

Surrogacy in india: a form of women oppression or a gift offering approach

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The Gift of a Life

Recently the New York Times reported on the state of birth surrogacy in India. Currently, there is a \$400 million international surrogacy market in India. The majority of surrogacy in India involves foreign women paying an Indian woman a sum of money to carry and give birth to a child that is not hers (Najar). The Indian government sees this phenomenon as lending itself to the exploitation of Indian women and is working to ban Indian women from being surrogates for foreign women. Birth surrogacy can be viewed as an example of giving and can be analyzed in terms of being a gift. Bringing in Marcel Mauss's theories on gifts and Nancy Scheper-Hughes' interpretation of organ donation, I will analyze the phenomenon of surrogacy as a form of gift giving. Using both Mauss's and Scheper-Hughes theories on systems of exchange, we can better understand the positionality of those involved on both sides of the exchange and what exactly prompts intervention from an outside party.

Gifts are not always exchanged on equal terms. It is often the case that one person has more to give than the other, or that one would benefit much more from receiving compensation. In this case, an individual who is more in need, is more likely to give or do more and receive less. This sets up the exploitative nature of surrogacy that the Indian government is wary of. Those with less money will take on more dangerous or harmful tasks in order to gain just a small reward. In many cases, social status sets the price of the service; compensation for the good or service may be less than appropriate. Mauss explains the harm that comes along with certain gifts. He states that “

charity is still wounding for him who has accepted it” (Mauss 65). In this example, we can look at the woman who performs surrogacy as the one receiving charity in the form of payment for her service. While this is not charity in the traditional sense, we can look at this payment through the lens of charity for a few reasons. The first reason is that it is given from someone much wealthier to someone who has less financial resources. The second reason is that the payment is small, and typically unequal to the service it is paying for. It does not do much to lift the receiver out of poverty; it is more of a gesture, as is charity. Additionally, Mauss speaks of the wounding nature of charity. In surrogacy, the payment for the service comes with the risk of carrying a child. Mauss’s theories help elucidate the nature of gift giving in a situation where the needs of the two people are vastly different.

Not only does the socioeconomic status of a person influence the dynamic of gift giving, but their gender does as well. Scheper-Hughes relates gender to the phenomenon of organ donation, a process that can be looked at through a similar lens as surrogacy. In the case of organ donation, “ the tendency is to choose the least valuable, least productive family member” (Scheper-Hughes 508). In many societies where the male is the breadwinner of the family, women are viewed as the least economically valuable family member. This leads them to put their bodies at risk for a small financial gain. While organ donation can be done by anyone, due to the nature of surrogacy, it can only be performed by people with uteruses. This further skews the amount of women that feel obligated, or are seen as obligated, to become surrogates in exchange for compensation. In acknowledging the socioeconomic situation of a woman, “ rather than celebrate the ‘ altruism’

of women worldwide, we ought to be paying attention to the social pressures exerted on them to be living donors” (Scheper-Hughes 508).

Another interesting aspect of the surrogacy controversy in India is that it is prompting government intervention. As in most cases, markets and economies are regulated to some degree. Yet, what varies is who regulates these markets and with what motivations. The question to be analyzed is, who are the rules and regulations really protecting? While certain aspects of surrogacy are regulated, most of the practices are set by the wealthy families who are employing the Indian women as surrogates. Their socioeconomic standing and power allows them to set the terms and conditions of the surrogacy. In many cases of foreign surrogacy, the Indian women are left powerless in this exchange. While certainly it is true that individual persons are setting specific market standards, as Mauss claims, “it is not individuals but collectives that impose obligations of exchange and contact upon each other” (Mauss 5). Wealthy groups of people from affluent countries are the persisting structure that acts as the collective that controls this type of exchange market. Indeed, it is the interests of the wealthy that are being protected and prioritized.

This imbalance in market control is exactly what is prompting the Indian government to intervene. Mauss acknowledges the possibility in power differences in markets and claims that “the rich must come back to considering themselves...as the financial guardians of their fellow citizens” (Mauss 69). Yet, it is clear that this is not what is happening in the situation of international surrogacy. The rich are doing just the opposite of what Mauss

is urging them to do. There is this lack of responsibility on the side of the consumer for a few reasons. The first is physical distance. Using surrogates halfway across the world eliminates the visual and more personal aspects often associated with exchanges. Secondly, as Scheper-Hughes points to, “by transforming the ‘gift’ of an organ into a ‘commodity,’ the burden of debt to the giver is expunged” (Scheper-Hughes 509). Being a surrogate is not a gift that is being given; it is part of an exchange. It appears fair to the people buying the service because those providing it are receiving compensation. The very personal nature of providing a womb seems to be lessened by the exchange of money. The compensation obscures the complications and risks that are taken by those providing surrogacy. But, when there is a true imbalance between fee and service, others take note and feel uneasy about the exchange. This is exactly what is occurring in India with the government’s desire for regulation. Third party intervention is needed when the two parties involved in the exchange are on uneven footing.

Mauss says that “things sold still have a soul,” a phrase that applies in the literal sense in the example of surrogacy (Mauss 72). The item in this exchange is a place to grow a human being. In a way, surrogacy is commodifying a human being. With commodification comes the other aspects of market values and exchanges that usually apply to objects or services, not human beings. But, surrogacy has provided an interesting case study on the ethics of exchanges of the body and how that is influenced by different positionalities of different individuals.