a surrogate mother (SMER, Assisterad befruktning – etiska aspekter, 2013:1, p. 7).

2. A Swedish case

After six years of trying to have a child, Swedish couple Fredrik and Anna decided to use a surrogate mother in India. The cost amounted to 600,000 SEK (including travelling and missed income) at the Akanksha clinic in India. For them it has been a good experience. They have been able to visit the surrogate mother and they think it has many advantages, even for the surrogate mother in the future. When Fredrik and Anna went to the Swedish consulate in Bombay, their surrogate mother went with them to prove that she had been well treated and paid according to the deal. They still have contact with the surrogate mother and send pictures of the twins. The surrogate mother herself will buy land and build a house using the money she got. She will also pay for her son's education. Fredrik and Anna chose the Akanksha clinic after recommendations made by Oprah Winfrey seven years ago (Dagens Nyheter, March, 8, 2014).

In the Akanksha clinic, all surrogate mothers are between 21 and 35 years old and they are not allowed to give birth to more than five babies each. In many cases they are not allowed to be with the baby at all, it is given away immediately (Dagens Nyheter, March, 8, 2014). In India only gestational surrogacy is used, which means that the eggs come from someone else than the surrogate mother (Ekis Ekman, p. 171).

In the case of Anna and Fredrik, their biological eggs and sperm were used in an IVF (In vitro-fertilization) treatment. Two fertilized eggs were implanted in the surrogate mother. They had tried IVF themselves, without success.

3. Motives for being a surrogate mother

When we have the best interest of the child as a priority, it is important to also consider the motives for being a surrogate mother. The surrogate mother and child are linked together during the first nine months after the conception.

The majority that uses a surrogate mother are heterosexual couples in the early middle age with a solid financial situation and good education. The typical surrogate mother has a low education and income (Jönsson, p. 13-14). In fact, many women who become surrogate mothers are poor women from the developing world, or poor areas of the developed world who see an opportunity to get a relatively good income. They are young and have gone through a pregnancy already, which is most often required. Surrogacy can be a way, maybe their only way to earn "good money" (Spar, 2006, p. 87). Some might be forced, others do it voluntarily, but the motives are often the income.

In the book *The Baby Business*, Debora L. Spar writes that some women, out of altruism, guilt or pure desire have become altruistic surrogates. But they have been few in number, not enough to make a market (Spar, 2006, p. 78).

Psychological aspects can be the reason behind either an altruistic or commercial surrogacy. The feeling of being kind and helpful, in some cases pressure could be the cause of surrogacy in close family relationships and sometimes it might be pure joy.

But what does altruistic really stand for in the case of surrogacy? Because most people do have their own interest in mind, and very few people, are so “kind” that they go through a pregnancy for someone else, without any self-interest, psychological, emotional or financial. For instance needs of appreciation, a feeling of importance, an ego boost, feelings of guilt or other emotional feelings.

Pia Risholm Motander writes in her book *Mellan mor och barn* (1994) that some women can have a wish to be pregnant, which reveals narcissistic wishes. It is often linked to feeling like a real woman, to prove that the body functions and to get attention and appreciation from others. This wish does not necessarily mean that she wants the child. Wishing to be a parent requires a larger maturity than wishing to be pregnant (Risholm Mothander, 1994, p. 26).

This aspect is also important to consider when discussing an altruistic surrogacy. There can be several psychological aspects behind such a decision that do not necessarily benefit the surrogate mother in the long run.

The sorrow they feel when surrogate mothers give up the child is sometimes cured by a new surrogate pregnancy, and some American doctors have started talking about an addiction (Ekis Ekman, 2010, p. 187). Many surrogate mothers don't see their work as work, but as a way to be generous to others, that money is not the motive, even if few want to do it for free (Ekis Ekman, 2010, p 181-182).

The survey mentioned above made by Helena Ragoné also showed that the money the surrogate mothers get from surrogacy, they spend not entirely on themselves. Many paid for their children's education, debts they had, paid to improve their houses or used their money for presents and family holidays. Many of their husbands got special presents, because they had been denied sex for around a year during the pregnancy (Jönsson, 2003, p. 24). Many of the surrogate mothers see the baby as the ultimate gift that they have given someone (Jönsson, 2003, p. 26). Ragoné suspects that there are different motives among the surrogate mothers because most of them come from a working class environment with limited possibilities. Suddenly the surrogate mother might feel unique, selected and extremely needed (Jönsson, 2003, p. 27-28). She is invited to the future parents to bond emotionally and to do social activities together such as dinners and visit theatres (Jönsson, 2003, p. 29). Maybe for the first time in her life the surrogate mother feels important and very special. She is appreciated, kindly treated and a key factor to give some people what they desire most in life. But this treatment is usually before and during the process. Not

after, when the child is born. After the process many surrogates never hear from the new family again.

It can be viewed as a kind of use; in the end they don't have a value for who they are, but as means in a pregnancy. During the process they are invited to theatres, dinners and special gatherings (if it is a surrogate in the same area as the future parents). They go to therapy classes, counseling and check-ups. This is also an important aspect to consider when we have the child's best interest as a priority. Sometimes the surrogate mother is the biological mother, and using her in a manipulating way could possibly affect the child's self-esteem in the future.

At many forums on Internet, the women are often valued by how many children they have given birth to; both their own and surrogate children (Ekis Ekman, p. 183). At the site www.surromomsonline.com surrogate mothers share their stories. This is one example:

Susan, a message board moderator, is a proud mom to two boys of her own. She is a gestational surrogate to Ian (born in 2000) for one set of IP's and then began a second journey for the same intended parents who wanted siblings. Upon the 2nd surrogacy journey she became pregnant with twins, Megan and Matthew (born in 2001). During her pregnancy the intended parents unfortunately changed their minds about having more children and divorced, so Susan became the twins legal mother in the State of California in 2002. She was then able to adopt the twins to a very loving and deserving mother and father. She sees them often and has developed a loving relationship with the new parents and the twins. She enjoys surrogacy so much that she went onto a new set of intended parents and tried for 2 years to help them conceive a precious little one. After 8 IVF failures, they found that there was a genetic problem that they didn't know about. The problem was fixed with the embryos and she delivered healthy boy/girl twins for them. Susan is currently cycling with a new couple who are long time friends of hers and she just found out she is pregnant!

(<http://www.surromomsonline.com/whois.htm>, 2014-04-15).

At the website <http://www.surrogacyindia.com/>, you can straight away on the first page calculate what a child would cost, and a picture saying: "Her body, our baby". With a picture of a dark haired and Indian looking surrogate mother, a blond egg donor and two successful parents. "If you believe in yourselves, if you believe it is possible; then write to us, possible@surrogacyindia.com" (www.surrogacyindia.com, 2014-04-15). On the website it is also possible to chat online.

Due to the often unequal life situations socially and financially as well as often different races between the surrogate mother and the future mother/father/parents, critics have compared surrogacy to a mixture of baby-selling, prostitution and rape (Spar, 2006, p. 83). Furthermore, even in gestational surrogacy the birth mother often develops a bond with the child that can lead to traumatic separations (Spar, 2006, p. 82).

Kajsa Ekis Ekman writes in her book (Varat och varan (Leopard förlag 2010) about Indian women who are extremely poor and are forced into surrogacy for economical reasons or by their husbands (Ekis Ekman, p. 173).

In the next section aspects of commercial surrogacy will be analyzed, divided into three shorter sections. It continues with a discussion on commercial surrogacy.

4. Commercial surrogacy

4.1 The attachment theory

In her book *Mellan mor och barn* Pia Risholm Mothander refers to studies showing that children develop their senses during pregnancy and that even unborn children have special characteristics (Risholm Mothander, 1994, p. 10). The attachment theory put emphasis on the attachment between mother and child. It is important from the immediate birth, she writes. Attachment has significance for the whole life (Risholm Mothander, 1994, p. 69). Before birth, the child can both hear and see. The mother's heart is a relaxing sound and already as unborn the child has its own individual way of reaction (Risholm Mothander, 1994, p. 83). She discusses the influence on the child's development before and after birth, where both the child and the mother are biologically prepared to form the first relationship (Risholm Mothander, 1994, p. 11).

The Iona Institute has written a report on the subject and argues that it can have an impact on the child's development when the surrogate mother has to detach herself from all feelings for the child during the pregnancy (The Iona Institute, 2012, p. 4). Many surrogate women need support groups to grieve and express their sorrow, by having to let go of the child (The Iona Institute, 2012, p. 8).

Andreas Bengtsson is a father himself through surrogacy and argues that it is a much greater problem with all children born by unsuitable parents than using a surrogate mother to have a child. One argument he has is that having a child through surrogacy is in most cases to offer a loving home (Bengtsson, 2013).

Bengtsson demands facts and scientific proof regarding the criticism based on the attachment theory. He refers to an American report written by the Ethics Committee of the American Society for Reproductive Medicine, which argues that commercial surrogacy should be legal. He also refers in the article to research done by Professor Mary Dozier at University of Delaware, USA. She has done research regarding attachment theories concerning adopted children. He quotes her in the following sentence:

»Attachment theory (and all of the human and non-human literature) would suggest that children's attachment would not be hindered by surrogacy. Infants of most species of mammals can be cross-fostered at birth with no adverse effects (there are many studies to such effect). Studies of the effects of early adoption have suggested no adverse effects. I think the evidence is strong and theory is strong that there would be no adverse effects of surrogacy on a child's ability to attach securely to his or her parents« .

Surrogate mothers all around the world learn techniques to distance themselves from the baby during pregnancy (Ekis Ekman, 2010, p. 175). A common method is to see oneself only as a distributor of a child (Ekis Ekman, 2010, p. 176).

4.2 Reproductive freedom or children as commodities?

Kutte Jönsson has written *Det förbjudna mödrskapet – En moralfilosofisk undersökning av surrogatmödrskap* (Jönsson, 2003). Jönsson's major question is if a legal ban against surrogacy can be morally justified? He argues in favor of commercial surrogacy and writes that with new reproduction techniques we might have to reconsider our old beliefs (Jönsson, 2003, p. 12).

Jönsson discusses the market and the baby as a product. Many people are willing to pay big amounts of money to have a child through an adoption or an IVF treatment (Jönsson, 2003, p. 155). In surrogacy we pay for a similar service (Jönsson, 2003, p. 158). This should not be confused with baby-selling, he argues, because who owns the baby? (Jönsson, 2003, p. 159). It is not about bargaining with the child, it is a matter of bargaining with the parental rights (Jönsson, 2003, p. 160). It is the service or labour Jönsson has in focus for the trade, not the child. But even if we primarily argue that the parents actually pay for the child (and secondary for the labour), it does not need to be immoral, Jönsson argues (Jönsson 2003, p. 160). Instead he sees the commercial surrogacy as a way for women to reach reproductive freedom (Jönsson, p. 162).

Debora Spar argues that designer babies are not science fiction; it is reality to purchase selected attributes in a "perfect child", such as eye color, talents and other preferences (Debora L. Spar, p. 123). In some fertility clinics in the U.S. it is possible to choose the child's gender or correct its defects while still in the womb. You can pay to get the optimal sperms and eggs, with the right genes. In 2004, the cost in the U.S. for contracting a surrogate mother was about 59,000 dollars. Eggs from "perfect" donors cost about 50,000 dollars (Spar, 2006, preface). In the baby business, the demand and desire is big, with many strong forces that easily may affect the best interest of the child. Clients for surrogacy have different motives for using a surrogate mother. Some express their wish very clearly on web pages like www.oneinsix.com. There are examples of women who feel too old to go through a pregnancy, or men who want to have a partial surrogate mother with the "right" color or race (Ekis Ekman, 2010, p. 131).

Kajsa Ekis Ekman writes in her book *Varat och varan* about the commercial aspect of surrogate motherhood and compares it to prostitution and the child aspects she compares with commodities. Feministiskt initiativ, Sveriges kvinnolobby, Ung vänster and Kvinnliga läkares förening are also critical to surrogacy (Dagens nyheter, March, 8, 2014).

The Iona Institute writes that they can see a risk that the child can be seen as a commodity where the parents have invested a great amount of money to have it. What kind of expectations can be put on the child “for everything we have done to get you”? (The Iona Institute, 2012, p. 4).

4.3 The best interest of the child in commercial surrogacy

Sweden has ratified the Child Conventions in 1990, even if it is not a binding law in Sweden. In Article 3, Best interests of the child should always be seen as a priority. It states that:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

(<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>).

Surrogacy, altruistic or commercial concerns women giving birth to children according to a contract (Ekis Ekman, p. 128). Equality between man and women is one of the arguments that Jönsson has in favour of surrogacy; children can be traps for women’s equality and freedom and there might be men who would prefer that another woman get pregnant with their child, instead of losing income (Jönsson, p. 20). If a woman chooses a surrogate mother - she does not need to choose between a career and children (Jönsson, p. 20-21). There are also women who are fertile and healthy and could be pregnant, but for political, professional or aesthetic reasons, look for a surrogate mother (Jönsson, p. 19). Jönsson thinks that even if the aesthetic aspect can be seen as superficial, we should not blame this, we live in a superficial world.

Jönsson argues for the best interest of the child and writes that surrogacy in itself is not a threat towards the child and if it was not for the surrogate mother the child had not been born at all (Jönsson, p. 120). He refers to a study done by Susan Golombok and Fiona MacCallum that shows that parents through surrogacy show more affection and interest in their children, than parents who had children “the usual way” (Jönsson, p. 121). What needs

to be mentioned is that the children still were very young, between 9 months up to one year old, which Jönsson also makes clear.

Elizabeth S. Anderson writes in her article *Why Commercial Surrogate Motherhood Unethically Commodifies Women and Children: Reply to McLachlan and Swales* (Anderson, 2000):

“I argue that commercial surrogate contracts objectionably commodify children because they regard parental rights over children not as trusts, to be allocated in the best interests of the child, but as like property rights, to be allocated at the will of the parents. They also express disrespect for mothers, by compromising their inalienable right to act in the best interest of their children, when this interest calls for mothers to assert a custody right in their children.”

A standard pregnancy contract require a surrogate mother to agree not to form or attempt to form a parent-child relationship with her child (Anderson, 2000). Christine Overall stress that regardless if the surrogacy is altruistic or not, the best interest of the child is not in focus (Overall, 2013).

“I exist because someone paid” (my translation) can illustrate the new reproduction built on capitalism (Ekis Ekman, 2010, p. 163). This is something that Jönsson discusses and states that there can be a risk that the surrogate child develops low self esteem when he or she gets to know that the biological mother gave birth with the purpose of giving the child away (in the case of partial surrogacy), even if he rejects this argument on the basis that the child would not have existed otherwise (Jönsson, 2003, p. 122).

The financial aspect is important when discussing commercial surrogacy with the best interest of the child in focus. How will the children feel in the future? “(...) *My God, I thought, what would she think when she will know that she was sold for 10,000 dollars. She will feel as the slaves did*” (my translation) (Ekis Ekman, 2010, p. 129).

The quote is taken from the surrogate mother, Mary Beth Whitehead, in the famous case *Baby M* from 1986 in the U.S. Elisabeth and William Stern longed for a biological baby, but because Elisabeth had got a diagnosis of MS, she could not go through a pregnancy. They did not want to adopt and therefore they chose to use a surrogate mother. Mary Beth Whitehead was willing to be their surrogate mother for 10,000 dollars. She was the genetic mother of the child (partial surrogacy). The agency got 7,500 dollars for making the match between the surrogate mother and the couple. In 1986, the girl Sara Elizabeth Whitehead was born, but the surrogate mother regretted her decision and wanted to keep the baby. It was her husband who had been pushing her into becoming a surrogate mother in the first place. A legal process followed where the Sterns won. Many who have studied the case argue that it was an unfair trial built on an unequal arrangement between a poor girl and two well educated people from the middle class (Jönsson, p. 54-57).

In the article *Konsekvenserna av surrogatmödraskap måste utredas*, leading Christians in Sveriges Kristna Råd (SKR) discusses their worries concerning changes in the Swedish law

regarding surrogacy. We must take into consideration that most surrogate mothers abroad are poor people in developing countries and that the women who are surrogate mothers often get much less economical compensation than what has been promised and sometimes they are also abandoned by their husbands or families, after the pregnancy. A pregnancy is an emotional experience that can be hard to imagine in advance, SKR writes. To give away the baby can be very difficult. SKR states that many women get depressions and anxiety when giving away the baby they have been carrying for nine months. In the article they highlight a few questions SKR consider crucial concerning surrogacy; what if the parents divorce during pregnancy or change their mind? What if the involved adults have different views on prenatal diagnosis? How can it be justified to rent out a uterus? SKR is concerned with studies showing that a little baby even during pregnancy creates bonds to their mothers with all their senses. How can the best interest of the child be a priority, when a separation is planned from the beginning, they ask in the article (SKR, 2013).

A method often used to ensure the best interest of the child, is applying the Child Convention. This is something which is argued for in the article called *Barnen ska inte betraktas som handelsvaror* where Kjell O. Lejon (KD) and Yvonne Andersson (KD) states that the use of women's bodies can be a big risk as well as seeing the children as a product we can buy. They claim the need of always holding the child perspective in first place and not refer to reports and articles that suit us in our personal situation or belief. Therefore they insist the need of following the Child Convention with focus on what is best for the child. In surrogacy it is very clear that the adult's needs are in focus, they write (Lejon and Andersson, 2013).

In *Läkartidningen*, the article *Kräv vetenskaplig evidens för surrogatmoderskap*, Gisela Dahlquist and Staffan Janson agree that we always should have the child's interests as a priority, and that the Child Convention can be a good tool in this practice. They are critical to SMERs suggestion to allow altruistic surrogacy, and state that it is not the best interest of the child that is dominating the decision, but the couples who long for a child. They criticize SMER for not having enough expertise in the area and refer to the Child Convention. A prerequisite for legislative change should be one or more scientific studies where children, families and the potential surrogate mother followed up for at least ten years they state (Dahlquist and Janson, 2013).

5. Discussion on commercial surrogacy

When discussing surrogacy, many different stakeholders interests are in focus; the surrogate, the donors who might have been paid for eggs or sperms, the social or biological parent or parents and the child (and of course, an industry that profits from surrogate children).

There can be many positive effects with using surrogacy, as long as it is mature and responsible people involved that will try their best to make the child's best interest a priority. There are women who enjoy pregnancy and find it easy and women who are prepared to be a surrogate mother for no money except the expenses (Talbot, 2012, p. 174). Surrogacy is not a black or white issue, there are people who truly want to help others to have a child, and in those cases it can be a fantastic opportunity for everybody involved. As we can see in for instance the case with Fredrik and Anna who got their twins through a surrogate mother in India, the outcome seemed positive for everyone involved. The surrogate mother could buy land, pay for her son's education and live a decent life and Anna and Fredrik got their children, they had been longing for the last six years. And as Andreas Bengtsson writes in his article; people who use a surrogate mother with all that it involves, are often people who really long for a baby. These children are wanted and will probably come to a loving home. They are not conceived by coincidence. And the fertility market allow students and other young groups of people to get (as least for eggs) well paid.

But is it that simple? In the next section I will discuss commercial surrogacy on the basis on the earlier analyzes.

5.1 The attachment theory

When discussing surrogacy, the attachment theory, which was mentioned earlier, is an important aspect. What kind of emotional bonds are being built up between the surrogate mother and the child? How much emotional care does she feel for the baby? And how is the child affected by the attachment to her? What kinds of bonds are formed to the baby from their biological or non-biological parents? The question can also be turned around; what kinds of bonds is *not* being made between the surrogate mother and the unborn baby? And what consequences can this have in the future for the child?

One surrogate mother in the Dagens Nyheter article says: *"We eat, sleep and talk. The TV is on 24 hours. Sometimes it is boring. We are only waiting for giving birth so we can go back to our families. I miss my own children a lot, it is hard to be away from them this long,"* (Dagens Nyheter, March 8, 2014).

The quote illustrates how a number of these women may see this as a period to “get over with”, not a pregnancy to enjoy and honor. It is a business, not a traditional pregnancy. The ethical discussion of the baby as a product here becomes relevant. Because what is more precious than a newborn baby? Seeing it as something to gain money from or to have for money, takes away some of the dignity that all humans should have.

A separation after birth can be traumatic for the mother. “They cry for some weeks, but they get over it”, says Nayna Palal, director of a clinic in India (My translation) (Ekis Ekman, 2010, p. 174). The quote refers to the surrogate mothers who suffer from the separation with the child. But can this separation also affect the child in some way, especially when the surrogacy is partial? The psychological development during pregnancy can be compared with the development in the relationship between mother and child during the first year of the child (Risholm Mothander, 1994, p. 41). As already mentioned surrogate mothers are often trained to find methods’ to distance themselves from the baby emotionally. But bonding during pregnancy is important for their relationship (Risholm Mothander, 1994, p. 43).

Anders Bengtsson argued differently and viewed the attachment theory as excessive and something that affect the child first after six months. This is not a psychological analysis but although the issue is not settled scientifically, I will here assume that there is an important connection, at least in the latter part of the pregnancy. I find the arguments convincing regarding the child's need to bond with its mother but is also aware that there are other points of view.

5.2 Reproductive freedom or children as commodities?

Already in the 80s the discussion about surrogacy in the U.S. was intense. One of the first clinics was called “Baby 4 U” already in the 1979 (Spar, 2006, p. 76). Critics called the industry things like “breeder-women” and “reproductive supermarket” at the same time as the supporters discussed in terms of parental desperation and the women’s own freedom of reproduction (Spar, 2006, p.77). The more liberal feminists were in favor of a radical free market, which we even can see in the *Det förbjudna moderskapet* (Jönsson, 2003). The focus is on the women’s needs, capacity and decision over her body and how she wants to use it and not as much on the best interest of the child.

Like many others who defend surrogacy, Jönsson starts referring to the Bible, and how Abraham made Hagar pregnant, when his wife Sarai was not able to have a child, as well as Jacob made Bilha pregnant when Rakel was not able to have a child. Dependent women

have been forced to give birth to rich and influential people even in ancient times (and probably in all times). Jönsson writes that even if surrogacy is controversial, it occurs at two times in the biblical myths, told as a “family project”, where a couple who wants a child, get help from a third party (Jönsson 2003, p. 12). In both cases in the Bible, the “surrogate” (biological) mother is a servant. It was probably not a question if she wanted to be a surrogate mother or not, she was likely forced into the situation.

Why this is mentioned is because the debate in its very essence is still unequal. We have financially strong people using financially weak people in order to have a child. This is a system that both parties, at least in the short run, might benefit from. But in a longer perspective this inequality can create a market that is driven by financial power, not ethical reflection regarding what is in the best interest of the child. It is easy to imagine young women from all over the world seeing surrogacy as a relatively easy way to gain money over and over again. In a business like that, the baby can easily become “a product” to hand over, with no emotional bond created between the surrogate mother and the child and maybe not even between the future parents and the child. Much of the debate, whether it be from a feministic, liberal or conservative perspective – often prioritizes the interests of the adults.

Surrogate mothers are often asked about the difficulty of giving away the baby. Studies show that four percent refuse to hand over the baby (Talbot, 2012, p. 174). It can sound low, but these are the women who refuse to hand over the baby. Not the women who might be sad or even depressed to hand over the child. In situations where the whole families’ financial future is depending on the income the baby gives, the pressure on the surrogate women can probably be strong in some cases. The money can be tempting and even necessary for the surrogate mother/her family’s survival. But surrogate mothers are no robots, giving birth is often a very emotional journey. There are examples from reality when vulnerable women have been tempted to become surrogate mothers for money in a financially difficult situation and sometimes cynically used (Talbot, 2012, p. 174-175).

About 10-15 percent of the population has a form of infertility, which the market can benefit from (Spar, 2006, p. 31). When surrogacy as a phenomena is growing, questions also arise about how we view children.

Are they commodities? Are surrogate mothers selling their children? (Spar, 2006, p. 71). What consequences can this have for the children and our society? Can surrogacy be compared to trafficking? A child is ordered in exchange for money. A (often vulnerable) woman is being a surrogate according to a contract, and has to give the baby away after birth (Ekis Ekman, 2010, p. 149). Ekis Ekman makes the comparison with trafficking in her book, where the commodity is the child. She compares the surrogacy today to an attempt to make unequal relations equal through contracts; the rich world meets the poor world in the baby production (Ekis Ekman, 2010, p. 154). In surrogacy, blood relation is not the most important, but money is (Ekis Ekman, 2010, p. 157).

I believe that commercial surrogacy can be ethically questionable. Because of the preferences of the adults that dominate, the commercial part and the lack of knowledge how this will affect the child in the long run.

There is a danger that this business can lead to viewing children more and more as commodities and a product we can sell, as women, if we are young and healthy. There is a demand for surrogate children and it can be easy to neglect the ethical aspects of the issue. Even if we are far from that scenario today in Sweden, it is a risk with allowing surrogacy in Sweden, even if it is altruistic. It can easily take a journey towards the more commercial forms of surrogacy in the future. On the other hand, even today there are Swedes that goes to other countries to get a surrogate mother, if they have the money.

Many people on this planet would rent out their uterus for food and shelter. And many involuntarily childless would use their financial power to have a child. As long as we have the adult's interest as a priority, we are jeopardizing the welfare of the future baby. Most often when it is big amounts of money involved, "the strongest" voice is winning. This is hard to defend, when we have the best interest of the child as a focus.

5.3 The best interest of the child in commercial surrogacy

The example of Anna and Fredrik who got twins through surrogacy, and seem happy and decent can exemplify how surrogacy works many times, in a Swedish context, even if the market for Swedes is still small; happy and probably suitable couples have a child or children to love and care for. These children will most likely live a reasonably good life.

But even here we can argue from different angles. The commercial aspect is not only on an individual level, it also concerns what kind of society we want to create in the future. Making the business commercial can violate the best interest of the child, in a bigger context. It is not only the matter of Anna and Fredrik and similar cases. Looking at the case with Anna and Fredrik, it is not the issue of not understanding their longing for a baby. It is not regarding them being bad parents or treating the surrogate mother in a bad way. It is about a system that creates a financial market built on making babies.

Surrogate carriers turned over around 27 400,000 dollars in US in 2004 (Spar, 2006, p. 3). Today the business is lucrative and worldwide. We can see surrogacy as a phenomena in many places around the world:

"Would-be parents from Japan, for example, can travel to Virginia and pay for the donor eggs or gender selection techniques that are unavailable at home. Gay or lesbian couples from England can hire American surrogates, buy American eggs, and produce their children in a customer friendly California clinic. Price in these cases is rarely an issue, and supply slips unnoticed across international lines." (Spar, 2006, p. 5)

Another ethical question that can be adequate to ask is what reason the social or biological parent/parents have for using a surrogate mother. The couples Anna and Fredrik were not able to have a child themselves. Using a surrogate mother was their last hope. This reason is something most of us can sympathize with. Most adults can imagine the difficulties they have been going through.

But there can be other reasons for using a surrogate mother, even when the woman is fertile. It can for instance be financial reasons (of missed income) or superficial reasons. It might be tempting for some people to literally be given a biological baby, without much effort at all (Talbot, 2012, p. 175). The question of the baby as a “product to buy” can arise here. We want a baby, but are not willing to go through a pregnancy or to adopt a child in need. “We want it all” and in a society where most things can be bought for money, we buy our own biological or social child, without any physical effort. Being a parent is a big gift but also a big and sometimes demanding responsibility. Good parenthood requires decent and mature parents. If your figure or career have such importance that you cannot go through a pregnancy, maybe you should not have a child. Because in this example, the preferences of the adults involved are ruling. If arguing for the best interest of the child, it is hard to defend such behavior.

As parents we don't own our children, but we have duties towards them (Jönsson, 2003, p. 77). Even if it is still more common in clinics in the U.S. for instance to select the gender of the child and pay for Ivy League eggs, the trend can easily grow and become normality. In this way it is not only about having a child, but “having the perfect child”. Perfect according to my own preferences, not the child's.

Of course it is impossible to ask an unborn child what preferences it may have but by not follow the natural rhythm and in the case of gender for example, let it be what it be; a boy or a girl, one has violated this child's self ownership. In these cases the parent or parent's wishes and preferences are dominating as if the child was any product we could order. But the child has its own self ownership with an inner human value. It is about how we view human dignity in a wider perspective and how we view children, now and in the future.

In the next section I will discuss if altruistic surrogacy can be a plausible alternative to commercial surrogacy.

6. Discussion on altruistic surrogacy as an ethical alternative?

One of the first who started with commercial surrogacy was the American attorney, Noel Keane in the 70s. Soon he was criticized for being a baby-trader and a charlatan (Spar, 2006, p. 75). He realized that he needed to try another approach according to the law, and promoted altruistic surrogacy, but with no success, it “had dried up as quickly as they had sprung” (Spar, 2006, p 76).

In the suggestion SMER has, surrogacy should be legal in Sweden, if altruistic and full. “Allow altruistic surrogacy, otherwise people (Swedes) go abroad”, RFSL writes in an article (Expressen July 17, 2008). But Ekis Ekman compares this argumentation with the difference between prostitution and trafficking (Ekis Ekman, 2010, p. 164). Even if altruistic surrogacy is legal in England and in several states in the U.S., these two nationalities are dominating the market in India (Ekis Ekman, 2010, p. 164).

One reason for this can be that relatively few women are willing to go through a surrogate process for free. Jönsson mentions altruism as a possible trap for women, where they can be used as “labor of love” (Jönsson, 2003, p. 198). It can strengthen the traditional view of women as self sacrificing (Jönsson, 2003, p. 22). Instead he argues that even commercial forms of surrogacy can involve altruistic elements (Jönsson, 2003, p. 198). This is something even Daniel Szpigler writes in his article *Surrogatmamma måste bli lagligt* (Aftonbladet, 2009). He argues that even if the surrogate mother earns money, it is a chance to help others.

Ekis Ekman views the difference between altruistic and commercial surrogacy as dishonest. What Ekis Ekman argues is, that the women are, either altruistic or commercial, reduced to a container. Instead of a pregnancy that is a spiritual journey for the women, it is a function, made for others to enjoy (Ekis Ekman, 2010, p. 165).

Altruistic surrogacy is in a way a bigger challenge from an ethical perspective, than commercial. In the commercial form, the danger of the child becoming a commodity or product is more visible, even if it is easy to sympathize with couples like Anna and Fredrik on an individual level.

In altruistic surrogacy, we have other challenges to consider from an ethical perspective. Still there is a separation from the surrogate mother. We then have the bonds that are created (or not created) between the surrogate mother and the baby, and questions around how this affects the baby.

If altruistic surrogacy would be allowed in Sweden, couples like Anna and Fredrik could have a child through a surrogate mother in Sweden; if they could find a surrogate mother who is willing to go through a pregnancy without payment.

Is there an ethical difference between the commercial and altruistic forms or is it like Ekis Ekman writes in her book a dishonest difference where in both cases the women are reduced to a container, with a pregnancy made for others to enjoy? (Ekis Ekman, 2010, p. 165).

I would argue that there is an ethical difference, when it comes to valuing human dignity and valuing the best interest of the child. Situations can always be misused, but one of the main arguments by making this process altruistic is that it should not be possible to benefit financially on making children. Children's value is beyond the markets financial system, as being humans. This is an important ethical statement.

Gisela Dahlquist and Staffan Jansson states in their article *Kräv vetenskaplig evidens för surrogatmoderskap*, that more research is required before we can judge how surrogacy affects the child. This is an important statement that I find adequate. But allowing altruistic surrogacy is not comparable with saying that it is not problematic. It is a way to make it as secure and good for the child as possible and a pragmatic approach to an ethical challenge. Surrogate children will be born whether it is legal in Sweden or not.

Even in altruistic surrogacy, there might be other compensations made that can be compared with payment to make a women go through with a pregnancy for someone else (The Iona Institute, 2012, p. 4). Clothes and paid holidays are examples that are mentioned as alternatives in some cases. Here again there is a risk that poor women in Sweden would consider it worth going through a pregnancy for somebody else, in exchange for "gifts" of some kind or other. There for it is important to make sure that the surrogate mother is a mature and independent person that has taken the decision in an adequate way.

There are challenges to consider; the attachment to the surrogate mother for the child as well as to the future parents is one of these. But as SMER argue, the close relationship between the people involved is essential and important, which also can make it possible for the child to have a relationship with the surrogate mother in the future. As already mentioned, the market for altruistic surrogacy is probably quite small. With the demand of (biological) children that obviously exist, we will not get rid of the need for surrogate mothers, by making it altruistic in Sweden. But by making it altruistic, we can show an ethical example of how it can be done. We will probably still have Swedes going to India or Ukraine, but the law in Sweden can then be viewed as a guiding example.

SMERs recommendation to make it full is also very important to take into consideration. This means that the surrogate mother will not be a biological mother of the child. When the surrogate mother is biological, it can be even more traumatic for the surrogate women to separate from the child. But it can also affect the child in a bad way. Even if a separation is planned, which may affect the child, the altruistic process seems like the least disturbing for the child, in comparison to the commercial forms.

In the next section I will discuss the importance of screening the future parents. This process is important when having the best interest of the child as a priority.

7. The importance of screening future parents

Do all people have the right to found a family? (Talbot, 2012, p. 141). Of course there are many answers to that question, some rational, some emotional. Reproductive freedom is a difficult phrase. Because freedom for whom? Imagine a drug addict, who hardly can take care of him or herself. Are they free (in a moral sense) to have a baby? Unfortunately there are babies who are born into circumstances like that. To be free in reproduction is a negative right, where the state has no right to interfere (Jönsson, 2003, p. 108).

One can argue that many children are born to unsuitable biological parents. This is tragic of course, but in most cases hard to prevent. Most adults have the right to reproduce and in some cases authorities have to take over the responsibility for the children. When it comes to adoption, far from all adoptions are successful. We have traumatized children who grow up in unsuitable homes under unpleasant circumstances. But in the cases of adoption, the adoption parents have to go through a very serious process of screening to try to prevent unsuitable parents, even if there are failures.

In the cases where the surrogate mother regrets her decision, like in the case of Baby M (Jönsson p. 52-64) as well as in cases where the ordering parent or parents change their mind, the situation can be very problematic. The difficulty for the women to give away the child is often mentioned. But even the opposite exists; that the new parents don't feel attachment to the child (Ekis Ekman, p. 174).

Jönsson mentions the underlying philosophical problem, and what status a regret should have in this business. He discusses if it is reasonable to force a child on someone, if the other part changes her or his mind (Jönsson p. 75). There are examples from reality when the parents did not want to have the child, after discovering that it was handicapped (Dahlquist and Janson 2013).

The child can become like something ordered on the internet, that we can return. Again there can be too much focus on the adults involved, instead on what is best for the child. Instead the importance of scanning the future parents should be mandatory.

The international market is probably hard to effect. This is something that Spar stresses in her book *The Baby Business*. She also makes the comparison between the restrictions regarding adoption in comparison to the fertility clinics. She suggests that the government should play a more active role and regulate the business. Today the baby business in the U.S. lacks rules, she states. With such a big and growing demand for children, the business will

always find ways to keep on doing what they are doing, by selling and modifying children. Here politics need to create a framework where the business can proceed, she argues (Spar, 2006, preface).

In Sweden when adopting a child, the future parents need to go through a course. Furthermore they need to go through an investigation led by one or two social workers. The board then decides if the applicants are suitable for having a child through adoption or not (www.adoptionscentrum.se, May, 16, 2014). This screening is important to avoid unsuitable or very immature parents. I argue that this procedure should be mandatory for all future parents through surrogacy, to ensure they are suitable enough.

The system could be similar to the regulations that concerns adoption. SMER states in their report that both the surrogate mother and the future parents should go through a diligent suitability test and get support and advice during the process (SMER, Assisterad befruktning – etiska aspekter, 2013:1 (Sammanfattningen på 12 sidor) p. 6). If we as a State should legitimize altruistic surrogacy, it is important that we make the potential result for the child as good as possible.

It is not irrelevant to imagine that some potential “buyers” of surrogate children can be very unsuitable, even if it is probably uncommon; pedophiles, drug addicts, criminals – to mention some very unsuitable groups of people. But even if the intended parents do not belong to this group of worst case scenario, they can still be unsuitable for different reasons, and unable to give a child a good upbringing. When we have a system where people, who have enough money, are entitled to something, we take a big risk when it comes to living creatures, especially children.

But screening is something that should be promoted even internationally. A danger when we have a system that involves big transactions is that ethical control and regulation becomes secondary. Christine Overall writes that a genetic bond does not automatically make us good parents able to raise a child in a good manner. Therefore screening and licensing the future parents is important, in order to make sure the well being for the baby is in focus (Overall, 2013). She compares this with adoption and adoptive parents, who are well screened before an adoption. Even in altruistic surrogacy she argues that the focus is on what the intended parents want, not the wellbeing of the baby.

One argument that Jönsson has is that reproduction is unequally distributed. Only fertile women can give birth, but what about the rest? (Jönsson, 2003, p. 90). He argues for a feminist approach and a more liberal view on alternative families.

A response to that can be that the Child Convention should be guiding when it comes to questions regarding children, which can be a helpful tool. Alternative family constellations can be good for a child, as long as the child’s own inner value and needs has a priority and is

respected. The child should not try to satisfy the adult's needs. There should be no difference in what sexuality or constellation the parents have; it should be viewed upon how well one can provide a child with what he/she needs. This is a very important question, when discussing surrogacy.

In the next section I will discuss adoption as a possible alternative to surrogacy.

8. The importance of making adoption easier

Most people who use a surrogate mother want to have a biological child, from one of the parents or both (Jönsson, 2003, p. 17). The basis for this wish (instead of an adopted child for instance), may have to do with our cultural context, as a cultural construction (Jönsson, 2003, p. 18). At the same time the arguments in favour of surrogacy are often not biological. Instead terminology such as "social parenthood" and "take care of" is something that is dominating. Even Jönsson wants to challenge the norm concerning the biological bonds between parents and child, something that he returns to several times (Jönsson). Ekis Ekman writes that it is foremost the bonds to the biological mother that is questioned in the surrogate debate. The biological bond to the father is hardly questioned at all (Ekis Ekman, 2010, p. 139).

Jönsson discusses adoption as an alternative to surrogacy (Jönsson, 2003, p. 113-117). In surrogacy a child is created to be taken care of by others, in adoption a child exists (Jönsson, p. 114). He mentions the restrictions concerning adoptions and the increasing number of infertile people in the western world, where many choose an IVF treatment instead of an adoption (Jönsson, p. 115).

Adoption can also be seen as a market for children where parents actually pay to have a child (Spar, 2006, p. 160). Spar describes the tragic supply of waiting children that are available on different web pages handled by different organizations. In adoption the child already exists. It is already a little boy or girl who of some reason has lost his or her parents, but still is full of dreams and memories (Spar, 2006, p. 161). But the adoption market is far from black and white either. There are women who are forced to give up their children for adoption (Jönsson, 2003, p. 115). And for many children it can be traumatic to come to a totally different cultural context (Spar, 2006, p. 161).

In the U.S. more than a hundred thousand children are adopted each year, about fifteen percent from abroad. Most of these parents are well screened before (Spar, 2006, p. 161). Jönsson argues that even if an adoption often is a good solution for the child, we should not

idealize it (Jönsson, 2003, p. 116). But both surrogacy and adoption can be justified with the best interest of the child in mind, he argues (Jönsson, 2003, p. 117).

Each year about eight hundred children are adopted from abroad to Swedish parents. Adoption can be a complicated process that involves long delays and high costs. All groups (of the involuntarily childless) do not have the rights or opportunity to adopt children for different reasons, such as sexuality, age or financial reasons. SMER believes that in early discussions about infertility, the discussion concerning adoption should be discussed as an alternative to assisted fertilization (SMER, Assiterad fertilization - ethical aspects, 2013:1 (summary of 12 pages) p 3).

This is an important statement by SMER. How important is actually the biological bond? And what moral obligations do we have towards all children who are born without adequate care?

From an ethical point of view, it can be interesting to discuss how far we can go in our search for a child, with the current situation for millions of children in world. The argument is not adequate by itself of course. Then one could argue that no biological children should be born “the natural way” either. But from a normative perspective it can be an adequate question to ask. We have around 2, 2 billion children in the world; 140 million of these children are orphans

(http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_europe_an_union/r12555_sv.htm, 25th of March 2014). This is important to take into consideration when we discuss different ways of using both surrogacy and ART, expensive methods and sometimes ethically questionable procedures. Could an alternative way forward be to also make it easier for people to adopt? People of different ages, with different sexuality, singles or couples, as long as they can prove that they can take good care of the child?

Or is the “dream of the biological child” more important, than having a legal child? This must not be confused with the terrible acts that have been done in the past to prevent certain groups like Jews, gypsies, homosexuals and communists from having children (Talbot, 2012, p. 143). Instead it is a reflection concerning all of us in a sense, regarding already existing children.

What moral obligations do we have to the children who are already born, if we are longing for a child ourselves and have difficulties getting pregnant? How could such a system be more effective in connecting unwanted children or neglected children with potential adults that could prove to be able to take care of the child in an adequate way? When it comes to parents that are not able to take care of their children in a good way, it is much more difficult (Talbot, 2012, p. 145). Such control for governments is impossible to have or even want. Unsuitable parents will probably always be able to have children in a biological way (Talbot, 2012, p. 146).

There are groups of people having difficulties to have a child the “normal” way, such as homosexuals, singles, older people and people with disabilities, who also often are not allowed to adopt, because of laws and regulations around the world. This fact creates discrimination for certain groups of people, Jönsson argues. Here surrogacy can open up for new family constellations; Jönsson argues (Jönsson, 2003, p. 20). But could we also include easier ways for adoptions here, to open up for “new” types of family constellations?

The Swedish actor and writer Klara Zimmergren will launch a book on this topic later this year, *Längtan bor i mina steg*, (Forum, 2014). She writes about her and her husband’s longing for a child and their painful journey to try to get pregnant but with no success before they decided to adopt a child. “The only thing I regret is that we did not adopt earlier”, she says in the interview (my translation) (Engwall, 2014). Today they have a little son who is born in Bulgaria and came to them when he was three year old. She explains that they started loving him after only one minute. And he loved them back straight away, something she had not expected to happen that quickly. “The only thing that I am sure of from this experience, is that it is possible to love an adopted child as much as a biological”, she says (my translation).

9. Conclusion

If surrogacy is used, it should not be the commercial form that exploits the human value and jeopardizes the best interest of the child, but like SMER recommend, be altruistic and full, where the surrogate mother is not genetic. Even if there can be obstacles for the child lacking the connection with a surrogate mother throughout pregnancy, even in altruistic surrogacy, at least this is the least harmful option with the best interest of the child in focus.

The best interest of the child should always be a priority when it comes to surrogacy. Here the Child Convention can be a good guideline.

If we will allow altruistic surrogacy in Sweden, a screening system similar to the adoption procedure is recommended when it comes to investigating the parents. This screening and restriction should be promoted by the government and not the individual clinic, similar to the screening system used when adopting a child.

The focus should be on the parent’s ability to take care of a child in a decent way. That means that questions concerning age, financial situation and sexuality, should be secondary. People, regardless of sexuality and income (and even age to a certain extent) can be good parents.

To promote adoption as an alternative to surrogacy to a larger extent as well as working for easier laws concerning adoptions, both nationally and internationally, is also something that I have argued for.

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