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# Inequalities in (trans)national surrogacy: A call for examining complex lived realities with an empirical lens

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## Abstract

Income disparity has become a mainstay of the international critique and public discourse on commercial surrogacy. Using existing empirical data, including our two respective field studies in India and the United States, we analyze surrogacy from a gender perspective and show how the visibility of gender disparities in a transnational context encourages assumptions at the local and national context. In doing so, we highlight the narrative of inequality, explore the complexity of surrogacy outside of a one-note narrative, and show how that narrative operates to overshadow the complex, lived experiences of those engaged in surrogacy.

## Keywords

Empirical data, exploitation, gender, surrogacy

## Introduction

Considerable cultural anxiety exists about the practice of surrogacy in various national contexts. This anxiety is visible in media and academic framings of these practices (Markens, 2012; Pande, 2014; Rudrappa and Collins, 2015: 938). Concerns largely center on the commodification of reproduction and children and on economic and reproductive exploitation of surrogates due to disparities in socio-economic and racial status between surrogates, intended parents, and those who work in the “baby business” (Hovav, 2019; Saravanan, 2013; Spar, 2006). Within the small academic literature on surrogacy begun in the 1980s, surrogacy has largely been analyzed as revealing and deepening problematic social dynamics, with surrogates often seen to be victimized via reproductive exploitation based on race, gender, and socio-economic class. This exploitation framing of

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surrogacy is countered or juxtaposed to a liberation framing (especially in fertility industry discourse but also in some media representations), whereby engagement with surrogacy is seen to allow a route to parenthood previously blocked for particular populations (gay men, for example, or cancer survivors) or to allow for bodily autonomy (Markens, 2012: 1746; Riggs and Due, 2018: 39). In much of this media coverage and academic literature, surrogates themselves—their perspectives, their understandings, their voices—are “all but invisible” (Riggs and Due, 2018: 100).

In this article, we call for more nuanced understandings of surrogacy arrangements that are grounded in empirical data rather than ideological, political, or moral assessments which often frame surrogacy as simply negative or positive. Empirical research on surrogacy is essential to understand the complexities of these processes, especially as the surrogacy industry expands globally (while shrinking or being limited in certain locales). While research on surrogacy is growing as well, much more is needed, especially as surrogacy practices vary considerably across nations, regions, and states (Deonandan and Bente, 2013; Nadimpally et al., 2016; Rozée and Toulemon, 2017; Torres et al., 2019).

In our examination of surrogacy in this article, we join others (Pande, 2014; Ragoné, 2000; Saravanan, 2016; Twine, 2011) in considering social class, race, and gender dynamics in the social relationships and constructions in local and transnational surrogacy. Surrogacy, we posit, is not so different from reproductive technologies in general (assisted reproductive technologies (ARTs) but also contraception and abortion), maintaining class and race categories in birth control (Ginsburg and Rapp, 1991; Rapp, 2001). This acknowledgment allows us to consider the ways surrogacy may nourish sex, class, and race inequalities between those who can afford these services, those who cannot, and those whose bodies are employed in these procedures (Spar, 2005; Twine, 2011).

We argue that popular understandings of surrogacy, based on simplistic readings of gender, race, and class differences encourage assumptions of exploitation and overshadow varying lived experiences, concerns, and discourses of people differently situated to surrogacy (i.e. surrogates, parents, professionals, and the public). Coupling an acknowledgment of social class, race, and gender dynamics with empirical data allows for more nuanced understandings of the different ways in which structural inequalities may shape the practice of surrogacy and the lived experiences of surrogacy in different ways for people differently situated.

## **Two field studies in the United States and India**

The United States and India represent salient illustrations of surrogacy, and comparing these two national cases fits our objective to explore intersectionality within both local and transnational surrogacy arrangements. The United States is an important location where reproductive and ART-auxiliary services are centralized—a “reprohub” (Inhorn and Patrizio, 2015)—for both domestic and international surrogacy, although cross-border reproductive care into the United States receives little academic or media attention (Hughes and DeJean, 2010; Inhorn and Görtin, 2011; Jacobson, 2020; König, 2018; Levine et al., 2017: 818; Martin, 2015: 19). Instead, India has been at the heart of surrogacy controversy, particularly in international media reporting. From 2002 to 2016, India was the other main destination for transnational surrogacy due to the low cost of the practice compared to the United States and the lack of a legal framework (that results in a greater imbalance in decision-making power for those involved). Surrogacy performed in India by local women for white and Western individuals, like Australians, who, compared to these women, are more affluent was considered emblematic of all that was seemingly wrong with the surrogacy industry (though Indian surrogacy clients from abroad included expat Indian intended parents and those considered lower middle and middle class within their own countries as well).

Focusing our discussion on only two national cases, both of which have a lot of internal national variation, does have limitations. The way surrogacy is regulated, represented, and experienced globally is heterogeneous and strongly related to specific political, sociocultural, and economic contexts. These two national cases, therefore, do not encapsulate the diversity of surrogacy arrangements globally. However, comparing these two important centers of the global surrogacy industry provides interesting evidence to counter the usual assumptions about surrogacy as described in much of the non-ethnographic literature and in the media. Our argument developed out of our readings of the growing body of empirical research on surrogacy in the sociological and anthropological qualitative and ethnographic tradition (Berend, 2016; Deomampo, 2016; Jadva et al., 2015; Majumdar, 2017; Olavarria, 2018; Pande, 2014; Ragoné, 1994; Rudrappa, 2015; Teman, 2010) including our own studies conducted in the United States and in India (Jacobson, 2016, 2018, 2021, 2022; Rozée, 2018; Rozée, Unisa, La Rochebrochard, 2019, 2020).

The US case upon which we base our argument was conducted by the first author. During 4 years of data collection (2009–2013),<sup>1</sup> she completed 63 interviews with various people involved in surrogacy: surrogates in two important US surrogacy states (Texas and California), surrogates' family members, intended parents, and surrogacy professionals, such as reproductive endocrinologists, surrogacy agency employees and directors, family law attorneys, and counselors. She followed individual surrogates and intended parents through their "surrogacy journeys" (in US surrogacy vernacular, the term used for the entire surrogacy process), performing multiple interviews and by reading individual social media posts. The objective of this study was to gather an ethnographically informed understanding of US commercial gestational surrogacy from the perspective of surrogates, which had not been examined to date (Jacobson, 2016).

The Indian case is based on research conducted by the second author. During a 2-year field study (2013–2014),<sup>2</sup> she interviewed 32 surrogacy professionals (medical doctors, agency managers, associations, and lawyers); eight intended parents who were Indians or Australians; and 33 Indian surrogates who were at different stages of the surrogacy process (recruitment, pregnancy, postnatal). Surrogates and intended parents were recruited through the five clinics and agencies (out of a total of 37 clinics and agencies contacted from all around India) in Mumbai (Maharashtra), Chennai (Tamil Nadu), and New Delhi (Delhi). The objective of this study was to gather information about the experience and understandings of the main actors involved in surrogacy in India and to analyze this reported reality from a gender perspective (Rozée, 2018).

Our respective field studies have brought us both to an understanding that research on contemporary transnational surrogacy is well served by a grounding in perspectives that situate surrogacy as (1) reproductive labor; (2) occurring within a connected, globalized, transactional structure (what König and Jacobson, 2021 refer to as *reprowebs*); and (3) within specific local meanings. In this article, we present our case for the importance of situating surrogacy empirically by discussing the value of these three groundings before turning to exemplify them within the specific contexts of our respective studies.

## **Surrogacy as reproductive labor**

Our respective research projects have brought us both to an understanding of surrogacy as reproductive labor, a "capacity to produce and reproduce in order to earn income" (Pande, 2010b: 972). Debra Satz (1992) makes such an argument: that the work of gestation and childbirth, though unpaid and often unrecognized as such, should be considered a job. Accordingly, treating reproductive work differently from other forms of work is a product of gendered assumptions about what constitutes productivity (Satz, 1992). Considering reproduction as labor, similar to other productive activities (Satz, 1992; Tabet, 1998; Tain, 2013), makes surrogacy an interesting case for a

gendered analysis at the intersection of family/reproduction and work. This approach has been used in studies on the work of surrogacy, which consider it alienated labor (Anderson, 1990; Saravanan, 2016), care work (Pande, 2009), social work (Vora, 2010), intimate work (Boris and Parreñas, 2010), clinical work (Cooper and Waldby, 2014), and obscured labor (Jacobson, 2016).

We mobilize this approach to reproductive work in order to go beyond the maternal and affective dimensions often present in the analysis of surrogacy, to better approach its complexity and especially to better consider sex, class, and race constructions and how they shape lived experiences and relationships within these arrangements (Rozée, Unisa, La Rochebrochard, 2020). This approach also allows us to avoid the usual binary approach to surrogacy which frames it as either exploitation or individual liberty. By centering our understandings of surrogacy using ethnographic data, we favor an approach that privileges the perspectives and thoughts of those intimately engaged in surrogacy, namely, surrogates. This grounded approach is informed by the perspectives of symbolic interactionism, social constructionism, and grounded theory (Blumer, 1969; Corbin and Strauss, 1990).

### **Surrogacy as part of reprowebs**

Since the early 2000s, surrogacy has become a global practice, part of what König and Jacobson (2021) call “reprowebs.” This concept, building on and extending the concepts of “reproscapes” (Inhorn and Shrivastav, 2010) and “reprohubs” (Inhorn, 2015), captures the ways the reproductive industry is characterized by connected circuits of people (future parents, donors, and surrogates), technologies, medical knowledge and practice, genetic material (sperm, egg, and embryos), representations, and money in a global society. Reprowebs define the interweaving of these elements for reproduction purposes and reflect a kind of “global assemblage” (Ong and Collier, 2005) that requires several bodies and several locations (Waldby, 2012) and the ability to react quickly to change. They stage a “global chain of reproductive work” (Ehrenreich and Hochschild, 2002; Tain, 2013) in which people from different sex, class, and racial groups, from different parts of the world, work together to produce a child. These connected webs now have the ability to move quickly to alternate locations, to shrink or expand depending on the immediate needs (König and Jacobson, 2021).

Surrogacy is part of these reprowebs and is particularly controversial because it operates in a commercial and transactional way and, at least in the public imaginary, mainly takes place in low and middle-income countries such as India. It is, therefore, usually associated with exploitation (Busby and Vun, 2010; Rothman, 2014; White, 2014), the assumption being that it is mainly performed by poor and uneducated women for rich intended parents (Deonandan et al., 2012; Humbyrd, 2009; Kirby, 2014). The large reproductive care industry in the United States, including both domestic and cross-border surrogacy, is largely invisible in these discussions.

As noted above, this exploitation argument is central to the scientific literature and media presentations on transnational and commercial surrogacy, without being systematically defined and discussed (Markens, 2012). However, some authors theorized the argument to (in)validate the exploitative nature of surrogacy in the global chain of reproductive work. Sera (1997: 337), comparing surrogacy and prostitution, explains that “exploitation occurs when one person takes advantage of another person when making an offer.” Following the same definition, Kirby (2014) considers three conditions to explore the exploitative nature of surrogacy in low- and middle-income countries: (1) the non-choice of entering in the transaction, the commitment being coerced by poverty or financial need; (2) the inability of disadvantaged individuals to make a meaningful decision; and (3) the fact that the interests of the disadvantaged individuals are not taken into account. As surrogacy meets two of these conditions (2 and 3), then, this framing contends, it is exploitative. Crozier (2014) contests this simplistic demonstration arguing that there are different

scales of exploitation, complying with previous papers on surrogacy distinguishing “harmful exploitation,” where only one party benefits, from “mutually advantageous exploitation,” where both parties benefit (Humbyrd, 2009; Ramskold and Posner, 2013). In the same line, in response to Kirby, Orfali and Chiappori (2014: 33) argue,

Taken strictly, the proposed criterion would basically rule as exploitative all economic transactions with developing countries—and for that matter, many within developed countries as well. When a garment factory is created in a developing economy, the details of the labor contracts are usually not discussed with the community (although exceptions do exist), and one can hardly argue that the contracts specifically take into account the workers’ interests.

In the feminist literature, transnational surrogacy, largely defined only as movement from the white Western world to the Global South, is seen to participate in “the internationalization of social reproduction” (Falquet, 2008; Verschuur and Catarino, 2013), and is thought to reinforce inequality already observed in other contexts such as care activities, domestic work, or sex work (Ehrenreich and Hochschild, 2002; Mazumdar, 2007; Vidal, 2007; Wichterich, 2000). Reproductive work, especially when it is global, is thus analyzed as favoring white entitlement and affluent Western parenthood, in a neoliberal and imperialist logic (Wichterich, 2015: 37).

In that sense, Jyotsna Gupta (2006) explains that “transnational feminist analyses and practices require an acknowledgement of the fact that one’s privileges in the world-system are always linked to another woman’s oppression or exploitation” (p. 34). This idea has been taken up by various organizations, including feminist groups. For example, in early 2018, a collective of women against surrogacy in Mexico, created under the label “*Femmva (Asociación Feministas Mexicanas contra Vientres de Alquiler)*,” claimed that surrogacy is reproductive exploitation strongly related to the feminization of poverty. This collective refutes the possibility of poor women’s autonomy and liberty in surrogacy commitments (*El Economista*, 8 April 2018). Other feminist groups and coalitions emerged worldwide to denounce surrogacy and claim its national, even international, abolishment (see, for instance, the International Coalition for the Abolition of Surrogate Motherhood (ICASM) in Europe).

This representation also shapes much of the media framing of transnational surrogacy. Indeed, from the early 2000s, transnational surrogacy, especially the case of India, has been subject to a growing interest by the international press (Markens, 2012). Journalists usually provide a counterpoint view to the dominant exploitation framing with, for example, interviews with local medical doctors, who present Indian surrogacy as a mutually beneficial transaction, a “win–win situation,” while the motivations of US surrogates are largely framed in a binary way as well, either altruistic gift-giving or exploitation (Jacobson, 2016, 2021; Markens, 2007, 2012; Ragoné, 1999).

A cursory review of titles on surrogacy in both the United States and India shows how much of the media attention, generally focusing on existing scandals, the liberal business of the practice (inherent to social inequalities), and the exploitation of women are telling: “The Curious Lives of Surrogates” (*Newsweek*, 7 April 2008); “India Nurtures Business of Surrogate Motherhood” (*New York Times*, 10 March 2018); “Indian surrogate mothers suffer exploitation” (*AlJazeera*, 27 March 2014); “Commercial surrogacy risks exploitation of women” (*Deccan Herald*, 6 November 2015); “Surrogate mothers are caught in a vortex of exploitation (. . .)” (*Indian Express*, 16 September 2016); “Wombs for Rent, Cheap” (*The LA Times*, 19 April 2006). The press often approaches surrogacy from an ideological angle without giving space to the individuals involved. In addition, while some relevant documentaries report surrogates and intended parents’ voices (Can we see the baby bump please?, 2013; Google Baby, 2009; Made in India, 2010; *Ma na Sapna. A Mother’s*

*Dream*, 2013) and remain interesting data sources for scientific analysis, as Karen Hvidtfeldt (2016) points out, the way filmmakers present the journey and discourses of protagonists often reflects the liberalistic logic of surrogacy with its inequalities, dominations, and privileges.

Building on Hvidtfeldt's work, we see discussion of the variety in both local and cross-border industries absent from much of the media discourse on the surrogacy industry. For example, national restrictions and the closing of certain international markets result in winnowing options for gay men seeking surrogacy, directing people to the US market (Jacobson, 2018; Smietana, 2017). Another rapidly growing client-base that receives little attention is wealthy Chinese intended parents matching with working- and middle-class white surrogates in the United States (Harney, 2013; Jacobson, 2020). The standard exploitation framing does not enable a robust presentation or analysis of these (now-standard) types of variations in surrogacy that would bring more nuanced and complex variables to the discussion.

### *Surrogacy within local meanings*

To better understand the logic and dynamics of this outsourced reproductive work, we posit it is important to conduct a "situated" analysis of surrogacy on several levels, that is, as Bronwyn Parry (2015) states, to place this global practice in its local context (sociocultural, political, and economic) within which the local population (i.e. the pool of reproductive workers) becomes "bioavailable" (Cohen, 2007). It is important to report the experiences and understandings of the actual participants, to consider their personal (intimate) histories (Deomampo, 2013) and their "way of making sense of surrogacy" (Berend, 2016: 2). This has been central to our empirical research on surrogacy to date (Jacobson, 2016, 2018, 2021, 2022; Rozée, 2018; Rozée, Unisa, La Rochebrochard, 2019, 2020).

This perspective is informed by the traditions of symbolic interactionism and social constructionism, which privilege the ways people themselves understand and make meaning of their social worlds. Following this theoretical framework, fed by the methodological perspective developed by the Chicago School, particularly by Howard Becker (1963), empirical studies on surrogacy make room for the actors who are at the heart of surrogacy and privilege the sense they give to their own experiences and commitments.

The exploitation argument in the literature and in the media is based on the representation of women in developing countries, labeled "disadvantaged" and thus "vulnerable," positioning them as incapable of making meaningful and free decisions and exposing them to socio-economic exploitation. Although they may be vulnerable to exploitation due to the compounding inequalities of race, class, and gender in both local and global contexts, some scholars and journalists invoke the victimization of these women as they analyze how women's bodies are mobilized for paid-wage work, often without the use of empirical data from surrogates themselves or the specific mechanisms of exploitation examined (Pande, 2010a: 293). Women cannot be reduced to a "status of pure alienated victim" (Falquet, 2008: 53) as this would deny their capacity to act, to decide, to be resilient even in a context of power and domination. Ramskold and Posner (2013: 2) state that "it would be paternalistic and belittling to claim that well-informed women, in any economic situation, are incapable of taking a rational decision on this issue—to risk their lives for money." In the same line, Sera (1997) argues that surrogacy commitment, far from being forced (through force or threat of force) or due to extreme poverty, may be "the best alternative among a very small range of choices" for women: similar to some sex workers, surrogates could have found another way to survive "but that they choose to engage in it as the best alternative amongst their options" (p. 336). Moreover, we argue that casting surrogates as inherently exploited, without empirical data from surrogates themselves, is problematic.

Reproductive labor may be a survival strategy, shaped by economic precarity, but it may also be an opportunity for women to strategically improve their living conditions—or, additionally, it may be an experience women frame as one they desire, as found in empirical studies of US surrogates (Berend, 2016; Jacobson, 2016, 2021, 2022; Ziff, 2019). The motivations and experiences of surrogates is an empirical question and demands empirical research. The prescribed framing of surrogates as necessarily “victims,” however, is difficult to challenge as labels tend to “stick” (Becker, 1963; Goffman, 1963). We posit in this call that an antidote to this broad-brush stroke understanding of surrogacy is empirically-based research.

The few field studies on surrogacy in India and the United States do show that the reality of this global practice is complex: for example, ethnographic studies show that surrogates often have a level of socio-economic stability relative to other women in their local environments and, especially in the Indian context, may find surrogacy a better alternative than their previous paid work involving harassment and unpaid overtime (Rudrappa, 2015). Some researchers draw a parallel between reproductive labor like surrogacy and other types of labor that may be considered more difficult or dangerous, less paid, and less valued (Humbyrd, 2009; Kirby, 2014; Orfali and Chiappori, 2014; Ramskold and Posner, 2013; Sera, 1997). Indeed, there are other paid activities where the body is under pressure, under control, and sometimes under domination (domestic work, waste pickers, and sex work). Except for the work of Sharmila Rudrappa (2015), who empirically drew the parallel between surrogacy and textile factory labor in India, the existing studies on surrogacy in developing countries like India (Deomampo, 2016; Mahajan and Marwah, 2012; Majumdar, 2017; Pande, 2014; Saravanan, 2016; Vora, 2013), however, generally do not allow for an identification of the (non)particularity of reproductive labor compared to other wage-paid labor or the (non)particular profiles of reproductive workers compared to other developing countries.

By comparison, US surrogacy agencies refuse to partner with women who are receiving state aid (due to poverty status) and many US surrogates are often employed in other sectors and engage in paid reproductive work simultaneously (Berend, 2016; Jacobson, 2016). We agree with Daisy Deomampo, who interviewed 35 surrogates and egg donors in Mumbai between 2008 and 2010, as she pushed for empirically informed understandings of surrogates when she writes,

Indian surrogates may be, or may become, victims in the unequal relationships formed between surrogate and doctor or intended parent; nonetheless, I contend that reliance on the image of the oppressed surrogate neglects the local voices and perspectives long sought by ethnographers and feminists. (Deomampo, 2013: 173)

We posit that the “local voices and perspectives” are needed for understanding all surrogacy (not only that which occurs in the Indian context). These arguments are based on our reading of the literature and our own empirical research on surrogacy over the course of the last decade.

## **Toward an empirically grounded perspective: lessons from India and the United States**

Through our own empirically grounded research in India and the United States and via comparing our findings and reading the ethnographic surrogacy literature, we have come to understand the importance of situating surrogacy within these three specific grounding contexts: as reproductive labor, within reprobews, and by paying attention to specific meanings operating at the local level. In the following sections, we present key features from each of our studies that highlight the importance of these contextual factors.



## Surrogacy in India

The Indian study conducted by the second author shows that surrogacy in the Indian context is simultaneously a source of oppression and power. Indeed, she observed strong socio-economic inequalities between medical doctors, intended parents (mainly from Australia), and surrogates.<sup>3</sup> These inequalities were reinforced by the fact that surrogates had little decision-making power regarding their living conditions during pregnancy, the production process (pregnancy and delivery), or the product of their work (the future child). During surrogacy, their bodies were constantly controlled and supervised to optimize performance, and everything was decided and managed by medical doctors and intended parents: what they ate, what they did, where they stayed, when they could go out, or receive visitors. In the study, surrogates appear as “silent bodies under guardianship” (Rozée, 2018: 174). The majority of them were aware of this lack of decision-making power during surrogacy. One explained, “people like me have to listen to doctors because they are illiterate” (Sushmita, 24 years old, married, two children). Poverty was described by the more disadvantaged women as a reason for obeying the doctors. But more generally it reveals the authority and power wielded by doctors, including in surrogacy (Tanderup et al., 2015). This lack of power is all the more striking when a decision needs to be made about the pregnancy. The documentary *Ma Na Sapna (A Mother's Dream)* by Gudenus (2013), for instance, shows doctors who decided to perform an embryo reduction for a surrogate's triple surrogate pregnancy without consulting her first.

Interestingly, however, surrogates themselves did not necessarily describe these conditions as difficult or pressure-inducing. In the second author's study, the only request of some surrogates was the possibility to see the child after birth, face to face or through photos (which was rarely allowed by doctors to avoid, according to them, an attachment toward the child or emotional blackmail with the parents). The surrogates interviewed stated that they regretted this imbalance of trust: they listen to the doctors, they said, and trust them to take care of their bodies and their health, and in return, the doctors do not trust them enough to let them see the newborns.

In her research in Bangalore, Sharmila Rudrappa reported that when she realized there were cameras in the surrogate dormitory, she asked surrogates what they thought about it. Some said they didn't mind; others didn't even notice that there were cameras. Rudrappa (2012a) then understood that women were accustomed to daily surveillance in their everyday lives (by neighbors, family, in-laws, and neighbors) (pp. 23–27). Their accepting attitude should, therefore, be understood within this specific unequal and patriarchal context (Marius, 2016). The surveillance experienced by surrogates was not unique—it is congruent with women's general situation in India, where many live under the authority of their father, husband, and parents-in-law, with little decision-making power and little freedom of movement. According to the Indian National Family Health Survey NFHS-III (Kishor and Gupta, 2009), for example, only 51 percent of women aged 15–49 are allowed to go without restriction to the market, 48 percent to the medical center, and 40 percent to travel outside their community.

Comparing the main sociodemographic profiles of the 96 surrogates interviewed in four field studies conducted in different Indian states (education, income, professional activity) with those of Indian women in the general population (International Institute for Population Sciences (IIPS), 2007), surrogacy did not appear to be a poverty survival strategy (Rozée, Unisa, and La Rochebrochard, 2019): surrogates are not among the least literate in the country; before being surrogates, most of them were employed; and their family income was generally higher than the national poverty index and, in the majority of cases, higher than the median family income of the Indian population. During interviews led by the second author with the 33 surrogates, many women declared that they were not in need of money to survive, but that they wanted to improve their living conditions. Prachi (22 years old, married, one child) explained that as she was not in need of

money, her friend asked her why she became surrogate. She answered her: “who doesn’t want money in this world?” In the same vein, Nisha (30 years old, married but no longer living with her husband, three children) declared when asked about her motivation to become surrogate: “More money! And if the body can help [someone]!” Some other women explained that their financial situation was critical: they had heavy debt or they had to find a source of income because their husbands were no longer working due to poor health. These Indian surrogates described their commitment to surrogacy as an assumed choice and, according to their own descriptions, as a way to fulfill their obligations as a woman, mother, and spouse: with the money earned, they intended to provide better living conditions for their children and invest in their future. Through this commitment, they saw themselves as better mothers and also as modern and educated women compared to their peers: they were now aware of the medical way to conceive babies without sexual intercourse, and they proudly used a technical vocabulary to explain the medical process (like “blastocyst” or “ET” for embryo transfer). But in doing so, they were exposed to marginalization and stigmatization. Two surrogates, Pushpa (33 years old, married, one child) and Sabina (28 years old, single, two children), explained in this regard that contrary to educated people, illiterate people think surrogacy is immoral.

Indeed, in India, as all of the women in the second author’s research explained, surrogacy is commonly not accepted by others in their immediate communities because it is associated with extreme poverty and adultery (since the *in vitro* fertilization (IVF) process is not commonly understood). Thus, surrogacy in India reveals—and adheres to—already existing gender norms. A woman’s body is culturally assigned to a husband, family, and community and it is supposed to be “used” only to ensure the spouse’s family line. But surrogacy may also reveal women’s emancipating potential as in becoming surrogates, they go against gender norms, and use their body as a means for social ascension (Rozée, Unisa, La Rochebrochard, 2020).

The findings of this research in India, reinforced by other field studies, contradict the common assumption that Indian surrogates are “powerless victims in need of aid” (Deomampo, 2013). They are not very different from surrogates in other countries like the United States, the United Kingdom, or Israel (Berend, 2016; Jadva et al., 2015; Teman, 2010): they mainly belong to their country’s (lower) middle class based on their educational level and their socio-economic status (Rudrappa, 2012b).

These social characteristics of surrogates may be due to the selection process in surrogacy arrangements at several levels. Medical doctors may prefer to contract with women who are not living in slums or on the street for reasons of health and hygiene, in order to ensure a favorable environment for pregnancy (Rudrappa, 2015). Then, there may be a self-selection process: not all Indian women may be likely to apply to be a surrogate, only those who have the opportunity to meet an agent, have access to social media to know about this practice<sup>4</sup> (reading newspapers, watching television), and are able to move freely in public spaces to honor medical appointments. Such conditions and opportunities in daily life are not within reach for all Indian women (IIPS, 2007). In this gender context, it can be speculated that women who have more autonomy and who are better integrated in social networks are more likely to have access to information and clinics, and so to commit to surrogacy.

The reality of surrogacy in India seems to be much more complex than it is presented in the media or in some feminist analysis. The study by the second author did not prove that surrogacy is free of exploitation or abusive practices. But the practice seems not to create more inequalities than it reveals. Indeed, the way it is framed, organized, described, and lived reveals social unequal relationships in terms of sex, class, and origin, in accordance with Indian society and women’s working conditions. It also reveals gender norms in India; and reciprocally, these same norms allow us to understand the development and organization of the practice in the country.

Surrogacy recently changed in India since Lok Sabha (the lower house of the Indian parliament) passed the Surrogacy (Regulation) Bill 2016 in December 2018. With this new bill, surrogacy became limited to an altruistic and domestic practice, with international commercial surrogacy banned. The Indian government declared that these restrictions, progressively applied in the country from 2015, aim to protect surrogates from exploitation (*The Hindu*, 23 October 2015). This led to some surrogates organizing public protests in order to defend their rights to perform transnational surrogacy (*Foreign Affairs*, 11 December 2015).<sup>5</sup> Some researchers and non-governmental organizations (NGO) like Sama—Resource Group for Women and Health express doubts on the benefits of such restrictions, arguing that the new law may promote a black market and provide invisible coercion of women by the family and relatives (Nadimpally et al., 2016; Rudrappa, 2018).

Further empirical studies in India are needed to better assess the long-term changes in reproductive life and living conditions, both for surrogates and their families (Soderström-Anttila et al., 2016), to better evaluate gender, race, and class inequalities longitudinally, particularly in this new legal context.

### *Surrogacy in the United States*

Turning to the situation of surrogacy in the United States also forces a reexamination of the popular framings of surrogacy. While surrogacy in India receives much media and academic attention, the United States is the current global center of surrogacy, servicing not only intended parents from North America, but those from nearly 150 nations from around the world (Jacobson, 2020; Levine et al., 2017; Markens, 2012; Martin, 2015; Riggs and Due, 2018), especially since many governments decided to ban transnational surrogacy in their countries. Inquiry into the state of surrogacy globally, therefore, requires a discussion of the state of surrogacy in the United States.

Early academic research and media stories on US surrogacy primarily focused on domestic arrangements between US intended parents and US surrogates and anticipated that poor women of color would be exploited for their reproductive capabilities in order to assist wealthy white women reproduce (Corea, 1985; Markens, 2012; Ragoné, 1994). This can be seen in more recent scholarship as well, such as Laura Harrison, 2016 book on surrogacy in the US titled, “Brown Bodies, White Babies: The Politics of Cross-Racial Surrogacy.” Exploitation and coercion are at the center of these concerns. These trepidations resonate with the history of commodified reproductive exploitation of women of color, of stratified reproduction, and of eugenics movements in the United States that privilege the reproduction of wealthy white women and constrain those of marginalized populations, including women of color, poor women, and women with disabilities (Briggs, 2017; Collins, 1990; Davis, 2019; Roberts, 1997).

These concerns of reproductive exploitation and stratified reproduction dominate much of the public discourse on surrogacy in the United States and can be seen in the opposition to these arrangements (Martin, 2015). They are particularly vivid in depictions of transnational surrogacy, the form of surrogacy “that typically attracts the most attention in mainstream consciousness,” especially arrangements between US white intended parents and surrogates of color in other nations (Markens, 2012; Riggs and Due, 2018: 98). The optics of these news story (both literally, in terms of the photographic images, and figuratively) tap into the social and cultural anxieties of possible reproductive exploitation, long festering in the United States. While surrogacy in general, and especially transnational surrogacy in places like India, appears to neatly fit into this framework of reproductive exploitation, a closer examination based on empirical data is warranted.

Examining the racial and social class disparities between surrogates and those who use assisted reproduction, however, is challenging for researchers due to the fact that both demographic data

and recent empirical data on surrogacy are limited. In the United States, the Centers for Disease Control and Prevention (2018), collects data on reproductive technologies. But unfortunately, this has not included demographic information on intended parents (outside of the age of the woman at the time of egg retrieval for non-donor cycles) or on donor-egg surrogacies. Comprehensive national demographic data on surrogates or those who use surrogacy to become parents in the United States are non-existent. Without national demographic data covering the race, gender, and class of participants in US surrogacy, it is difficult to substantiate claims of widespread racial and class-based exploitation. Several empirical studies of surrogacy in the United States (Berend, 2016; Jacobson, 2016; Markens, 2007; Ragoné, 1994; Roberts, 1998; Ziff, 2017, 2019) and research data on reproductive technologies in general (Almeling, 2011; Bell, 2014), however, do give us a window into these arrangements and the demographics of the people involved.

Researchers note that US surrogacy, like the field of reproductive technologies in general in the United States, largely services white women (Bell, 2014; Braverman and Corson, 1992; Jacobson, 2016; Rapp, 2000). Importantly, this is not indicative of disparities in *infertility* but in *treatment*. As others observe, women of color in the United States experience similar or higher rates of infertility than white women; however, they are less likely to receive treatment due to the way racism structures access to medical care (Bitler and Schmidt, 2006; Briggs, 2017; Cahn, 2009; Greil et al., 2011; King and Meyer, 1997; Luna and Luker, 2015; Roberts, 1997).

Empirical studies on US surrogacy likewise note that most surrogates in the United States appear to be white (Berend, 2016; Ragoné, 1994). This was the case in the first author's research. The 31 surrogates in her study were recruited via snowball sampling and surrogacy agencies located in Texas and California. Of the 31 surrogates interviewed, 28 self-identified as white, 1 as Black, and 2 as Hispanic. Of these three non-white women, only one had carried a surrogacy pregnancy to term and given birth. This was one of the Hispanic women, who did not frame her surrogacies as cross-racial nor did she raise the issue of race in her interview. The other two non-white women in the study were in the matching process and had not yet begun a surrogacy journey. There were, however, five cross-racial surrogacies among the 28 white women in the study. One white surrogate carried for an Indian couple, one for a Nigerian couple, one for a Chinese couple, and one had two different surrogacies for two different Japanese couples. Although this qualitative study did not have a very large surrogate sample, it reflects the findings of other empirical studies of most US surrogacy matches being mono-racial between white surrogate and white intended parents. It also reflects information the first author is hearing in her current research on ART in the United States of cross-racial surrogacies largely being between white surrogates and international IPs of color.

The finding that surrogacy in the United States is largely mono-racial, however, has not had an impact upon the larger cultural image of surrogacy, which relies heavily on tropes of racial exploitation. This can be seen, for example, when scholars make claims about US domestic surrogacy such as “cross-racial surrogacy has proliferated in recent decades” and “many intended parents do not hesitate to choose a gestational surrogate of a different race” (Harrison, 2016: 7). Such claims are made without the benefit of empirical data yet fit so squarely with the history of racial reproductive exploitation in the United States that they ring true. To further substantiate such claims, journalists and some academics turn to the unusual, high-profile cases of cross-racial surrogacy of *Johnson v. Calvert* and *Marion County Division of Children's Services v. Melinger* as indication of wide-spread racial exploitation. Most also quickly turn to the example of international surrogacy arrangements between white intended parents and surrogates of color, especially from India, to evidence widespread cross-racial arrangements.

Although ethnographic studies of US surrogacy show few women of color working as surrogates in the United States, and that the client population is also primarily white, this does not indicate that race does not shape the US surrogacy industry. To the contrary, research demonstrates the

importance of race in assisted reproduction in the United States (Becker, 2000; Bell, 2014; Briggs, 2017; Davis, 2019; Rapp, 2000; Roberts, 1997). The racial homogeneity found among both US intended mothers and surrogates in the United States is telling. We might argue that perhaps it is precisely those national concerns about reproductive exploitation of women of color by whites, harkening a painful history of coercion, rape, and forced exploitation of Black women, that are playing out on an individual decision-making level, shaping the racial make-up of surrogacy in the United States. In other words, the horrific history and daily lived experience of racism in the United States may translate into fewer Black women having an interest in working as surrogates or being recruited, especially as the population of domestic intended parents in the United States is primarily white. The optics of women of color serving as surrogates for white women may be tapping into deep social histories and cultural anxieties that prove largely untenable in the US surrogacy market, for both Blacks and whites, individuals, and institutions. The few high-profile cases of domestic transracial surrogacies gone awry, such as *Johnson v. Calvert*, highlight those anxieties. It might also be a reflection of challenges faced by women of color to receive reproductive care (and therefore, to be in the position of using a surrogate) (Bell, 2014). Empirical research is needed, however, to study such claims about surrogacy.

An additional concern surrounding surrogacy in the United States is economic exploitation and patriarchal coercion of poor women (see Corea, 1985; Field, 1990). These concerns shaped the early organization of surrogacy in the United States. Unlike most countries around the globe that allow reproductive technologies, the United States is unique in its lack of federal regulation and standardized national rules for operation (Martin, 2015). While state-level laws and regulations give some shape to the practice, surrogacy professionals in the United States have largely organized the structure of the industry. Early surrogacy practitioners, including attorneys, clinics, and agencies, faced criticism for their use of financially vulnerable women and sought to establish informal rules that would protect their establishments from such criticism. One such rule, discussed by the first author in *Labor of Love: Gestational Surrogacy and the Work of Making Babies* (2016), that became widespread among US surrogacy agencies and infertility clinics is that which disallows women who are receiving federal aid from working as surrogates. “Financial stability” emerged as a standard requirement in the field for surrogates (Berend, 2016; Ziff, 2017). In this way, similar to the findings of Deomampo (2016) and Rozée (2018) in India, surrogates in the United States are not systematically poor women. Data collected with surrogacy agency directors reflected the ways in which they are committed to ensuring surrogates are not engaging in surrogacy for economic survival. One surrogacy agency director told the first author (Jacobson, 2016: 37–38) that her agency has been unable to work with women on welfare for decades as it was something they could “be attacked on.. that you’re working with poor people who are doing this for the money.” Therefore, they do not work with poor people. Similarly, other surrogacy professionals interviewed in the US study saw surrogates’ financial and emotional stability, including support from family, as important to the smooth functioning of their practices and part of their advertising campaigns.

Although ethnographic research indicates that surrogates in the United States are primarily white, lower middle- and middle-class women, this does not necessarily equate to a lack of socio-economic disparities, coercion, and exploitation in the US surrogacy industry. Although we do not have large-scale national studies that examine these issues, researchers have addressed exploitation via analysis of the stated motivations of reproductive workers and their narratives of their own experiences. By talking directly to participants, researchers are able to move beyond the common exploitation versus liberty framework presented in much of the media on these arrangements. The empirical research on surrogacy in the United States presents multiple motivations and nuanced experiences of surrogates as they labor to gestate and bear children for others. Surrogates in these

studies overwhelmingly state that they engage in surrogacy due to their interest in helping others, their desire to assist their families financially, and their love of pregnancy and birth (Berend, 2016; Jacobson, 2016, 2022; Ziff, 2017). Similar to the surrogates in the second author's study, they have not framed their surrogate labor as a matter of survival. This does not mean that women employed as surrogates do not face economic or racially structured precarity. Rather, consistent across these studies is a lack of articulated racial and socio-economic exploitation due to surrogacy per se.

## Discussion

The two case studies conducted by the authors show that surrogacy is organized and experienced according to different contextual logics in India and the United States. However, they share common characteristics: surrogacy in both locations was commercial and transnational. In both contexts, women were engaging in reproductive labor within specific reprowes. And although there was less media or ideological attention paid to surrogacy in the United States, both gave rise to stereotypes and even speculation, linked to the socio-economic context or history of the respective country.

In India, surrogacy appears as a “gendered, exploited, and stigmatized” (Pande, 2009) labor that echoes the Indian-specific context and gender norms. In the United States, framings of surrogate labor are largely binary, with exploitation contrasted with altruistic gift-giving (Markens, 2012; Ragoné, 1999). But field studies nuance the assumption of vulnerable women's exploitation based on gender inequalities. They demonstrate that rather than poor women being exploited into gestating and birthing for others, women of some financial standing or stability are recruited (Berend, 2016; Deomampo, 2013; Jacobson, 2016; Rozée, 2018; Rudrappa, 2012b; Ziff, 2017). In India, caste may also be a determining factor (Majumdar, 2018). Furthermore, most surrogacies in both the United States and India, especially since changes in India regulation have forbidden transnational and commercial arrangements, are mono-racial: with white US surrogates working with white US intended parents and Indian surrogates working with Indian intended parents.<sup>6</sup> Claims of widespread racial and economic exploitation of destitute women of color by white intended parents, therefore, do not capture the lived reality of many of those involved in surrogacy today.

## Conclusion: lack of empirical evidence and speculation

Surrogacy, as noted by others, has been presented in some of the academic research and much of the existing public commentary and resulting public consciousness as necessarily an arrangement of gendered, racial, and economic exploitation (Berend, 2016; Markens, 2012). However, considering the findings of research based on the discourses and experience of people actually participating in surrogacy (intended parents and surrogates) opens up analysis to a more complicated landscape. Until we have large-scale surveys that would statistically analyze the sociodemographic profiles of the surrogacy participants, only ethnographic studies with a situated analysis can capture the complexity of surrogacy in terms of social class, race, and gender relations, and therefore go beyond ideological representations of local and transnational surrogacy. As we have attempted to demonstrate in this article, when field-based research is conducted with those directly involved in surrogacy (health professionals, agencies, and surrogates themselves), stereotypes can be deconstructed and assumptions replaced with empirically-grounded nuanced understandings that articulate both global realities and specific local contexts.

We are not claiming that exploitation or coercion does not—or cannot— exist due to the understood demographic trends of largely mono-racial arrangements with surrogates of working and middle class standing. Rather, we are arguing that claims about surrogacy should be based on

empirical data and much of the empirical data available call into question broad-brush claims of wholesale exploitation. Although comprehensive national demographic data on surrogacy do not exist in the United States or in India, we can extrapolate from small-scale ethnographic research. That research points to a more complex landscape that calls for more nuanced analysis on the ways in which the systems of power of gender, race, and social class may be at play. We posit that surrogacy, like other reproductive processes and female-dominated occupations, reflects specific global and local systems of power and we encourage both further empirical research on these lived experiences and for that research to be integrated into theorizing about surrogacy.

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### Notes

1. This study was approved by the Institutional Review Board of the The University of Texas at Arlington. For further methodological details on this study, please refer to Jacobson, 2016.
2. The research project was approved by the Ethics Review Board of the Indian International Institute for Population Sciences. For further methodological details on this study, please refer to Rozée, Unisa, La Rochebrochard, 2020.
3. Caste is underreported in research on surrogacy in India. In the second author's study, when surrogates spontaneously addressed the issue, they declared belonging to different castes from the Brahmin group to other lower castes. In a study distributed in 2012 in Punjab and Delhi, Sama reports caste diversity among Hindu surrogates (Mahajan and Marwah, 2012). Caste does not appear to be a priori a factor in engagement or recruitment for surrogacy. More studies are needed to further explore this issue.
4. In Chennai, the agency that put the sociologist in touch with the surrogates and the intended parents mainly recruited the surrogates through an advertising campaign on newspapers and TV.
5. For other public reactions on this new law, see *Indian Express*, December 24, 2018; *Live Law*, January 5, 2019; *Deccan Chronicle*, January 10, 2019
6. Though the Surrogacy Bill was recently approved in India, surrogacy has to be performed by a "close relative" (the term is nevertheless not defined) meaning that it will favor same religion, cast, and origin arrangement. This reinforces the conclusion that surrogacy arrangement is mono-racial.

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