

SURROGATE MOTHERHOOD: EMPOWERMENT OR EXPLOITATION

Mrinal Kanti Sarkar†

Department of Philosophy, Barasat Government College, Barasat, West Bengal, India

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Corresponding Author:

Mrinal Kanti Sarkar†

Department of Philosophy, Barasat

Government College, Barasat, West

Bengal, India.

Mail ID: mrinalkantis@gmail.com

ABSTRACT

Ten to fifteen percent of married couples are unable to have children. Surrogate mothers are not a new solution to the old problem of not being able to reproduce an offspring. Surrogacy has been around a long time and dates back to biblical times. An interesting bible scenario is Sarah, the wife of Abraham. Sarah could not have children in the beginning. She gave her handmaid, Hagar, to her husband Abraham to produce them a child. The method used was copulation. The outcome in this arrangement did not prove to be a productive one and ended in disaster. In this scenario the spouse became jealous, the surrogate became proud and refused to give up the identity of the child and consequently the spouse had both her and her child ousted.

Keywords: Surrogate mother, Empowerment, Exploitation, Woman carries

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INTRODUCTION

A surrogate mother is a woman who carries a child, usually for an infertile couple. Making a decision to become a surrogate mother or hiring a surrogate requires a lot of planning, thought, and preparation. Becoming educated will help to alleviate some of the anxiety and disappointment that may result [1-4].

There are two types of surrogacy, traditional and gestational. The traditional type of surrogacy involves the surrogate mother being (AI) artificially inseminated with the sperm of the intended father or sperm from a donor when the sperm count is low. In either case the surrogate's own egg will be used. Genetically the surrogate becomes the mother of the resulting child [2-4].

This woman, the surrogate mother, may be the child's genetic mother (called traditional surrogacy), or she may be biologically unrelated to the child (called gestational surrogacy) [4-5].

If the surrogate receives compensation beyond the reimbursement of medical and other reasonable expenses, the arrangement is called commercial surrogacy; otherwise it is often referred to as altruistic surrogacy.

In a traditional surrogacy the child may be conceived via home artificial insemination using fresh or frozen sperm or impregnated via IUI (intrauterine insemination), or ICI (intra-cervical insemination) performed at a health clinic.

A gestational surrogacy requires the implantation of a previously created embryo, and for this reason the process always takes place in a clinical setting [2-5].

Surrogacy is an arrangement in which a woman carries and delivers a child for another couple or person. The intended parent or parents, sometimes called the social parents, may arrange a surrogate pregnancy because of homosexuality, female infertility, or other medical issues which make pregnancy or delivery impossible, risky or otherwise undesirable. The intended parent may also be a single man wishing to have his/her own biological child, or a single woman unable to take a pregnancy to full-term. Moreover; i) Surrogacy fail to respect the dignity or privacy of the welfare of the child. It involves the subordination of the welfare the child and surrogate in favor of the commissioning parents desires to have a child. ii) Important biological bonds are established between the surrogate mother and her fetus during pregnancy. During pregnancy, fetal –maternal physiology come into existence. An addition to these biological bonding, the cognitive and developmental psychology literature indicates that there is a crucial window of time from the moment of birth onwards, whereby the baby begins to form cognitive attachments through inter- subjective interaction with the gestational mother. Surrogacy ruptures this bond and such is the importance of the emotional attachment between the surrogate mother and the child she has carried, that it has lead to many cases from around the world where surrogates have been unwilling to relinquish their child. iii) There are contractual disputes and Health risks in surrogacy. A diagnosis of disability or disease, even if equivocal, could lead to serious problems with a surrogacy arrangement [2-6].

For example, a prenatal diagnosis of disability or perceived imperfection could result in the commissioning couple renegeing.

Given that gestational surrogacy involves ART (Assisted Reproductive Technology), the health risks in ART are pertinent to surrogacy. According to recent review, ART is responsible for approximately 50% of all multiple births worldwide, and about half of IVF pregnancies in the US result in multiple births, with a high risk of premature delivery [2-5].

iv) Question arises: is parenthood grounded in biology or in an agreement? It is counterintuitive to consciously decide to terminate one's parental rights and duties prior to conception. Legal norms typically affirm rather than confer parental duties and the existing moral obligations that came with it, for there is a sense in which even though a gestational mother has decided to relinquish her child, she is still the child's mother. Therefore, one can make the a-priori conclusion that there is a sense in which self-deception is required on the part of the surrogate in order to break this natural maternal bond she has with her child so as to make it easier to relinquish the child she has nurtured in her womb.

Surrogate motherhood has both advocates and detractors, each with strong arguments in their favor. Nearly all opponents of surrogacy find it to be a morally repugnant practice, particularly when it involves a commercial transaction. Many base their opposition on religious grounds, whereas others judge it using philosophical, legal, or political criteria.

The Roman Catholic Church is just one of many religious institutions that oppose surrogacy. It is against all forms of surrogacy, even altruistic surrogacy, which does not involve the payment of a fee to the surrogate. It holds that surrogacy violates the sanctity of marriage and the spiritual connection between mother, father, and child. It finds commercial surrogacy to be especially offensive. Commercial surrogacy turns the miracle of human birth into a financial transaction, the church maintains, reducing the child and the woman bearing it to objects of negotiation and purchase. It turns women into reproductive machines and exploiters of children. The church argues that surrogacy also leads to a confused parent-child relationship that ultimately damages the institution of the family.

Some feminists oppose surrogacy because of its political and economic context. They disagree with the notion that women freely choose to become surrogates. They argue that coercion at the societal level, rather than the personal level, causes poor women to become surrogate mothers for rich women. If surrogacy contracts are legalized, they maintain, the reproductive abilities of a whole class of women will be turned into a brokered commodity. Some feminists have gone so far as to call surrogacy reproductive prostitution.

Advocates for surrogate motherhood propose it as a humane solution to the problem of infertility. They note that infertility is common, affecting almost one out of six couples and that surrogacy may represent the only option for some couples who wish to have children to whom they are genetically related. Advocates also point out that infertility is likely to increase as more women enter the workforce and defer childbirth to a later age, when fertility problems are more common [3-6].

Advocates of surrogacy also argue that Adoption does not adequately meet the needs of infertile couples who wish to have a baby. They point out that there are many times more couples than available Infants. Moreover, couples must wait three to seven years on average to adopt an infant. Here, too, social trends have contributed to a greater call for alternative reproductive options. Most important, an increased use of contraceptives and Abortion and a greater acceptance of unwed mothers have led to a shortage of adoptable babies.

Those who favor commercial surrogacy object to characterizations of the practice as baby selling. A surrogacy contract, they assert, is a contract to bear a child, not to sell a child. Advocates of surrogacy see payment to a surrogate as a fee for gestational services, just like the fees paid to lawyers and doctors for their services. Some advocates even argue that the prohibition of commercial surrogacy infringes on a woman's constitutional right to contract.

Surrogacy is also supported by those who believe that society is served best when the liberty of individuals is maximized. They claim that women and society as a whole benefit from the increased opportunity of choice offered by surrogacy.

Advocates also maintain that in a successful surrogacy arrangement, all parties benefit. The intended parents take home a cherished child, and the surrogate receives a monetary reward and the satisfaction of knowing that she has helped someone realize a special goal.

A number of important questions lie at the heart of the debate over the ethics and legality of surrogacy:

- To what extent should we be concerned about exploitation, commoditization, and/or coercion when women are paid to be pregnant and deliver babies, especially in cases where there are large wealth and power differentials between intended parents and surrogates?
- To what extent is it right for society to permit women to make contracts about the use of their bodies?
- To what extent is it a woman's human right to make contracts regarding the use of her body?
- Is contracting for surrogacy more like contracting for employment/labor, or more like contracting for prostitution, or more like contracting for slavery? Which, if any, of these kinds of contracts should be enforceable? Should the state be able to force a woman to carry out "specific performance" of her contract if that requires her to give birth to an embryo she would like to abort, or to abort an embryo she would like to carry to term?
- What does motherhood mean? What is the relationship between genetic motherhood, gestational motherhood, and social motherhood? Is it possible to socially or legally conceive of multiple modes of motherhood and/or the recognition of multiple mothers?
- Should a child born via surrogacy have the right to know the identity of any/all of the people involved in that child's conception and delivery?
- What are the pros and cons of using unused embryos for medical research?
- Is there anything wrong with disposal of unused embryos leaving them on the counter to unthaw and degenerate?
- What if the surrogate decides to maintain her privacy?
- What if the surrogate and the spouse violate the abstention clause?

- What if the surrogate decides to keep the baby?
- What if the surrogate with genetic ties demands to visit her child?
- Is there anything wrong with a surrogate giving her unused embryos to someone else?
- Who should make a decision to unthaw frozen embryos?
- Is handing over a child after delivery for a fee baby-selling?
- Do women participate in surrogacy to save their marriage?
- Is it wrong for a surrogate to abort?

Money seems to be a crucial factor for many surrogates. This being so, various attempts are being made to legalize commercial surrogacy. In the United States surrogate arrangements are enforceable by law. However, if commercial surrogacy were to become an alternative to adoption, it would be so only for the wealthy. Poorer people, who might be just as deserving, or even more so, could never, afford the fees demanded. What we may see in the future is a class of breeder women, probably poor women, who rent their wombs to wealthy people. Elizabeth Kane, the first commercial surrogate in the United States, now active in the National Coalition against Surrogacy writes - A woman (surrogate mother) feels like a flesh covered test tube during the entire experience. As the fetus grows, the woman is depersonalized; she becomes fragmented from the whole person - merely a vehicle for breeding babies! One therefore, treats a woman's womb as a commodity to house the fetus, which can be rented for a few months for a stipulated amount of money. Women are used as human incubators. The relation between the surrogate and the child is commercial rather than emotional [4-8].

As stated above, since money is a crucial factor that prompts women to be surrogates, it inevitably leads to their financial exploitation. Is it morally right for a woman to offer herself for a fee, procreate and then sell the child? In some cases, money may not change hands, as when one sister obliges another sister by carrying her child for her. Even so, when a woman agrees to carry a child and hand it over to another couple, she is contracting her body and herself. Many women in the past have sold their bodies for sex; they have now ended up selling their bodies for reproductive purposes. From this perspective surrogate motherhood can be regarded as a new form of female prostitution. Are children meant to be born this way?

There are a number of women, most of them wealthy, who do not want to disrupt their careers for child bearing. They are ambitious and give priority to their professional interest over their family. There are some who are worried about ruining their figures by pregnancy. It is these women who avoid being pregnant altogether. Surrogacy serves as an ideal solution to their problem. They get a ready-made child without undergoing the pains of creating one, even though they have no infertility problem. All that one is doing is transferring the pain from one woman to another. The surrogate is used and her womb is not only misused but also abused. This leads to a complete degradation and devaluation of the surrogate mother and

merely reinforces the age old notion that a woman is nothing better than a baby-producing machine [4-9]. Nearly all opponents of surrogacy find it to be a morally repugnant practice, particularly when it involves a commercial transaction. Many base their opposition on religious grounds, whereas others judge it using philosophical, legal, or political criteria. Some feminists oppose surrogacy because of its political and economic context. They disagree with the notion that women freely choose to become surrogates. They argue that coercion at the societal level, rather than the personal level, causes poor women to become surrogate mothers for rich women. If surrogacy contracts are legalized, they maintain, the reproductive abilities of a whole class of women will be turned into a brokered commodity. Some feminists have gone so far as to call surrogacy reproductive prostitution [8].

CONCLUSION

All these circumstances prove that by any chance surrogate motherhood bears the mark of women exploitation, instead of being the landmark of women empowerment. It is a logical paradox. When a group of women (so called empowered) enjoys freedom over their body and mind, the other group (sells herself in terms of surrogacy) are being exploited for the same reason.

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