



Mother, Mothers: Forms and Contents of Maternity. A Simmelian Interpretation of Surrogate Motherhood

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[See table of contents](#)

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Article abstract

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Mother, Mothers: Forms and Contents of Maternity. A Simmelian Interpretation of Surrogate Motherhood

Abstract. *Right from its very origins the debate on surrogate motherhood has fed on its own complexity, rather than achieving sure, unambiguous propositions over its goodness or inhumanity. This article offers a Simmelian interpretation of this modern form of maternity. Through Simmelian epistemology, the author identifies the key for overcoming some dilemmas which have always accompanied the debate over the goodness or otherwise of surrogacy: whether it is the alienation or the realisation of the woman, the role of money and the value of surrogacy as an act of giving life.*

Introduction: what's wrong with that...?¹

February 2017. In its sentence of 23 February, the Court of Appeal of Trento, while admitting “the undoubted observation that according to the laws in force recourse to surrogate motherhood is not permitted, contrary to what laid down in **** which on the other hand permits it [provided it is free of charge, as the remuneration of the surrogate mother is forbidden] it is not however sufficient to deny effects in our legal system for the provision which [...] has recognised a parent-child relationship between **** and the two minors born with recourse to surrogate

¹ I sincerely thank the patient work by the Editors and the two anonymous revisers – if the article has something interesting to say it is also thanks to their critical comments.

motherhood and within a parental project agreed between the plaintiffs”. For the first time in Italy, the law recognised and established parental ties between two children born from *surrogacy* – in the United States – and their non-biological father, authorising the registration of the foreign birth with the indication of two fathers as the two parents. It was not through *step-child adoption* that this man became a father, but rather by virtue of the *presumption of parenthood (in this case, paternity)*. Moreover, the same ruling places the accent on the *globalisation of the practice of surrogate motherhood*.

Let us for the moment leave the ethical, cultural, social and anthropological issues this decision raises to one side, and let us instead think how this can be interpreted by two simple citizens who learned of the news in the paper. Let us also imagine that one is for, and one against. ‘*There is only one family, that of a man and a woman*’, ‘*a woman can’t sell her own child*’, ‘*how can a woman give away a child she has carried for nine months?*’, ‘*those two bought a child*’, could be the grievances of the one who doesn’t approve. The other might object with a simple question, ‘*what’s wrong with that, if it’s all done for a good purpose?*’ If a woman can’t have a child, and another is willing to “do it” for her, *what’s wrong with that?* If two men love each other and want a child, and a woman freely wishes to give them the child they long for, what’s wrong with that? If the (medically assisted reproduction) techniques allow me to, if the woman who offers to carry *my or our child* – but which will not be hers – does so voluntarily and freely, if I and my partner will be great parents and my child will be raised well and serenely just like all other children, *what’s wrong with that, if it’s all done for a good purpose?*

Certainly, these are simple words, but however they express the deeper meaning of the question. We may think only of the worries reported in research on gay paternity (Lewin, 2009) that claw on the consciences of future fathers: what to tell the child who, according to some opinions in society, was torn from a mother, was bought (or sold), is the result of a trade, a deal, an inhuman practice like that of the womb for rent? Surrogate mothers are represented as women

who sell their body by renting out their own wombs, children become goods, surrogate motherhood de-humanises maternity itself; *gay* fathers and sterile (heterosexual) parents are criminals who, exploiting the women's poverty, buy the fruits of their slavery. Why not believe in the free gesture of a woman who, considering that having a child is such an immeasurable value, offers herself and her own competence to allow another couple to live the same experience? Why not *believe* that the role of surrogate mother can also be an opportunity for a woman to be emancipated from the chauvinist, patriarchal order of some societies such as India? There may be many other questions we can ask on the *goodness* or not of the practice of surrogate motherhood.

But, before going on, the reader may wonder why interpreting the complex question of surrogate motherhood *with* Simmel's lens (and with Simmelian scholars) when Simmel himself never actually tackled the issue. I would like to pinpoint some remarks. Choosing to follow Simmel's epistemology², I think it means approaching social reality keeping in mind that – in a few words – thanks to the (sociology of) *form*, the chaos of reality is ordered by human intellect (Giacomoni, 2017), (the philosophy of) *Wechselwirkung* identifies with any form of reciprocal action “such as to make it converge in a form of specific contents of various kinds”) (Ruggiero, 2019: 25), the (law of) individual creates order from the bottom of social relations rather than from the heights of Kantian ethical absolutism (Amat, 2017). I mean that, as a sociologist, if we want to “Simmelianly” analyse a fact that is a social form, we need to outline it as a form, the reciprocal orientation occurring between individuals and its value.

Noticeably, the *social* practice of surrogacy can be analysed from a strictly sociological point of view, outlining, for example, the

² Michael Kaern (1983) thinks that the role of the ‘As-If’ (*Als-Ob*) and the concept of ‘relativity’ are the two most important elements of Simmel's epistemology of the social sciences. Here, I will take into consideration mostly the second element (even though “Simmel's relativism is, of course, an As-If procedure”) (Kaern, 1983: 171), a very important concept for understanding *Wechselwirkung* correctly.

actors, norms and social ties between the different subjects involved. But, first of all, surrogacy is an act of giving life, it is *about life* and how life itself can be given – how life ought to be or not be given. Surrogate motherhood is certainly not a recent invention³. What is new – since 1987, and the story of *Baby M*⁴, the ‘first’ case of surrogacy – is that it is offered as an alternative form of motherhood. What is new is that surrogacy can be understood as the positive *feminisation* of the gifts through which medically assisted procreation techniques are possible (Théry, 2010). What is new is that surrogacy can be understood as a form of relational work (Berend, 2016). There may also be other new elements – but for the time being, I will stop here. Above all, however, surrogacy is a new *form* of motherhood and of giving life that is faced with some problematic issues. *We*, as human beings, are not just a *cultural* product, we are also the outcome of a biological and relational process. *We*, as human beings, cannot be turned into things, objects to be sold. Simmel himself warns us against the terrible and catastrophic effects that culture, as dominion over nature, can have on us and on what we produce (Fellman, 2015; Ruggiero, 2019)⁵. Among many possible others, three dilemmas concerning surrogacy and its probable ‘catastrophic effects’ or goodness can be posed. These dilemmas deal with the woman, money and the act of giving life: is surrogate motherhood alienation or full personal realisation of the woman?; is surrogate motherhood an economical exchange or an exchange of gifts?; is surrogate motherhood a worthy act of giving life?

³ I will not enter into a discussion on the merits of whether, for example, the maternity of Sara and Rachele narrated in the Old Testament can be considered as surrogacy. The ensuing discussion would be too complex to be dealt with here. I refer therefore to McElroy (2002).

⁴ From the name of the trial ‘In re Baby M, 537 A.2d 1227, 109 N.J. 396’ debated before the Supreme Court in New Jersey.

⁵ I thank Davide Ruggieri for these remarks he suggested to me.

The article is structured as follows. In the next paragraph, I will outline surrogacy as ‘more-than-life’ through which women can achieve full self-realisation. In the third paragraph, I will reflect on how money can be used in a practice of surrogacy. Going beyond the simple contraposition ‘commercial surrogacy vs. voluntary surrogacy’, the *philosophy of money* will help us to clarify the relational value of *that* life which, day by day, takes shape in the practice of surrogacy. The last dilemma, is surrogacy a worthy act of giving life? We will see that Simmel’s ‘law of the individual’ is useful in solving this question – the value of surrogacy that is relational, not subjective, and that depends on a given *relational* context.

The first dilemma, the woman: alienation or full realisation?

But have we resolved the question of surrogacy?, Clyde Haberman, journalist from the New York Times⁶, wonders almost thirty years after the case of *Baby M*, the first ‘public’ case of *surrogacy* in the United States. Indeed, the *Baby M* case led to a lively debate which remained unsolved, or rather, as time has passed, has amplified its own complexity. Right from the start, surrogacy “presents an enormous challenge for feminists”, explains Lori B. Andrews (1988: 72), as we have to ask if for women it is an victory or a defeat. The scholar states that there is a paradox in the criticism which a part of feminism makes towards the technique of surrogacy: seeing this as an instrument that places women under male power and reduces them to mere reproductive containers, there is a risk of reducing women to their sole function of reproduction, depriving them of their freedom. In other words, that claim for freedom, aware self-determination and the management of their own body cannot also be extended to *surrogacy* where this is *seen by the biological mother* as “the opportunity to carry a child that would not exist were it not for the couple’s desire to create a child as a part of their relationship” (Andrews, 1988: 74). On the other hand, one of the strong voices

⁶ *Baby M and the Question of Surrogate Motherhood*, from the on-line edition of the *New York Times*, 23 March 2014.

of feminism, Carole Pateman, states that “the political implication of the surrogacy contract can only be appreciated when surrogacy is seen as another provision in the sexual contract, as a new form of access to and use of women’s bodies by men” (Pateman, 1988: 209-10).

The problem that is therefore underlined by the first comments on the *dilemma* of the goodness or otherwise of surrogacy, concerns the fact that this practice may be *culturally conceived* as yet another transformation of the modern patriarch or as an act of emancipation; as a decision which, in fact, hides a *false consciousness* (Oliver, 1989) or, on the contrary, a conscious and free decision (Bellioti, 1988). Ultimately, the problem concerns how motherhood for others can be an opportunity for enhancement or, on the contrary, the exploitation of *women*.

A few years after the *Baby M* case, Heléna Ragoné published what is usually described as the progenitor of socio-anthropological studies on the practice of surrogacy, *Surrogate Motherhood. Conception in the Heart* (1994). The surrogate mothers Ragoné refers to are US women who are described as women who use their own work as a bridge or bond between the domestic sphere and the public sphere: by transforming the work of reproduction as a paid occupation within the public space, this activity allows women “to alter the balance of power in a surrogate’s personal life, giving her entree to a more public role and creating new and exciting demands upon her time” (Ragoné, 1994: 65). The surrogate mother – Ragoné explains – is able to acquire that recognition as a *woman* thanks to the role of *mother* which, within her own family, on the contrary, she would not be permitted: “the recognition these women receive for their surrogate role thus confirms and reinforces their belief that motherhood is of profound importance and that giving birth is a talent or a skill” (Ragoné, 1994: 72). More recent studies, conducted where still today the regularisation of surrogacy continues to have some ‘grey areas’, i.e. India (Witzleb and Chawla, 2015), report how the practice of surrogate motherhood is a means of *redemption* for

Indian women (Rozée, 2018). Women do not at all lose control over their bodies; on the contrary, offering to be a mother for another woman is an opportunity for emancipation from the highly masculine and patriarchal order of Indian society. Surrogate mothers – as Pande in particular explains (2014) – fight the symbolic construction that sees them as ‘disposable mothers and dirty workers’. On the contrary, they *conceive themselves as moral mothers*, affirming “their dignity and sense of self-worth” (Pande, 2014: 168).

Who better than a woman, who believes that motherhood, the family and having children are immeasurable values, can offer her talents so that another couple can live the same experience?, referring to the fil rouge that links the studies analysed above. The question would appear senseless if we think only of the biological fact – it is tautological that only women can become pregnant. Yet gestation is that “something that *men cannot do*” (Simmel, [1902] 1984: 75), that *something* which Simmel assumed as the solution to the cultural problem of the possibility or otherwise that “if objective culture is to exist”, “women are to accommodate themselves to its form” (Simmel, [1902] 1984: 75). For Simmel, this depends on a new division or differentiation of activities. The ability of women to become a source of original cultural products depends on the *forms of work* undertaken by women and which cannot be undertaken by men as they are specifically female. That the *culture of maternity* is a historical form is obvious. Here, we aim to understand whether *surrogate motherhood* can become a cultural form which allows the positive realisation of women – we must keep this intention in mind while seeking to develop a gender theory which considers “diversity generated by a metaphysical nature” (Fornari, 2004: 120), Simmel's thoughts on gender “are scattered with ambivalence and ambiguity” (Giacomoni, 2004: 292). He seeks to *free women* but proposes a *bourgeois* model linked to the home and the family (Lichtblau, 1989); he seeks to develop a *female psychology* yet does not clarify if it is based on women's nature or if it is a product of socialisation (Vromen, 1990); starting from a metaphysical reasoning on gender differences, Simmel concludes that, contrary to men, women are

able to reach and accept the *absolute* yet without having to go down the path of rationality (van Vucht Tijssen, 1991); while stating women's need to *generate original forms of culture* as the only way to truly obtain gender equality, Simmel does not reveal what these may be (Coser, 1977). And, as explained, it is on this point that we shall stop and reflect here. A first set of reflections concerns the profound meaning of Simmel's analyses on the female condition which Karen Horney was the first to see: "our whole civilization is a masculine civilization" (Horney, 1926: 325). It is the meaning of the famous, ingenious equation Simmel used to skilfully condense into a single formula the dominating rule of objectivity "in the historical life of our species: the objective = the male" (Simmel, 1984 [1911]: 103). Simmel's greatest contribution to gender sociology is not so much that of having underlined women's subjugation – already described by others before him – but rather that of highlighting women's difficulty in producing their own cultural forms in a context in which the culture is male – or, more simply, as Coser explained, "the rules of the game are male rules" (Coser, 1977: 872). Remaining within the perimeter of these first reflections could, undoubtedly and with good reason, lead us to consider surrogate motherhood as a product of these *male rules*. And the discussion would end here, because there is no other 'solution' than to totally condemn the practice of surrogate motherhood. If the tragedy of culture also takes place within the unfortunate fact that the male absolute has become the absolute principle, thus denying all social space for the female absolute (Oakes, 1984) and if "the only remedy to this [...] is a fundamental reappraisal of the female a priori form of life" (van Vucht Tijssen, 1991: 208), then we must not forget that this path passes through the symbol of the female absolute – motherhood – to reach a second series of reflections. If the Simmelian construction of woman "seems to be primarily mediated by the biological function of woman" (Dahme, 1988: 424), then also the possibility of 'generating' independent and original cultural forms may also find the same mediation. Now, for women to be able to conquer their independence and emancipate themselves from male

‘domination’, Simmel outlines that which Suzanne Vromen (1990) defines as a *fine bourgeois solution*. Separate spheres to which each of the two sexes devote themselves due to their own specific nature – for men, work, and for women, caring for the home and educating the children. Here, however, we glimpse a limit in Simmel⁷. If the female sphere is the home and the family, *reciprocally*, this sphere is barred for males. That is to say: if we identify *female creativity* as motherhood, motherhood as a creative form of the female absolute, then *reciprocally*, fatherhood, as a creative act of the male absolute, disappears in all possible forms. The only male *creativity* is *work, and production deriving from work*. The female is not as creative as the male because women are not capable of *true creativity*, as on the other hand men are. Consequently, motherhood does not seem to have that *metaphysical* importance that male productivity has; on the other hand, for men, fatherhood does not seem to hold the same importance as motherhood does for women. Fatherhood seems to be an *irrelevant male characteristic*. This ‘social’ irrelevance of fatherhood befits the spirit of Simmel’s time, yet at the same time Simmel makes motherhood the symbol of the unity of the two absolutes, the female and the male. Even though the *female* absolute is “motherhood – as an absolute, on which both the masculine and the feminine in the *relational sense* are pre-eminently based” (Simmel, 1984 [1911]: 128, my italics), it is the connection between the male and the female absolute: motherhood is the symbol of the *ultimate metaphysical unit* (Simmel, 1984 [1911]: 129). Motherhood, understood as the female absolute, is in turn also a symbol of the absolute of the relationship between male and female. This may seem obvious, but it is not. Certainly, if the patriarch defines the power relations between the sexes, then the practice of motherhood – as experienced and pursued by women – will for example reflect the subordination of the wife to her husband, the exercise of

⁷ Limit deriving from that which Anne Witz (2001: 367) defines as Simmel’s *masculine ontology of the social* according to which women are “sent home again to the metaphysical playgrounds of the pre-social” while “the social is the boy’s playground”.

parental responsibility, etc. But let's try and look beyond and think how in surrogate motherhood, the male and female must mutually relate to each other in new forms. A man whose partner is willing to carry a child that is not theirs; a man who inseminates a woman other than his partner so that she can become a mother; a man who inseminates a woman so that he and his partner can become fathers. Thus, we find ourselves facing a fragmentation of the male and female identities, of fatherhood and motherhood and are matched together in new ways. Indeed, to use the words of Martignani (2014: 142), this de-fragmentation is possible due to the *awareness of which mutual relations* separate and unite those persons with those identities at the same time. The following paragraph will indeed focus on this capital question: which mutuality binds the persons involved in surrogacy? Finally, the last reflection starts from one of the first critics of Simmel's *gender metaphysics*, Marianne Weber. In her opinion, shared by many, *independence* must pave the woman's path towards her becoming a true moral agent capable of self-determination – “the highest ethical goal of existence, for the women as well, can be nothing other than the development into a morally autonomous personality” (Weber, 2003: 90). Marianne Weber starts precisely from motherhood, family care and *voluntary social work* (*‘Ehrenamtlicher’ sozialer Dienst*) placing them *on the same level – with equal dignity* – as the more instrumental and productive activities of men. If women wish to devote themselves solely to being wife and mother, this must occur not by submission to the authority of their husbands but because it is “*voluntary* subordination, devotion, which is offered as a free gift of love, that [my] is something different than compelled subordination” (Weber, 2003: 93). However, *our modern life* – Weber states – also produces the phenomenon of increasingly more women wanting to achieve fulfilment by participating *professionally (berufsmäßig)* in the objective – productive – world of men. And here lies the profound break with Simmel. For him, the male absolute can only be achieved by men as the objective is male alone; for Weber, all objective performance “goes beyond gender differences” (Weber, 2003: 73). It is merely a

case of finding the objective criteria for creating “compatibility between a female personal life and objective doing” (Weber, 2003: 85). While Weber’s pages offer many romantic ideas and a delicate vision of women (for example when she states that the professional performance of the woman-mother must obviously be below that of men), at the same time she anticipates the ‘modern’ problem of women’s reconciling their care functions and their work outside the family. The *political* project Weber hopes for is not that in which women can achieve the female absolute – which does not exist, as neither the male absolute exists – but that of re-establishing institutions so that they include women. Females may have objective importance not because they produce something absolute and original but because the male culture “requires an adaptation of the encoded meaning of traditions to the changes experienced by women in both the private sphere and the sphere of work” (Grüning, 2018: 37). In other words, a new meaning is assigned to the objects of the institutions and the objects of culture which is no longer (of the) male. In Weber’s pages, the very meaning of gender appears to be the first to be reprocessed in this direction. Weber stated that if domestic work (*häusliche Dienen*) was an inherent function (*Funktion*) of women (*Weibnatur*), women would not need to learn it (Weber, 2018) as a duty of gender. Weber’s criticism of Simmel in relation to women’s performance in the domestic sphere relates to – Simmel’s central – distinction between ‘more-life’ (*Mehr-Leben*) and ‘more-than-life’ (*Mehr-als-Leben*). For Simmel, devoting themselves to domestic activities which are inherent in them, females produce only ‘more-life’ while the production of men, which does not involve “any residue of the vital process” (Weber, 2018: 76), consists of pure forms of ‘more-than-life’. So how can women produce ‘more-than-life’? Through that which Weber defines as “voluntary social work” (*Ehrenamtlicher sozialer Dienst*): feeling “the genuine need to not live only for oneself” (Weber, 2018: 95), women provide their skills to others outside of their own family and their own domestic space but who need care and assistance. Thus, “the systematic service to members of the community [...]

passes through the pure female sphere to reach the objective sphere” (Weber, 2018: 96).

Returning to the continuous dialectics “which regulates the ‘tragedy of modern culture” (Ruggieri, 2017: 49), women, producing ‘more-life’ by their very nature and their own natural competences, can achieve ‘more-than-life’. The vital flow itself becomes the form that it traces. Can we consider surrogate motherhood as one of the particular forms of female ‘more-than-life’? Can we consider – voluntary and free – surrogate motherhood as a form of ‘voluntary social work’? And if it is a *form* of work, should it be rewarded, reimbursed or repaid? In other words, we have to define the *form of money* within the practice of surrogacy.

A brief interlude: Simmelian intersection and intersection(al) feminism

The aim of this paper is not to answer the question of whether surrogacy must always be forbidden, or if it should be permitted everywhere as it is the exercise of one’s right to self-determination and choice. More modestly, here we seek to offer some thought on the possibility of considering surrogacy as a human and positive *form* of maternity through which other people can achieve their own desire of having a child. From the case of *Baby M*, a part of Feminism had harshly condemned *surrogacy*, openly defending Mary Beth Whitehead, the natural ‘mother’ of *Baby M*, *sacred* is motherhood, and *sacred* is the natural and biological bon between the mother and the child she has carried (Peterson, 2016). These Feminist voices condemned surrogacy as an expression of patriarchal power, the extension of men’s domination over women forced to grant/sell their body. “At this time, feminists have a prominent role in the public discourse and debate on surrogacy, but there is a little critical feminist discourse challenging the dominating position that surrogacy necessarily involves the commodification and exploitation of women” (Bromfield, 2016: 211), Bromfield rightly wrote. Women have to be distinguished according to their

national context and their *lived experiences*. This is the approach of Banerjee's *feminist pragmatism consciousness*, which follows on from feminist pragmatism. The scholar develops her approach to the *ontology of relations* because only in this way is it "able to capture the complexities in our experience of power in everyday life" (Banerjee, 2010: 113). Blending Feminism and Pragmatism means going beyond the dogma by which surrogate motherhood is always and in any case the exploitation of the patriarchy: "an ethical paradigm on the transnational surrogacy debate that is inspired by a feminist pragmatist orientation has a great potential to open up a space for an ethics of care and responsibility toward the other" (Banerjee, 2010: 121) promoting "the creation of a more just and safer space for the transnational surrogate" (Banerjee, 2010: 121). Wanting to define feminist thought on surrogacy unambiguously and certainly is a very hard task, and indeed an impossible one, as feminism itself embraces many different, and at times conflicting, voices. In addition to those already mentioned, we may for example listen to that of Segalen, for whom "une seule conclusion s'impose, c'est l'abolition de la gestation pour autrui qui est éthique" (Segalen, 2017: 71); or Merchant (2017) and Jouan (2017), for whom surrogacy may be ethical where strictly regulated, for the first, or if recognised as *care work*, for the second. Again along these lines, some even underline the need to overcome both the free surrogacy model and that of commercial surrogacy, and this is only possible if we admit that surrogacy is a caring profession (Walker and van Zyl, 2017). Some voices seek to combine feminism and Marxism, interpreting surrogacy as bio-work or clinical work which must in any case be acknowledged as work (Cooper and Waldby, 2015; Balzano, 2017). Finally, where regulated, some see surrogacy as an opportunity for the empowerment of Indian women (Rudrappa, 2015). Here, however, I think it is worth briefly focusing our attention on one voice which, from the 1980s and Black Feminism in the United States, defined a methodological approach based on the "relationships among multiple dimensions and modalities of social relations and subject formations" (McCall, 2005: 1771) – the *intersectionality approach*. While in these pages it is not possible to tell

the whole story of and, above all offer a complete analysis of, the intersectionality approach, I would in any case like to briefly touch on some issues. ‘Women of color *are* intersectional identities’ is the assumption of the first person to apply intersectionality to studying the female condition, Kimberle Crenshaw. According to this author, “because of their intersectional identity as both women *and* of color within discourse that are shaped to respond to one *or* the other, women of color are marginalized within both” (Crenshaw, 1991: 1244). The category of intersectionality is therefore used to understand the various methods through which “race and gender interact to shape multiple dimensions of Black women’s employment experiences” (Crenshaw, 1991: 1244). A kind of emergent effect, or *Wechselwirkung* – as Stoetzler notes (2017) – as “the intersectionality approach aims to replace an additive, more mechanical manner of imaging the intersections of social circles [...] by a more dynamic model holding that individual X is ‘a’ in a ‘b’ kind of manner and ‘b’ in an ‘a’ kind of manner” (Stoetzler, 2016: 218). Elsewhere, Crenshaw uses the analogy of “traffic in an intersection” (intersection as in road) to explain the fact that “if a Black woman is harmed because she is in the intersection, her injury could result from sex discrimination or race discrimination” (Crenshaw, 1989: 149). The terminological similarity is not enough to link the intersectionality approach to Simmel’s intersection – the ties are much deeper! While on one hand, as have also emerged in the previous pages, some of Simmel’s observations on women are quite incompatible with contemporary feminist thought, on the other hand the use of the same image, *intersection*, represents a common concern over the increasing complexity of social life in the modern age (Stoetzler, 2016, 2017). While due to some imprecisions and errors in the translations of Simmel’s works into English, particularly in *Soziologie*, where he develops his theory on the “intersection of social circles”, as well argued by Stoetzler (2016: 230), the intersectionality approach has never acknowledged its tribute to Simmel, there are however two points of Simmel’s ties to intersectional feminism that I would like to draw the reader’s

attention to here. The first, Stoetzler reminds us that, from Simmel's point of view:

with the dissolution of complete, particular occupation by the household, the universal concept of woman loses its purely abstract character and becomes the leading idea of a membership group that is now already revealed in embryo by purely female support associations for attaining rights for women, female student unions, women's congresses [...]. But what has been achieved is that very many individual women experience themselves as standing at the intersection of groupings that tie them on the one hand to the persons and contents of their personal lives, on the other to women in general (Simmel, 2009 [1893]: 400-401, II vol.).

As long as women lived within fixed, closed circles, they existed as equally fixed and static beings and, Stoetzler adds, “there was no *concept* of female difference and no interaction between actual women” (Stoetzler, 2016: 225). On the other hand, modernity has meant that “woman *is* a circle now that has multiple interactions” (Stoetzler, 2016: 225, my italics). Simmel outlines the category of the modern woman as the emerging result of multiply intersecting, an increasingly individual, self-conscious and active woman. For Stoetzler, this means that “Simmel conceives of the emergence of the modern category ‘woman’ – both the concept and its actuality – as the result of the disintegration of the older order” (Stoetzler, 2016: 233). And this leads us to the second point. For Simmel, the intersection of social circles is not only specific to modernity but, above all, it is a positive effect of modernity itself, as “increasing intersectionality means increasing individuality, which in turn means increasing modernity” (Stoetzler, 2016: 233). It is a positive effect because it leads to women's emancipation – for Simmel. On the other hand, the feminist intersectionality theory “aims to describe and explain how structural aspects of modern society limit emancipation and produce inequality and exploitation” (Stoetzler,

2016: 234). Simmel's theory of intersection (of social circles) and feminist intersectionality theory are therefore two sides of the same coin, modernity. While Simmel is pleased with the growing density of the intersection of social circles, this type of feminism criticises it as, for example, yet another reinforcement of the patriarchy (Patil, 2013)⁸. Transnational surrogacy in particular has applied the intersectionality method to unveil mechanisms of domination (Dillaway, 2008; Khader, 2013), and with specific reference to the problem of the ethnic group to which the woman who offers herself as a surrogate belongs. The fact however remains that surrogacy can *also* be done without triggering processes of exploitation, domination or prevarication by one party (the intentional parents) over the other (the surrogate) (Gunnarsson Payne *et al.*, 2020). Indeed, the fact remains that "the surrogate payment may be a venal and dehumanizing pay off but it can also *symbolize* an acceptable reward. Thus, with proper regulation, money does not necessarily pollute the surrogacy baby market" (Zelizer, 2010: 70, my italics). And this is the possibility underlying this contribution: the following paragraph analyses the role of money within surrogacy.

Second dilemma, money: dirty or clean?

Thus, we come to a second dilemma which may arise when seeking to answer the initial question '*what's wrong with that...?*'. Wrongness, in this case, concerns the fact that surrogacy questions an *implicit* principle of society, that of the intrinsic value of persons which the market *cannot convert into cash* (Capron and Radin, 1988).

⁸ Intersectional feminism treats intersectionality "in terms of power" (Davis, 2008: 68), according to a strongly Marxist/structuralist meaning. Simmel also links the intersection of social circles to power, but according to a very different understanding, emphasising the intersubjective dimension (McNamme and Glasser, 1987), the quality of reciprocity (understood as an interaction, an exchange of influences) (Simmel, 2009 [1893]: 133, I vol.) of the domination-subordination relationship. Here however it is not possible to examine this issue in as much detail as I would like.

The dilemma is raised by money, and how it *enters* and is *conceived or marked within the practice of surrogate motherhood*. In the two works analysed above, *Surrogate Motherhood* and *Wombs in Labor*, both the Canadian and Indian surrogate mothers receive a sum of money: the former, gratuitously and as a reimbursement, the latter as a form of remuneration. It is precisely the *marking of money and not the actual use of money that is the discriminating factor*. For example, the effort Pande found among Indian women, brought to light also in other similar research works, is that of defining the economic dimension so that it is consistent with the meaning of the relationship. Since the cases of *Baby M* and *Baby Cotton*⁹, the technique of surrogacy has made huge progress not only in the scientific field but also as a *cultural form*: the fact that we have gone from talking about gestational surrogacy instead of surrogate mothers, is particularly “a very important factor in dismantling the commodification frame and in changing the way many people, including lawmakers and lobbyists, view these arrangements” (Scott, 2009: 139). It is no longer the mother but rather a function that is the object for which money is given as either reimbursement or remuneration. Surrogacy puts not so much the health of the women or the foetus in danger but rather the *belief in the sacredness of things, like life and ‘giving life’ which cannot have monetary equivalents*.

One of the largest and detailed scientific overviews of the studies conducted on surrogate mothers (Busby and Vun, 2010) reports how the *feminist* worries over the fact that surrogacy is exploitation of women, commodification of the female body and that of the child are in fact a *false consciousness* with no grounding in reality. In only very few, money is the main reason why women agree to surrogacy while “for most, the decision to participate comes out of a desire to help a childless couple, to do something unusual or to make a unique contribution” (Busby and Vun, 2010: 80). The female universe of surrogate mothers as outlined in research as a whole, consists of women who choose surrogacy as a personal

⁹ From the surname of the first surrogate mother in England, Kim Cotton.

initiative, who have a clear and aware consciousness of what they are doing and giving, who develop profound, positive relations with the intended parents throughout the process. And these are the relations that mark the meaning of the money given. To answer the question raised at the end of the previous paragraph, recently surrogacy has started to be viewed as *relational work*. In fact, increasingly often the researchers of this practice (Berend, 2016; Toledano and Zeiler, 2017) are led to use the term *relational work* to define the whole effort – work – in creating the *social* “whereby people make creative efforts to establish, maintain, negotiate, and transform interpersonal ties of intimacy within a contractual agreement” (Berend, 2016: 5). It is, in other words, the effort to create *unity* between three poles, the contract, the money and the gift. Relational work is *creative cultural actions* (Berend, 2016: 231). This process provides “answers about the moral rightness of surrogacy” (Berend, 2016: 235), leading to understand if what is done constitutes the sale and purchase of bodies, or not, and therefore defining the money circulating between the parties: “compensation for their labors and reimbursement for expenses are financial means to guarantee that surrogates and their families do not suffer undue hardships for helping others and their giving is reciprocated. *Money, rather than undermining moral values, enables surrogates to uphold the ideals of equality and reciprocity*” (Berend, 2016: 235, my italics). Is the money given to buy the child? Is the child therefore sold? Or is money a form of *compromise* between a woman who *does not want to give her own child away* and a woman (or father) who strongly desires that child? Often, those who seek to ban surrogacy consider it as *theft*: a defenceless, weak woman who is forced to give her own child away. On the contrary, many research works demonstrate that for the surrogate mother, allowing another person to become a parent is like making and giving a gift – not the child him- or herself but rather the gift of the possibility *for those for whom reproduction is impossible to be able to generate life*. The money given is not the *price* of the child, it does not *quantify* the *exchange*. Surrogate mothers do not represent themselves as vendors of something or somebody, but

feel bound to the intended parents by a common substance and by the gift that is given. In other words, there is a strong image of women who give not a child but rather their ability to generate.

Gift, theft and exchange for Simmel “sont les trois formes (*Vergesellschaftung*) d’action réciproque (*Wechselwirkung*) reliées directement à la question de la possession, chacune correspondant aux trois raisons de l’action individuelle: l’altruisme (le don), l’égoïsme (le vol), la norme objective (l’échange)” (Guizzardi and Martignani, 2012: 104). David P. Frisby (1990) returns to Simmel’s fundamental concept of exchange, placing it as both a paradigm and a symbol of society as a whole: “interactional forces between individuals [...]. We experience society in every interaction” (Frisby, 1990: 48). For him, the Kantian question of who society is possible, in Simmelian thought, has a *non*-Kantian answer: the unity of society does not need observers, as it is made from the same elements – individuals – who make it up, as they have consciousness and awareness (Frisby, 1990: 49). On his part, Kaern (1990) prefers to translate the term used by Simmel to indicate ‘mutual interaction’, *Wechselwirkung*, as *reciprocal orientation* rather than *interaction*. We can therefore see surrogate motherhood as a social form, a small social, which implies both gift and exchange – as explained above. That which for many may seem the theft or sale of a child is in fact for the participants a completely different matter, it is a gift and money is given not for the purchase – but rather an exchange of equivalents. Simmel can help us to better define the *function of money*, and thus resolve the dilemma.

The meaning of money, Simmel writes (2004: 127), lies in the fact that “it represents within the practical world the most certain image and the clearest embodiment of the formula of all being, according to which things receive their meaning through each other, and have their being determined by their mutual relations”. For Simmel, exchange – *Wechselwirkung* – is the *all-inclusive metaphysical principle*; studying money, Simmel reaches the “awareness of a metaphysical discovery, a metaphysical principle [...]: the principle of interaction or reciprocity” (Dal Lago, 1994: 93). The meaning of

exchange that we wish to underline here is Simmel's, that of the *relativity of truth* (Simmel, 2004: 114) according to whom "relativity is the mode in which representations become truth, just as it is the mode in which objects of demand become values" (ibid.). In other words, it is not the economic dimension of money, its economic-financial reality, the institution of money, but that which money is a *metaphor or symbol of: the process of relativisation* (Dal Lago, 1994: 101 and following; Deneault, 2006). The relativisation process marks "the transition from stability and absoluteness of the world's contents to their dissolution into motions and relations" (Simmel, 2004: 101). This passage leads us to a total reversal, because "truth as a 'relation between subjective elements' takes over from the notion of objective truth of traditional systems of representation" (Dal Lago, 1994: 101). This is the reversal of the Kantian philosophical tradition as the objectivity of truth "ne s'agit pas là d'un trait constitutif de l'objet, d'une réalité subsistant 'en elle-même', indépendamment de toute connaissance ou idée, mais de ce qui 'vaut' pour les sujets en générale: est donc plus ou moins objective une chose, un idée, une valeur, selon le fait qu'elle est partagée ou non par un grand nombre d'individus" (Haesler, 1995: 98)¹⁰. Value is thus the "subjective evaluation performed by the psyche on a given content" (Dal Lago, 1994: 95). The "plural and individual psychic realities [...] are the reality which constitutes value in Simmelian terms" (Dal Lago, 1994: 96).

However, Hans Blumenberg develops a highly illuminating point also for this discussion. For him, "Simmel wrote *The Philosophy of Money* and discovered everything in his theme that subsequently allowed him to talk about *life* [...]. He talks about life and has already found the metaphor of money" (Blumenberg, 2012: 251). Money – as he states – is the *proto-metaphor of life*. Blumenberg writes:

¹⁰ Simmel's words are: "in whatever empirical or transcendental sense the difference between objects and subjects is conceived, value is never a 'quality' of the objects, but a *judgement upon them* which remains inherent in the subjects" (Simmel, 2004: 60).

the empirical observer of human actions views the process of exchange under the category of reciprocity. The possibility of money rests on the fact that subjective assessments of value can still be objectively compared with each other, and indeed are objectively compared with each other on the market, even though the external observer cannot perceive the *original reflexive moment of comparison*. [...] *Intrasubjective relations precede intersubjective relations*: the subject at a given point in time trades with the same subject at a different point in time, sacrificing its present freedom of action for its future freedom of action on the basis of a primitive cost-benefit analysis. The identity of each individual life thus already rests on an objectivation of subjective valuations: does the price it must pay for it wants to be able to live and act a certain way in future stand in an appropriate relationship to that ability?" (Blumenberg, 2012: 253, my italics).

Let's try to apply these words to the specific case of surrogacy. An external observer sees a woman who, after nine months of pregnancy, gives her newborn baby to another parent, the one or ones who commissioned the surrogacy. We may also hypothesise that the same external observer also has access to the contract signed between the surrogate mother and the intended parents. In this case, he knows that the exchange takes place – to paraphrase Blumenberg – under the auspices of reciprocity (in exchange, the surrogate mother has received a sum of money). Yet, in the eyes of the observer, that reflective moment in which the surrogate mother takes the decision to offer her own motherhood to another woman, and the intended parents take the decision to make recourse to a surrogate mother, etc., remains unknown. Blumenberg's words here have an undeniably strong economic and financial value – they make the reader instantly think of the exchange as a trade (*Tausch*). In fact, this can be extended to whenever there is reciprocal interaction (*Wechselwirkung*). Returning to Del Lago's lesson, we may then guess the following: the relativisation process triggered by a

moment of intrapersonal reflection in which the subject reflects, precisely, upon how much he or she will be giving, or receiving¹¹...

The external observer can assert that he has seen a child being traded, but what he cannot see is what actually happens. Studies carried out on *surrogacy* show how, step by step, the surrogate mother and the intended parents build a mutual condition of positive (not negative) indebtedness that binds them (Guizzardi, 2018). On one hand, the surrogate mother must not feel the obligation to give as much as the desire to give the child she has carried for nine months; on the other hand, the intended parents must recognise her as a whole person and not simply as a ‘surrogate’. And reciprocally: the intended parents must not demand the child because they ‘pay’ but must achieve recognition as the true parents. Surrogate mothers – research in the field tells us – *do not represent themselves as women who give away (sell) their child in exchange for something else (remuneration or compensation, that is to say, money) but rather as women who give other persons the possibility to become parents.*

This is why the intra-subjective reflexive moment¹² in which – in our case – a woman decides to offer to become a surrogate mother for others and the parents decide to make recourse to a surrogacy, is fundamental. It is the moment in which each of the subjects involved reflects on themselves – on their own *value* (am I a degenerate mother if I have a child for others? Are we buying a child if we resort to surrogacy...) – in the light of the *value* of what they will give or receive.

¹¹ As Kaern stated: “Relativity is a fundamental *category of the mind*. What we call ‘understanding’ (or *verstehen*) comes about through the relativizing function of the mind” (Kaern, 1983: 171).

¹² Ultimately it is the ‘moment’ before which even those who criticise or raise openly *theoretical and speculative* doubts over the worth of surrogacy stop (for example, Radin, 1995). I.e. the reasons which, theoretically, can be raised to justify the banning of surrogacy, must then, it is stated, be proven or otherwise in the *practice* of surrogacy, in that which, concretely, is *experienced* by the surrogate mother, the intended parents, the child, etc.

Prandini states that money has no value in use when it is possessed as “its value in use is the value of exchange” (Prandini, 1988: 251). What happens, on the other hand, in the practice of surrogacy is the determination of its *positive value of use* through the value of the gift exchanged.

Third dilemma, the act of giving life: true or false goodness?

Those deciding to resort to surrogacy – whether as an intended parent or a donor (of the ability to carry, of oocytes) – well knows that this is a completely different form of motherhood and which involves many profound *ethical* questions, the weight of which is further aggravated by the strong condemning by part of society. *Who is the real mother? She who gave birth to the child or she who wanted to be a mother?*¹³ Surrogacy does not only call on jurisprudence to question the purpose or the re-elaboration of the principle of ‘mater semper certa’¹⁴. Where it is possible to donate impersonally (gametes, ovules, semen), Ragoné (2003) considers that the anonymity of the gesture contributes to the further fragmentation of the reproduction of the body that is typical of the model of commodification. Although only a part of the donor is involved, the donor must be involved in and by the bond in his or *her entirety*. It is a kind of gratitude of what is given that requires a precise identification of the person, in the dual meaning of human being with the power to choose, act and have feelings and the *legal* person who has rights and duties and whose actions are socially relevant (Théry, 2010). In the specific case of surrogate motherhood, this means: a woman who, freely wishing to donate her own *procreational* abilities so that another woman, a man, a man and a woman, or two men, can *generate*, must have her rights guaranteed: not only those that mean she is not simply a *uterus* but also those of her responsibilities (respecting the

¹³ Indeed, only in the case of the practice of surrogacy, discussed here, there are nine combinations of roles and gifts for ‘having a child’ (Türk and Terzioglu, 2014).

¹⁴ For example, I refer to the court 1993 ruling in California, ‘Johnson v. Calvert’, which recognises the legal institution of surrogate motherhood.

terms of the contract, not putting the health of the foetus at risk, etc.). What emerges from research on surrogacy is that “the empirical evidence clearly establishes that formal and informal pre-conception relationships building between the potential surrogate mothers and commissioning parents are key to the success of the arrangements” (Busby and Vun, 2010: 81). As also stated elsewhere (Guizzardi, 2018), the fundamental point and ultimate aim of the surrogacy contract is parenthood. It is latent in the thoughts of surrogate mothers who feel able to give a gift of becoming parents to those who would otherwise not be able to; it is latent in the path towards the decision of the couple; it is latent in the partner of the surrogate mother; it is also latent in those actors and fields which do not directly appear in the contract as parties but who are equally involved, the relatives and the courts they appeal to when claiming recognition of the bond of filiation (Lorenzetti, 2015). Research carried out on Canadian surrogate mothers analysed the link between their experience and their own religious sphere (Fisher, 2013). The study not only confirmed the figure of the surrogate mother as the person who performs a free act, a donation, but also confirmed the decisive importance of the relational unit so that the spirit of the gift emerges and is shared by all: “all gestational surrogates focus on the meaning of the relationships with the intended parents, surrogate baby and family members as significant in their overall experience with gestational surrogacy” (Fisher, 2013: 243). And it is thanks to the *symbolism of the gift* that surrogates find the coherence with their own Christian religious beliefs, rather than feeling sin or repentance for what they have done. Therefore, that which is sought both by the surrogate mothers and the intended parents is the project of motherhood (and more generally parenthood) is authentically human and not alienating. Even though surrogate motherhood may seem the most radical denial of the Kantian principle that ‘no person shall be treated as a means but only as an end themselves’; even though surrogate motherhood may seem the most radical denial of the principle of inalienability of the human body; even though surrogate motherhood may seem the

most radical denial of the collective image of the *mother* – no mother would give her own child away for money and no mother would accept the child of another – *there are however fragments of the world in which, happily, this is done.*

Simmel writes (2012: 242) in the article ‘Der Fragmentcharakter des Lebens’ published in 1916.

Assuming that by ‘world’ is meant the sum and order of possible things and event that can be arranged into a continuum of some kind according to any kind of overarching principle, then by no means only *one* world exists for the human mind. Any world requires experience of continuity: for nothing that is not experienced in continuity and connection of some kind can be said to belong within one and the same world.

Let us try to reinterpret the ruling of the Court of Trento, wondering on which principle the judges based their decision. How can we join the contrast between the legality of surrogacy in one world and the illegality of surrogacy in another world? How can we admit the goodness of surrogacy? It is not so much a normative principle as a moral principle which, however, refers to what Simmel would define as the *Law of the Individual*. It is that normative idea of authenticity (De Simone, 2002: 575 and following) which is necessary so that every individuality can find its own value in what it does. The relative value emerging from the relationship of interaction – exchange – we saw in the previous paragraph and which sets out the goodness of surrogacy in the light of the unity of intents and bonds which the different parties are able to build, returns here in a different light. Again, Dal Lago’s lesson is useful here. The Simmelian moral subject is not that Kantian ‘fanatic’ who takes moral choices independently from the practical and concrete manifestations of life and, therefore, has “no alternatives between complying with the law and violating it” (Dal Lago, 1994: 81). The Simmelian moral subject has a third option: that of relativistically

creating the moral law where *relativistically* means – a point which perhaps Dal Lago does not underline enough – “setting an ethical doctrine starting from the bottom of social relations, rather than from the heights of ethical absolutism” (Dal Lago, 1994: 84; also Schermer and Jary, 2013: 20 and following). We do not live only in a real world – Simmel reveals – “but also a religious, a scientific, and an artistic world” (Simmel, 2012: 241). For example, what we can do in the scientific world may not be feasible – in the sense of ethically permitted – in the religious world. The problem is that “no one of these worlds is capable of mixing or connecting with another; for each world absorbs all matter of experience exclusively according to its own principle” (Simmel, 2012: 241). Therefore,

all our psychic contents, experienced actively and passively, are fragments of the world [...]. In the same way, in the field of ethics: we all know which small part of what could and should be the axiologically moulded world reproduced not by our actions but indeed by our awareness of duty. In these cases, the fragmentary nature of the contents of our lives are revealed by a *need* we all have, but which transcends us all [...]. All vital content is extracted from an overall connection, in which logic occupies a defined and necessary place and is involved in the vital flow which flows from its own source and transcends those worlds” (Simmel, 1997 [1918]: 29-30).

Our lives – Simmel states – swing between all these worlds and the acts they are made from belong in each case to one or more worlds. And here the fragmentary nature of life has a dual meaning, according to Simmel. According to the first meaning, all our actions and all our psychic contents *are fragments of these worlds* – and thus our life is a *patchwork*. From this fragmentary nature derives “our awareness of a *demand* inherent in each content to be more than what it already is” (Simmel, 2012: 246), meaning that our awareness

that the meaning of every single one of our actions does not end within that single action but reaches beyond it. According to a second meaning, which is complementary to the first, every content of our life – every single fragment – is a component of a totality of lives from which all these worlds come and transcend – “all contents of our life are fragments precisely on account of this ideal – yet thoroughly objective – incomplete completability of life” (Simmel, 2012: 246). All these fragments are life but life is more than these fragments. And here lies the transcendental character of life which goes beyond the fragments it consists of (Silver, Lee and Moore, 2007). Where life and these worlds intersect, “they create fragments – fragments of life, fragments of worlds” (Simmel, 2012: 247). Let us return briefly to *our* surrogate mothers. Each of them belongs to more than one social circle. Referring to the two studies above, Ragoné’s on American mothers and Pande’s on Indian mothers, let’s think about how the social circles the former belong to differ from those of the latter. Specifically, as explained, for Indian women surrogacy is a way of redeeming themselves from the patriarchal order, from their own husbands, gaining their own autonomous and independent individuality. Let’s also think of those who resort to surrogate motherhood, a sterile woman or two men. For example, let’s think of the rupture that resorting to surrogate motherhood by two fathers often causes with their own families of origin (Guizzardi, 2017). The decision to have a child through recourse to the practice of surrogacy is often a cause of rupture between homosexual fathers and their own relatives which unfortunately are often irreparable. The reasons for conflict are clearly related to the different ideas of what the family is and what is morally right for having a child. Belonging to more than one social circle – Simmel notes – leads to “external and internal conflicts which threaten the individual [...]. Precisely because personality means unity, it is susceptible to division; the more interest groups that want to meet and be accommodated within us, the more decisively the ‘I’ becomes aware of its unity” (Simmel, 1997 [1918]). The Simmelian having-to-be does not derive – to paraphrase Simmel himself – from “all possible earthly and unearthly objective

orders” (Simmel, 1997 [1918]: 179). Simmelian moral action is therefore not the blind obedience of predetermined values and the mechanical realisation of some superior end; Simmelian moral actions are the *realisation of expectations which must have their original provenance within the individual*. The Law of the Individual outlined by Simmel *requires that each of us* adhere to what, with Lee and Silver, we may call “a coherent narrative that defines the person we are living to be” (Lee and Silver, 2012: 133). Simmelian having-to-be is not the judge of our actions – the two authors state – but “it articulates the abiding pressure we feel to live in reference to the sort of person we aspire to be” (Lee and Silver, 2012: 133). There is nothing purely subjective in Simmel’s ethics of value. Individuals find themselves interacting in the light of that which, for each one, *must be done or is right that it be done*, reciprocally evaluating if their own actions and those of others are right, good and human or not (Fitzzi, 2012)¹⁵ creating that which is objectively true¹⁶ for their own circle. On a general, ontological level, what I would like to stress here is the centrality of interaction (*Wechselwirkung*), or relations (Ruggieri, 2016): through these, individuals pursue – or seek to pursue – their own authenticity, thanks to their relations with others.

To conclude: What’s wrong with that, if everything is done for good purpose?

What’s wrong with that, if everything is done for good, in a surrogacy? *What’s wrong with that*, if a woman decides in a truly free

¹⁵ But the individual can also behave in a totally irrational manner, or under to total coercion of the State or another social body. These are the limits that Partyga (2016) correctly identifies in Simmel’s life-philosophy. As here we do not seek to reinterpret Simmel but rather interpret a *social form* – surrogate motherhood – with Simmel, the main interest moves towards that which Simmel’s sociology allows us to do – i.e. outline possible solutions to three dilemmas – rather than identify defects.

¹⁶ “Puisque ‘objectif’ signifie seulement ‘valable pour tous’” (Simmel, 1896: 165). In the final paragraph we will reflect on this concept of truth.

and conscious way, to carry a pregnancy for another woman, or for two fathers, for example? *And what's wrong with that*, if the child is told the truth without hiding anything, and above all, without hiding the identity of the donor? As we have seen, there are many more questions too. But the underlying question remains, what's wrong with that? Meaning, why condemn surrogacy if it can be a good practice? Along the Simmelian vein, the answer to this question can only be *relative* or relational (Millson, 2009; Pyhtinen, 2016): a Simmelian analysis of surrogacy has to be done together with a relational analysis of the circumstances behind this practice.

To explain this point better, I feel it is worth referring to an in-depth analysis conducted by Gunnarsson Payne *et al.* (2020) on numerous research works on *surrogacy*. The authors outline four relational types or models of the practice *of surrogacy*: these are 'open relationships', 'restricted relationships', 'structured relationships' and 'enmeshed relationships'. Let's take a brief look at the specific features of each of these models.

The 'open relationships' model. What governs the relations between the woman and the intended parents is above all spontaneity and a deep emotional and affective intensity. There is mutual satisfaction, as both parties feel they are fully realised (the parents, in having their own child, and the surrogate in 'making/giving' a child to those who desire one). The bonds are based on sharing, solidarity, love and exchange, not only of money but also other gifts, and a deep affection between them. This model is particularly widespread in those contexts in which there is no disparity of power between the surrogate and the future parents.

The 'restricted relationships' model. Contrary to the previous model, the parties have no interest in establishing and maintaining close, lasting relations; the bonds are therefore far more unstructured and sporadic. The exchange that takes place between the intended parents and the surrogate is particularly based on money, which is the compensation the surrogate expects to receive. This model is found above all where there is a strong *surrogacy industry*

and the relations between the parties are unbalanced, as the intended parents have more power.

The ‘structured relationships’ model. This third model is not very different from the first model, except for the fact that, here, the relations between the parties have a strong contractual basis. Even though there are frequent contacts between the intended parents and the surrogate, these contacts are based on the detailed planning of the relationship. While contacts are particularly intense before the birth, they become less frequent afterwards. But this does not cause any disappointment or discontent, because both the intended parents and the surrogate strictly comply with the provisions of the contract, with considerable mutual satisfaction. *Surrogacy* is defined as work which, consequently, must be paid for. There are no specific national contexts which foster this model, as it depends on the willingness and intentionality of the parties and the possibility to sign surrogate motherhood contracts.

The ‘enmeshed relationships’ model. While in the previous model the parties have no intention of going beyond the terms of the contract, here, on the other hand, one of the two parties tries to increase the contacts with respect to the contract. There is therefore a profound divergence in the mutual expectations, influenced by the different ideas of what *surrogacy* is and what must be exchanged. Consequently, the parties involved do not reach full satisfaction and personal realisation. As with the second model, the favourable grounds for this one are also conditions of great disparity of powers, in which the parties interpret what is *exchanged* in a *surrogacy* practice differently.

In my opinion, two positive aspects of the work of Gunnarsson Payne *et al.* should be underlined. It is a typing of *surrogacy* practices that goes beyond the usual juxtapositions of commercial vs. non-commercial surrogacy, gift vs. money, traditional surrogacy vs. gestational surrogacy. Furthermore, and more importantly, it demonstrates that *surrogacy* tends to be typecast in different forms of goodness, or to use the term used by the researched, ‘ethics’. This

quality emerges from the various elements involved in surrogacy practice and is shown in the mutual guidance of the parties involved, the degree of individual satisfaction, the recognition or otherwise of individual identities, and feelings such as justice, fairness, etc. For this reason, the researchers underline the need to develop a relational justice approach to surrogacy.

Thus, I return to the ruling of the Court of Trento. What *truth* did the judges ‘appeal’ to in making their decision? The – legal – truth of the illegality of surrogacy in Italy? The – legal – truth of the legality of surrogacy in California? Or the truth created by two fathers and the surrogate mother, relating to the *goodness* of the project, the intentions and the ‘exchanges’? “Truth means – Simmel wrote in 1916 in a letter addressed to Heinrich Rickert – relation between contents none of which possesses truth in and by themselves” (Simmel 2008: 638, cited in Pyyhtinen 2016: 105). So “relativity in its conventional form sees the relativity of truth as a diminution of its validity, Simmel, by contrast, regards validity as grounded on relations [...] Simmel does not try to loosen the objectivity of singular truths, but to disclose how truth is founded on relations” (Pyyhtinen 2016: 105). The truth that intended parents seek to build with the surrogate mother is that of the *relations established* – complex, many and even triadic (for example, that between the two parents and the child, in relation to the surrogate mother), which do not have a form determined a priori but rather are morpho-genetic over time – through which they seek to realise an *authentic* (in the meaning given here) parental project.

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