

# Chapter 9

## Conclusions



### Proposals

In the previous chapter I highlighted the characteristics of mobilization and the criticalities of the debate on surrogacy proposed by social movements, with particular reference to feminism, followed by highlighting its adult-centricity and suggesting a change of perspective that focuses on the meaning that this practice has for the child, the protagonist of procreation, the social subject and representative of the future human society. In this concluding chapter, I would like to make a few more proposals to try to overcome the current polarization of the debate. Before moving on to the proactive part, I will briefly summarize the main considerations made so far.

- The debate on surrogacy is focused on two frames of feminism already applied to the battles over prostitution and abortion (Radin, 1995). These frames, through their ideal charge, generate an uncritical consensus rather than a consensus based on the elaboration of specific information on the complexity of the phenomenon and its implications for the subjects involved. The two frames in question are the claim of a woman's full autonomy over her body (applied in both debates) and the defence of women from forms of commodification (applied only in the prostitution debate)
- Feminism is united in the use of the autonomy/choice frame in the claims, still current in many countries, for the legalization of abortion, but is divided on the issues of prostitution and surrogacy (Corradi, 2021): a part of feminism places these two phenomena at the same level as abortion, as an opportunity that the woman must be free to seize, while another part, does not recognize the woman's agency (although confirmed by various ethnographies reviewed in Chap. 4) and emphasizes her role as victim of a (patriarchal) system of female exploitation (Rushing & Onorato, 2003).
- The opposition to forms of commodification of women is weak in a social context characterized by strong individualism, in which the race for personal fulfilment

and utilitarianism are guiding values (Lasch, 1979), both for men and women from a gender equality perspective (Pinker, 2008), and in which other forms of commodification of the body are already widely accepted (Hochschild, 1983). The defence of a third party, a potential victim of the action of adults who act with different levels of awareness, can constitute a limit to the more shareable action. Society is called upon to take responsibility of the future generation for exercising this type of procreative freedom.

- In the debate, along with the conformation of alliances and alignments in the civil society, there are the following divergences: there are those who work to obtain the abolition of surrogacy and those for its better regulation (Maniere, 2017); there are those who condemn it as the commodification of women and children and those who defend it as a means of guaranteeing reproductive self-determination to infertile, single, and homosexual people; there are those who think that motherhood is a female prerogative to be valued and those who consider it superficial from a gender constructivism perspective (Farquhar, 1996); there are those who defend the heterosexual family as the only institution responsible for raising children and those who instead claim for males and females (or only for the latter) the possibility of becoming a parent outside this traditional space (Pérez Navarro, 2020); there are those who think that life should be protected from conception and those who think that the woman should be free to decide whether to abort the foetus.
- The transversality of these different positions is hindered by the polarization of the debate, which poses problems to social movements and political actors that want to reaffirm their progressivist identity (de Aguirre, 2019) although they disagree with the expansion of individual liberty to procreate through surrogacy: it is a difficult operation, in a debate structured by the dogmatic defence of principles that define the identity of one or another social movement, to claim to be pro-choice for abortion but at the same time anti-choice on surrogacy, to respect homosexuals but oppose the idea that the desire for a child can be satisfied by depriving the child of a parent (genetic mother or father or birth-mother). These differences, however, have the possibility of coexisting in single-issue alliances (Whittier, 2014) and working tables in which the different souls share the same goal (Stop Surrogacy Now is an experiment of this type). With this book, I wanted to propose a reasoning that crosses the categories of the “package”, aware of the fact that the pro- and anti-choice polarization so marked in the United States risks influencing the entire international debate, even at the academic level, given the enormous capacity of the United States to influence the civil society research and networking.
- Contributing to the prevalence of the regulatory approach over the abolitionist approach is the pragmatism of those who, while not defending surrogacy as a desirable space of freedom and birth, nevertheless sit at the regulatory table to try to limit the expansion and damage of a growing phenomenon supported by huge economic interests. There are also forms of dialogue between groups that share the same abolitionist objective on surrogacy but have divergent ideas on other issues that are fundamental to their mission: pro-life activists (in countries such as

Italy where they firmly oppose surrogacy) and feminists have the opportunity to strengthen their mutual knowledge by working together on the abolitionist cause, putting aside their differences on the issue of abortion (or by furthering their understanding of each other's point of view on this issue, or even sharing it).

- The two abolitionist and regulatory fronts share the concern for the impact of surrogacy and some of its procedures on the health of surrogates, the eggs providers and the children, for the legal protection of the children's rights, even in States where surrogacy is illegal, for the vulnerability of women to abuse, exploitation, or conditions of choice and consent that are not fully free and fully aware. On both fronts, the need is felt for scientific research, the collection of quantitative data on the number of surrogacy births, follow-up studies on the well-being of women after surrogacy and children born in this way, and finally a participatory debate between the civil society and institutions.

Considering the short circuit of the two feminist frames (commodification versus autonomy) and their inadequacy to represent a practice whose purpose is the generation of a third subject, along with the presence of common concerns and moderate positions in a polarized debate, as well as the repercussions of surrogacy in terms of loss of the freedom of the human being of tomorrow on a social level and the scarce benefit in terms of social empowerment for women, I propose renewing the debate and mobilization considering the following possible measures:

1. To focus on the particularities of the phenomenon, first of all that of being a practice aimed at the generation of human beings, who are removed at birth and forever from the person with whom they had begun their development: entrusting them to the clients is not aimed at repairing the child's right to be raised by his parents, as is the case in adoption, since without the will of those same people to have a child, the child would never have been conceived (Scherman et al., 2016). The removal of the child from the woman with whom he began his psychophysical development constitutes an inevitable harm (Agnafors, 2014), regardless of the transaction of money or the gratuity of the service performed by the surrogate.
2. To understand the action of the intended parents and surrogates, if in the absence of coercion, as a choice matured under the influence of the social context, of which I invite not to neglect the imperative of self-determination and individual affirmation (Beck & Beck-Gernsheim, 2001; Lange, 2014), the utilitarianism and the habit of commercializing forms of intimate life, all elements of contemporary society also widespread in countries with large pockets of poverty that constitute basins of "bioavailability" (Cohen, 2007).
3. To distinguish the immediate personal benefit that surrogacy gives to adults (satisfaction of the desire for a child and financial gain), from the social impact on the future generation and confirm the priority of protecting the child over the adult's desire as a social value. Adeline Allen (2018), of the Harvard School of Law, after having listed the negative effects on both the woman and the child (see Chap. 3), argues that the ban on surrogacy by limiting individual freedom of choice is desirable because it is a practice that, in addition to satisfying the client's

desire for parenthood, does not lead to any benefit in social terms, but rather hinders human flourishing, understood as both individual well-being and the common good (society).

4. To strategically differentiate the long-term goal of eliminating surrogacy without missing the opportunity in the short term to protect the children and surrogates as much as possible from abuse, psychological and physical harm, fraud, abandonment, and deprivation of citizenship rights. This implies maintaining an attitude of condemnation of the practice, by virtue of the considerations contained in points 1 and 3, and therefore maintaining the objective that this phenomenon is ended; contributing so that surrogacy is not legalized in States where it is not yet widespread and so that the bans are applied where they exist (as proposed by Italian feminists through coordination between consulates abroad and judiciary authorities); meanwhile contributing to protecting the children and women where the practice already exists especially if in those countries it would be utopian to enforce a sudden ban (Rudrappa, 2021). This approach involves maintaining an ideal and perhaps utopian point of arrival and acting in the meantime with pragmatism evaluating case by case, as well as differentiating the regulatory approach based on the diffusion or otherwise of the market in the country and the legal context. I would like to present some of the proposals put forward by the feminist scholar Valerie Hudson for an improvement of Texan legislation. Her proposals could be a source of inspiration for policy makers internationally, who might want to introduce restrictive regulations aimed at discouraging surrogacy and achieving the progressive elimination of the practice. Hudson suggests: to make it mandatory to inform the surrogate about the surrogate about the health risks, and an obligation for the intended parents to provide financially for the child after birth; pre-agreement home study of the intended parent should be mandatory, intended parent should provide for medical care of surrogates up to 100 days after birth; children should be protected in their rights to know their identity and therefore on the birth certificate, the names of all the donors and surrogate's name should be reported; surrogacy agencies should mandatorily report on the health assessment of surrogates up to after 10 years from the birth.
5. To valorize policy making, research and communication initiatives on issues that we have seen to be shared across the board by the civil society groups, whether abolitionists or reformists: in particular, to emphasize the impact of surrogacy on the physical and psychological health of the women and children; produce and diffuse scientific and factual information, also by collecting testimonies from the protagonists of surrogacy (with the methodological expedient of avoiding interference by commercial actors in the recruitment of sources); monitor the health and well-being of families formed in this way and of the women who contributed; quantify the phenomenon through the systematic collection of the number of surrogate births in each country.
6. To provide vulnerable women who are targets of surrogacy recruitment with accurate information about procedures, medical and legal risks they would face by becoming surrogates, ethical implications and social consequences of surrogacy, their human rights and the rights of the child. Information and awareness initiatives are needed in order to enhance women's decision-making capabilities

and help them to reflect on significance and implications of the practice for their life, for the children, and for their community, as well as to help them to find alternative ways to achieve the goals of finding new sources of income without recourse to surrogacy (Bandelli et al., 2020).

7. To launch single-issue transversal initiatives aimed at abolishing the practice in the name of defending the child's right to grow up with his parents, and in the name of protecting the health of both the women and children. Groups with different social missions and visions, political and cultural locations, have the opportunity to participate on these platforms, as long as the claims are not ideological but based on scientific evidence. Protection of health could be a ground for a joint dialogue and single-issue mobilizations (such as breast cancer, HPV vaccination, female genital mutilation, no-smoking in public places, etc.) and policy making of surrogacy activists in the abolitionist and regulatory fronts. I think that the focus on child's health deserves more prominence because in contemporary society there is a certain level of acceptance of individual freedom to self-harm as well as of the fact that certain forms of paid labour imply health risks. In fact, what is not socially accepted or encouraged is putting the child's health at risk (e.g. debate on vaccinations, social condemnation of drinking pregnant women, medicalization of pregnancy and birth, etc.). Enhanced public awareness on surrogacy implications on health and well-being of children would render the practice less acceptable and unproblematic and would help to question the individual rights of adults to meet their desire of family through surrogacy.

## Predictions

I am writing the conclusions of this book in Italy in January 2021, when the world is still shaken by the COVID-19 pandemic and by the measures to contain the contagion imposed by the governments: for a year, the world has not been as easy to navigate as we used to think so for the past 20 years. Tourism has taken a heavy blow, in some countries more than others; the enormous flows of people who moved, for pleasure or for work from one part of the globe to another, have drastically reduced; the few operating flights have prohibitive costs; webinars have replaced conferences and business meetings. We do not know if once the pandemic is over, we will return to roam the globe as before. The prediction that seems quite certain to me is that unemployment, insecurity, social and economic inequality will increase in both Europe and the United States. This second development could favour the increase of female bioavailability and perhaps a restructuring of the short-haul surrogate market, if not on a national basis. The dystopian scenario that Riggs and Due hypothesized in Australia could come true in many Western countries, including Italy: a scenario in which some groups of people within the same country "are seen as less valuable citizens and thus available for commodification" (Riggs & Due, 2013, p. 967). In the light of these future assumptions, national bans take on a greater importance than the current debate in which they tend to be considered in vain since

the ban in one country easily moves the market to another. Today, people cannot move so easily and this difficulty could persist.

In the meantime, experiments on the artificial uterus continue<sup>1</sup> and, in the near future, there may no longer be a need for the bioavailability of women to produce children: it could even reach the point where the human being is created not on commission from those who act, driven by a parental desire, but rather by subjects or institutions with other, less affective purposes. Therefore, the condemnation of surrogacy in the name of the protection of women from commodification could soon be obsolete, while that made in the name of the child would as of now have the function of protecting the human being from this further drift.

On the other hand, we are also witnessing a rapid spread of ecological sensitivity as well as a valorization of holistic methods of care and wellness. This could bode well for a parallel awareness of the importance for the human being to maintain some of his foundations such as sexual difference and birth from his/her mother and father. In the procreative field, there is the phenomenon of holistic or natural childbirth and parenting (Fedele, 2016) which encompasses methods of pregnancy, birth, and post-natal care, such as water birth, lotus birth, and prolonged breastfeeding, which are inspired to the so-called alternative medicine, eco-feminism, and Goddess. These practices underline the mother–foetus spiritual and corporal bond, as well as the ancestral feminine capacity of giving birth in an autonomous and empowering way. Natural childbirth methods are chosen with different motivations, such as: rejecting invasive medical practices and standardized protocols often applied in hospital births; making a responsible choice to revitalize the sacred dimension of birth, which is neglected in modern culture of medicalized bodies; reappropriating the feminine traditional knowledge of mothering which has been devalued by male-centred medical science; enhancing the child’s health and well-being and protecting his integrity as a holistic creature and his connections with the spiritual/natural dimensions. However, it would be foolish to predict that these phenomena could act as a brake on technical procreation in contrast with (human) nature. I would tend more to imagine that these remain niche practices and that they continue to occur in society in parallel with surrogacy in the typical postmodern mode (Camorrino, 2021): a patchwork of practices without a common substratum of values and worldviews where fragmented lifestyles coexist in the same societies, and even in the same biographies, such as the surrogate women interviewed by Lance (2017) who express a feeling of “back to nature” by eating their own placenta to promote post-partum recovery in the absence of the baby.

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<sup>1</sup><https://www.theguardian.com/lifeandstyle/2017/sep/04/artificial-womb-women-ectogenesis-baby-fertility>

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