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CAF Submission Proposal: The Race to The Bottom?: An International Feminist Analysis of the International Surrogacy Market

This paper will examine the current under-regulated international surrogacy market and compare it to previously under-regulated intercountry adoption market (prior to international protections such as the Hague Convention on Intercountry Adoption). Compared to intercountry adoption in the past few decades, media coverage of international surrogacy has tended to be overly positive, and even scholarship in this area tends to take a view of international surrogacy as a win-win: that is, a couple from a Western country can undergo the process of in-vitro fertilization and surrogacy for a fraction of the cost as in their home country (if it is even available in their home country) and the surrogate in a developing country can earn a much better living than they would otherwise be able to earn by becoming a surrogate. Countries, such as India, are attempting to market themselves as a "premier" surrogacy destination by offering inexpensive services, ensuring quality medical care, and legal protections for the would-be parents, but at what cost? What does it mean for the women who are serving as surrogates in the fertility tourism market? Using India as an example of a successful international surrogacy destination, the paper will examine how Indian feminist organizations have lobbied to regulate surrogacy through the Assisted Reproductive Technology Regulation Bill 2010. I will contrast this to the Western feminist preference for individual autonomy and lack of regulation in the ART context and examine how this perspective does not work in the international surrogacy context. I argue that the Western feminist ideals of autonomy and lack of paternalism does not comport with the reality of the women who serve as surrogates in India. Through field interviews, I will examine feminist non-governmental organizations in India who have successfully sought regulation to protect the surrogates from being subject to undue pressure from family members and due to the reality that those who serve as surrogates are often those in the poorest, least educated, and lowest classes of Indian society. The money being paid for surrogacy-rather than being empowering-may be coercive in such cases. Using an intersectional lens, this paper will suggest solutions that allow for the international surrogacy market to flourish while preventing exploitation of surrogates in developing countries. Further, this paper will identify areas of overlap between the underlying normative assumptions of Western feminist thought and those of Indian feminists and suggest an international feminist view of international surrogacy.