

Commercial Surrogacy Is Inherently Unethical

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Surrogacy, especially commercial surrogacy has been gaining ground rapidly in India. Though some doctors and others have been presenting surrogacy, one of the Assisted Reproductive Technologies, as a benevolent gain of modern technology to the childless couples, I would argue that like prostitution, commercial surrogacy is inherently dehumanizing and unethical. Hence my proposition is - like the use of medical technology for sex-determination for sex-selection, commercial surrogacy too should be seen as misuse of medical technology.

This opposition to commercial surrogacy is not from a traditional, moralistic perspective of loyalty to the patriarchal institution of marriage. It is based on differentiating between humane versus commercial or patriarchal sexual, reproductive relations. To make such a distinction, one must answer the following question -

" if commercialization of various physical and mental capacities is acceptable, if hiring out of teacher's or doctor's or mechanic's capacity to render service to others is not considered a pathology, why should hiring of sexual and reproductive capacity be considered a pathology?"

I would like to point out that firstly, the Leftist tradition has made a thorough critique of commoditification of human capacities and has been striving for a society in which this commoditification does not occur anymore. Today, this 'dream' seems to be far away. But so is the dream of man-woman equality! Does it mean that we give up our egalitarian, libertarian, humane criteria to assess the existing reality? Secondly, even within the framework of commoditification of various human capacities and activities, we need to make distinction between -

1) Human activities which are inherently intensely personal, intimate and humanely meaningful only in the context of a particular person/s (sexual relations, child-bearing)

2) Most other human activities which are inherently social, whose rationale and purpose is not defined in the context of any specific person. For example participation in agricultural or industrial production or activities like teaching or activities like performing arts like dancing.

Humane sexual relations including sexual intercourse is an activity whose content and purpose is identical for both the partners: co-enjoyment, mutual satisfaction of their certain human need. This co-enjoyment, mutual satisfaction occurs generally but not necessarily within the framework of love relationship. *Dehumanization occurs when this purpose is changed into giving a sexual service to somebody or receiving it.* This service can be due to duty or compulsion borne out of patriarchal or other hierarchical relations or in exchange of some payment or other material gain.

Child bearing is also a similar, intensely personal, intimate process and can be humane only in relation with specific individual with whom one is in love with. However, traditionally many a times it has been a patriarchal *service* rendered by the woman to her husband/his family. Now in today's fully commercial, exploitative, patriarchal world, sometimes poor women hire out their reproductive system

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(not only the uterus) as a *service* to those infertile couples who are ready to pay for it. In the traditional family structure, even if the relations with the husband may not be humane, the baby stays with the mother who can enjoy rearing her baby. In commercial surrogacy the mother is deprived of this solace!

Commercial surrogacy is the specific form of dehumanization resulting from the very logic of commercialization of 'everything under the sun' and the logic of patriarchy. They together convert woman's sexuality and reproductive capacity into a commodity. Admittedly, it is a long way to go to overcome prostitution, 'sex-work' as it has been there for ages. But that does not mean that newer additions of similar de-humanizations are to be accepted. It may be pointed out that if commercial surrogacy is accepted, there can not be an opposition to selling of babies by parents.

When a woman becomes pregnant out of choice, she is ready to undergo various health risks of pregnancy, discomforts, and restrictions *for nine months* as well as the risks and ordeal of labour only because she wants to undergo the experience and the joy of mothering. Commercial surrogacy converts this intimately personal process into an impersonal market relationship, in which a poor woman agrees to bear a child for somebody else to earn some money! Even if some women say that they are happy in rendering this service does not make it less dehumanizing just as slavery does not stop being inhuman just because some slaves see their salvation, pleasure in rendering slave service.

It may be noted that commercial surrogacy is not allowed in many developed countries – Germany, France, Japan, Canada and so on and many states in the US. However couples from these countries come here to hire the reproductive capacities of poor women in India.

Like organ transplants, should surrogacy be allowed as a totally voluntary option with no financial/material incentive? No, at least not today when there is such gross inequality and patriarchy. Today when surrogacy occurs within a family, it is far more probable that there would be exploitation of the woman in some form.

Commercial surrogacy is certainly not a progressive step. Doctors should not use their capacities and new technologies for the purpose of such a dehumanising practice. We look forward to an era when this shameful service would wither away and when medical technology would be harnessed only to foster human dignity and happiness for all. Till this occurs, the minimum interests of the poor women who 'opt' for offering their bodies for surrogacy have to be protected. In this spirit, we can suggest specific improvements in the various provisions in the legislation. But there has to be a clear, unambiguous commitment to abolish surrogacy.
