The Mobility vs. Immobility Paradox as Demonstrated Through the Commodification of Reproduction and Commercial Surrogacy

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Authors Note

In this paper, I discuss the issue of international commercial surrogacy, specifically in India, and the mobility vs. immobility paradox that exists when examining this topic. I was drawn to this issue as I am passionate about international gender equality, and felt commercial surrogacy was a topic that encapsulated the unfortunately very common problem of women being left out of conversations regarding their own rights and bodies. I hope this paper allows readers to examine the multifaceted arguments on both sides of this issue. I would like to thank Professor Takamura, whose class I wrote this paper for and whose insightful teaching inspired me to learn more about this issue, as well as my editors, Abigail Brewer and Isha Shahane, whose patience, guidance, and commitment to this piece made it into what you are reading today. I hope you enjoy.

Abstract

Commercial surrogacy is a divisive issue which has strong arguments on both sides. A helpful lens to analyze the topic through is the mobility vs. immobility paradox, which outlines the ways in which commercial surrogacy can be simultaneously liberating and exploitative for women. For the mobility argument, working as a surrogate can provide women with significant compensation, leading to upward mobility. On the other hand, the immobility argument points to the violation of bodily autonomy that surrogacy creates, as well as the potential for economic coercion. This paper examines both sides of this paradox by studying the case of India. Ultimately, a comprehensive solution must reshape the societal problems that push women to feel like offering their bodies for surrogacy is the only path out of poverty.

Introduction

The mobility vs. immobility paradox refers to the contrast between something that can provide autonomy and opportunity while simultaneously being based in exploitation (Takamura 2021). One example of this is commercial surrogacy, which provides both economic opportunity and exploits poor women by commodifying their bodies and reducing their autonomy. Commercial surrogacy is a practice through which a woman agrees to carry a child for another couple who will keep the child after she gives birth, usually in exchange for money (Pande 2010b, 971). This relates to the topic of moral discipline as surrogate mothers are held to an extreme standard and expected to be empathetic and nurturing, yet also a reliable source of labour with no lingering attachment to the child post-birth. Moral discipline describes how constructed moral values that encourage discipline and obedience in women arise in society, expecting them to uphold certain 'morally correct' behaviours (Foucault 1978). Examining this situation through a focus on Indian culture provides a more thorough analysis by examining the effects of gender and cultural norms on the stigma and complexities surrounding the industry of commercial surrogacy. After examining both sides of the mobility vs. immobility paradox it is clear that while both have credibility within their arguments, the ultimate solution is to increase regulation, ensure that the rights of surrogates are prioritized, and shift towards a system that better supports the rights of the women involved.

This paper discusses commercial surrogacy and the commodification of reproduction generally, but will focus specifically on India. In 2018 India prohibited transnational commercial surrogacy, however, there is no consensus on the positive impact of this law (Rozée, Unisa, and de La Rochebrochard 2020). This paper will largely analyze the mobility vs. immobility paradox that existed within the practice before the ban, however, this debate is still relevant today as many question whether or not a ban on surrogacy is truly the most productive way to help these women. Specifically within the context of moral discipline, the commodification of reproduction and commercial surrogacy is a perfect example of how culture perpetuates the mobility vs. immobility paradox.

Commercial Surrogacy and the Importance of a Cultural Lens

Commercial surrogacy is especially popular in the Global South due to limited regulations and lower prices. This popularization of transnational surrogacy has been labelled as 'fertility tourism' or 'reproductive tourism' due to the fact that

it usually involves wealthy, white couples from Western countries travelling to the Global South and contracting a poorer woman of colour to serve as a surrogate (Bergmann 2011, 281). The industry is legally very complex and regulated within the Western world as "the naturalized definition of genetic lineage in which at least the mother can be determined with certainty becomes complicated" (Bergmann 2011, 283). This challenges legal definitions of kinship, resulting in high levels of state regulation and driving many couples to seek reproductive services abroad. Additionally, while in the United States or Canada commercial surrogacy could cost a couple anywhere from US$30,000 to $100,000 or more, in countries such as India the entire process may only cost US$20,000 (Pande 2010a, 295). As such, many argue that women in developing countries are being exploited and insufficiently remunerated. Moral discipline is a large overarching theme surrounding this issue, as surrogate mothers in developing countries are held to a specific standard, and expected to be "cheap, docile, selfless, and nurturing" (Pande 2010b, 970). While commercial surrogacy for international clients is currently banned in India, for years the country was a hub for this industry.

When examining the impact and morality of commercial surrogacy, it is essential to analyze the issue through a cultural lens. Gender norms as well as specific cultural expectations and perceptions greatly influence the realities and effects of surrogacy on mothers. Failing to acknowledge the role of culture within the commercial surrogacy debate would omit an integral aspect of the issue. Firstly, women often turn to surrogacy because of gender constraints that limit other economic options. However, within India, surrogacy is often looked down upon or viewed as impure labour because "the parallels between commercial surrogacy and sex work in the Indian public imagination make surrogacy a highly stigmatized labor option" (Pande A 2010b, 975). This is because the Indian caste system involves gender norms and stereotypes focused on purity. This increases sexism and discrimination towards surrogates due to the association between surrogacy, sex, and intimacy, generating the perception that serving as a surrogate makes a woman 'impure.' This is a cycle within the caste system as poorer women — the demographic typically participating in surrogacy — are also stereotyped as being less pure (Khader 2013, 79). Society is patrilineal and women's bodies are expected to provide only for their husbands and their own families (Rozée, Unisa, and de La Rochebrochard 2020). Additionally, surrogacy is often associated with sex work as much of the population is uneducated about the practice and may assume it requires women to be involved in a sexual relationship outside of their marriage (Khader 2013, 79). By participating in a surrogacy program, women risk being viewed as lesser, due to their deviation from traditional gender norms, as childbirth is largely viewed as a "natural non-economic element of women's roles" (Roach Anleu 1990, 67). This blending of the economic and private spheres leads to a blurring of cultural traditions and gender expectations, creating a stigma. Many women are therefore forced to keep their surrogacy a secret, for fear of the cultural shame and moral condemnation that it would elicit.

Racism and prejudicial cultural lenses also impact the perception and treatment of surrogate mothers in developing countries as surrogacy can perpetuate "the image of women of color as poor mothers of their biological children, the image of them as valuing children only to the extent that it is financially lucrative, and the image of them as reproducing excessively" (Khader 2013, 80). This is supported by the intensification thesis, which implies that racial and class oppression worsens the effects of gender oppression (Khader 2013, 68). While gender norms and prejudices play a large role in both the stigma and potential exploitation surrounding surrogate mothers, they also intersect with racial and class lenses. In many cases, especially within India, pregnancy is associated with intimacy and family, and viewed as a private and

sacred act. The widespread misunderstanding of the practice leads many to view surrogacy as selling sex or selling motherhood, two things that Indian culture designates as being strictly for the private, domestic sphere. When examining surrogacy and commodification of intimacy in the context of the immobility vs. mobility paradox, we must analyze both sides of the paradox, as well as the positive and negative effects of these practices on the lives of the women involved.

The Mobility Argument

Despite many of the harmful aspects of the practice, the benefits and positive impacts of commercial surrogacy cannot be ignored. Firstly, commercial surrogacy provides an opportunity for poor women to gain financial stability and help a couple that cannot have children on their own. Surrogacy can give a lifeline to poor women and serve as a survival strategy. In a 2010 study, thirty four out of forty two surrogate mothers interviewed were found to be at or below the poverty line, and the money they would earn from the surrogacy would be nearly equivalent to five years of total family income (Pande 2010b, 974). One woman from this study described the benefits gained from her experience, saying "I built one house with the money I got the first time. I want to do this again and again" (Pande 2010b, 989). Through commercial surrogacy, poor women are given the opportunity to earn a substantial income which can improve their lives. Surrogacy can therefore be viewed as a reproductive choice with economic benefits, given to women who may not have many other options for attaining money (Rozée, Unisa, and de La Rochebrochard 2020).

There are additional benefits offered through surrogacy that aid the economic and social mobility of the women involved. These include leisure activities provided at the hostels they stay in during the process as well as lessons in English and computer usage (Pande 2010b, 982). This creates a sense of community for the mothers and ensures that they stay healthy while gaining skills that will help them in the future. Additionally, while at first the women are closely monitored, they are gradually encouraged to take control of their own injections, medicines, and schedule, facilitating a sense of independence. The surrogate mothers also often create friendships and bonds with the families they are providing a baby for, sometimes receiving gifts from them or remaining in contact after the birth (Pande 2010b, 986). This contradicts the idea that the women are simply seen as disposable and undervalued by the couples they are providing a child for. Furthermore, a study published in 2020 concluded that most surrogates did not express any issues with giving up the child and it was usually described as a positive experience overall, with the majority saying it was preferable to jobs they had held in the past (Rozée, Unisa, and de La Rochebrochard 2020). There are few other alternative employment options that would provide lower class or uneducated women in the Global South with this much capital, enough to drastically alter their lives through investments such as a home or education for their children (Bagri 2021). Other forms of employment may also pose risks more severe than pregnancy due to unsafe working conditions, and enduring poverty would be an even greater risk (Ramskold 2013, 398). While we can acknowledge that this should not be the case — women should have access to better job opportunities — it is unfortunately the current reality, and commercial surrogacy provides a path towards upward economic mobility. While it may expose women to exploitation, it is likely that surrogacy poses no more of a risk than any alternative job low-income women in the Global South could hold (Bromfield and Rotabi 2014, 127).

Further, assuming surrogate mothers are only victims and not capable of making educated decisions is inaccurate, as "these portrayals effectively deny the agency of the women concerned, with activists claiming to represent the protagonists but not allowing them to speak for themselves" (Bergmann 2011, 284). While many

of the women turning to surrogacy are poor, they are still capable of making informed decisions and monitoring their own bodies. In some ways, surrogates are actually fighting against gender norms by participating in well-paying labour and breaking the traditional view of reproduction. In fact, many women exercise much more agency in deciding to become commercial surrogates, sometimes even choosing to pursue surrogacy against their husbands' wishes (Deomampo 2013, 169). These women are challenging patriarchal systems that say their womb can only belong to their husband by utilizing it to provide for themselves and their children independently. The stories and experiences of many surrogate mothers have revealed "a consciousness of their working conditions and social situation, and some empowerment and benefits of being surrogates" (Rozée, Unisa, and de La Rochebrochard 2020, 9). Ultimately, it can be argued that surrogacy is a conscious choice many women make in order to take advantage of a lucrative economic opportunity and improve their living conditions.

The Immobility Argument

While surrogacy can provide financial opportunity and mobility for poor women, it also exposes them to exploitation and commodification. Firstly, many aspects of the surrogacy process diminish the rights of the surrogate mother or ignore them all together. The surrogacy contract emphasizes the disposability of the surrogate mothers, and is almost always written in English, which most surrogates cannot read (Pande 2010b, 976). This means the very basis of the agreement is often rooted in exploitation or asymmetric levels of knowledge and power between both parties. For example, it is typically written in the contract that the woman has to take on self-responsibility during the pregnancy, meaning that any complications that arise during pregnancy are her own responsibility (Takamura 2021). At the same time, she is legally bound to allow the couple paying her to make decisions about her body and is unable to get an abortion in response to any complications (Pande 2010a). This exposes the exploitative and unequal levels of power between the two parties. While, as previously stated, this could be viewed as a way for women to take agency over their bodies, it also comes with risks and can be overwhelming for many women. This is especially problematic as there are a multitude of health risks associated with pregnancy that surrogate mothers are exposed to. Multiple births are more common when using In Vitro Fertilization (IVF), which can lead to more complications, and many worry about health risks for egg donors such as ovarian hyperstimulation syndrome (Bergmann 2011, 284). Lower quality health care in the Global South as well as less regulation means these women also face higher health risks in general (Khader 2013, 72). There is also concern surrounding the controlling nature of many surrogacy programs, as hostels are often under constant surveillance. Hostels vary widely, and for the women who are not fortunate enough to be in a surrogacy program that provides classes or activities, they may have nothing to do all day. These women are typically kept in shared rooms with limited visitors, are prohibited from engaging in any form of sexual relations with their husbands, and have strictly controlled diets and schedules (Pande 2010b, 982). This feeds into a paternalistic narrative that the mothers must be protected, controlled, and kept 'pure.' An additional issue is the fact that surrogate mothers have no claim to the baby, even if they form an attachment or change their minds after the birth. Many argue that women who agree to be surrogates cannot predict just how difficult this process will be, as forcing them to give up their child is unnatural and can lead to long term psychological distress (Roach Anleu 1990). As in many cases the surrogate mother is the biological mother of the child, it can be argued that commercial surrogacy "denies the natural bond between the mother and the fetus and ignores the maternal love created through pregnancy, therefore degrading women and mothering" (Rozée, Unisa,

and de La Rochebrochard 2020, 2).

Commercial surrogates are also held to impossible standards, often reduced to mere vehicles or "rented wombs" (Roach Anleu 1990, 65). Surrounding culture defines good surrogate mothers as docile, productive, and disciplined — surrogates are expected to be pragmatic labourers and quickly give over the baby after birth, but are simultaneously expected to be kind mothers who treat the process as more than a transaction. This mother-worker contradiction places unrealistic demands on these women, labelling them as both temporary professionals and nurturing mothers (Pande 2010b, 970). In addition, many view the commodification of women's bodies as unnatural and immoral, claiming it determines a woman's value to society through whether she is able to give birth. This could potentially reinforce gender stereotypes, perpetuating the idea that women belong in the domestic sphere rather than engagement in active employment or citizenship (Arneson 1992). Through this practice, women are commodified and are reduced to their ability to produce children.

Lastly, surrogacy is frequently likened to prostitution as women are selling their wombs and therefore their bodies, commodifying themselves. Many feminists have labelled commercial surrogacy as a "form of prostitution and slavery resulting from the economic and patriarchal exploitation of women" (Pande 2010a, 293). This is a divisive statement within feminist discourse, as otherscholars cite the right to bodily autonomy, a similar argument used when discussing prostitution; however, the counterargument references situational coercion. Just like with many women who turn to prostitution, those who choose to become commercial surrogates may have only turned to this option out of hopelessness fueled by poverty, and therefore this 'choice' may really be economic coercion (Cheney 2018, 159).

The process of recruiting surrogate mothers can also be exploitative. The mode of production and profit are put above all else, manipulating poor and often uneducated women in order to best benefit the industry and rich international clients (Bergmann 2011). Many of these women are preyed on and brought into the industry because they are desperate or vulnerable, as "recruitment tactics often tapped into women's anxiety about being bad mothers—mothers who were unable to provide for their children" (Pande 2010b, 975). Indian gender norms expect women to be able to provide for their families, and those who cannot do so may feel guilty and forced to find alternatives, often turning to surrogacy as an accessible option. However, the entire process often does not have the best interests of the women in mind. Additionally, despite being paid significantly less than women in Western countries would be for the same services, surrogate mothers in the Global South are discouraged from negotiating wages and are essentially told to be grateful for the opportunity as they are replaceable. In a 2010 study, one surrogate mother described her experience by saying "This is not work, this is *majboori* [a compulsion]. It's just something we have to do to survive" (Pande 2010b, 988). A large number of women who turn to surrogacy need the money to help their children and feel they have no other choice. Ultimately, while it is possible to view surrogacy through a mobility lens, some of the points that are touted as benefits can very easily become harmful. In many cases, surrogacy is a form of coercion enabled by poverty, as the reproduction of wealthy white people is put above the health and autonomy of poor surrogate mothers of colour.

Solutions

If commercial surrogacy continues, extensive changes and increased regulation are needed. Legal regulation rather than a complete ban may be the best way to protect and help women, as it would still allow them to take advantage of the opportunity for upward mobility. Banning the practice completely is also not a completely sound strategy, as it is likely that a black market would emerge, only exacerbating

the current problems with the lack of rights and protections for surrogate mothers (Bagri 2021). The most realistic path forward would be to ensure the rights of the surrogates become a primary concern within the industry through a variety of reforms and changes in legislation surrounding the practice. First, women participating in surrogacy must be fully informed of their rights, responsibilities, and the extent of the process before being able to consent. This means providing contracts in their native language, granting access to legal counsel if needed, and ensuring there is no form of coercion from outside sources when the contract is signed. Women in the Global South should also not be paid considerably less than women in the Global North for the same service. Creating an enforceable international standard of payment and treatment for surrogates would emphasize the fact that regardless of race or location, everyone should be paid the same amount for providing the same service. Additional monitoring and oversight should be implemented throughout every step of the surrogacy. This would include securing and regulating financial payment to make sure women are getting paid legally, fairly, and in a timely manner. It would also include more oversight on individual surrogacy clinics, to ensure all legislation is being strictly followed and that there is no predatory or coercive behavior involved in the recruiting process. Finally, healthcare must be fully covered for the surrogate in order to remove the burden of self-responsibility. As pregnancy comes with a myriad of health risks, surrogate mothers should be promised that if they have a complication with their health they will be provided with any care needed. This health care coverage should be included within the price of surrogacy, meaning the couple seeking a baby should be also providing for the health of the woman carrying it for them. Ultimately, the practice of commercial surrogacy is exploitative and includes predatory aspects, but it is not a black and white issue. The real solution is to change the system and help developing economies provide better access to education and jobs for women so they do not have to turn to surrogacy. Of course, this is easier said than done — but looking to the future, investment in global gender equality, equal access to education, public health, and sustainable development could pave the way to a world where women no longer have to turn to commercial surrogacy.

Conclusion

Commercial surrogacy is a highly contested industry as it has the potential to provide a path for mobility to poor women while also exploiting their desperation and reducing them to commodities and sources of labour. While in the long-term we should look to shift society away from a reality where women are so desperate that commercial surrogacy feels like their only option, in the short-term we cannot ignore the advantages. This practice has merit and many benefits as it can provide women with life changing economic opportunity. Women who opt to become surrogates cannot be characterized simply as victims, as the situation is multifaceted. Women in the Global South are capable of making their own decisions regarding their bodily autonomy, and need to be provided agency and voice. The paradox of mobility vs. immobility exists beyond the realm of surrogacy, also existing in many of the activities and labour women engage in across the world. It is important not to paint the issue in broad strokes, but to analyze both sides and come to a resolution that best supports and empowers the women involved.

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