

FAMILY AND KINSHIP

Negotiating Kinship in Transnational Surrogacy

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Over the past decade, India's flourishing fertility industry has expanded to attract assisted reproductive technology (ART) consumers from around the globe. Today, these so-called "reproductive tourists" view India as a global hub of transnational surrogacy arrangements, where intended parents can potentially purchase an egg cell in South Africa, implant the embryo in a womb in India, and bring their desired baby home to the United States. As intended parents, infertility specialists, surrogate mothers, and egg donors collaborate in the creation of babies, how do they conceive of kinship and family? During twelve months of ethnographic fieldwork in Mumbai, India, I set out to map the social and cultural contexts in which transnational reproduction occur, with the goal of understanding how this broad range of actors creates and makes sense of their connections with each other across space, economic stratification, and social hierarchies.

In her work on adoption in the US, Christine Gailey (2010) highlights the processual nature of kinship through what she calls substantiation. Building on Gailey's notion of substantiation, I found that in the context of transnational surrogacy, kinship is a complex chain of events, something located in everyday practices and experiences, and constructed within a framework of race, class and gender hierarchies. Within this framework, dominant ideologies of race, ethnicity and biogenetic relationships are called into question as they are simultaneously destabilized and reinforced by these global reproductive actors. Here I discuss two contexts in which intended parents negotiate kinship in transnational surrogacy.

DEFINING PARENTS AND ASSIGNING CITIZENSHIP

At present, only the Indian Council for Medical Research has developed guidelines regulating the provision of ARTs. These guidelines, however, are not legally binding and reproductive rights activists, physicians, bioethicists and legal experts have called for the creation of laws governing gestational surrogacy and ARTs. Yet while the draft bill legalizing surrogacy in India remains pending, the current absence of any ART or surrogacy laws has raised questions about potential immigration and citizenship issues for babies born to Indian gestational surrogate mothers and commissioned by foreign couples. For instance, while many European nations rely on the principle of *jus sanguinis* ("right of blood") for determining citizenship, in which one or both parents are citizens of the nation, conflicts have arisen when contradictory definitions of "parent" collide. While Indian doctors and policymakers insist that the "mother" of the child born through

surrogacy is the genetic mother (or, in cases of egg donation, the commissioning mother), regardless of who gives birth. Countries such as Norway, for example, define the mother explicitly as the woman who gestates and gives birth to the child. Within this context, several couples I interviewed found themselves struggling to negotiate competing definitions of “parent” in order to gain citizenship for their children born through surrogacy in India.

Anthropologists have shown how surrogacy deconstructs motherhood into genetic, birth, adoptive, and surrogate maternities, with the potential for multiple mothers to a single child (Cussins 1998). In India, this multiplicity of motherhood roles has created legal conflicts when securing documents for immigration and citizenship, where Indian courts have been unable to determine legal parentage or the child’s nationality in some custody cases. As transnational surrogacy reflects a “highly complex legal patchwork” (Hochschild 2009), policymakers find themselves without precedents in dealing with the contemporary social, political and economic issues involved in parentage and family.

VARIATION ON THE THEME OF YOUR LIFE

While scholars have argued that commercial surrogacy disrupts traditional Western conceptions of family and kinship, transnational surrogacy in India includes additional disruptive boundary crossings, namely, the technological implantation of genetic parts of the couple’s (or donor’s) body into the surrogate’s womb; the racial, ethnic, religious and economic boundaries among the multiple actors involved; and the national boundaries that intended parents cross in order to create babies. Within this context, relationships between intended parents and surrogate mothers are not clear-cut; indeed, given the lack of any Indian laws regulating ARTs, the role of physicians comes to the fore as they negotiate their own moral and professional boundaries about how they decide to organize and facilitate relationships between intended parents and surrogates (often limiting contact as much as possible). As an anthropologist studying reproductive tourism in India, I observed that the actors involved in surrogacy employ a range of strategies to create and make sense of their relationships with each other, where kinship ties are alternately challenged, transformed or reinforced.

For instance, many of the intended mothers I interviewed arrived at the decision to pursue surrogacy in India after long histories of infertility and with many concerns about the moral and ethical implications of transnational surrogacy. One woman, Ariana, described how she reached her decision to pursue surrogacy in India and why adoption was not an option for her:

Adoption is a very different process...And the fact that you cannot extend your lineage any longer is a very difficult thing to come to terms with. Surrogacy, although it’s quite complicated...one thing that it definitely offers is the last opportunity to try to extend your lineage so you can actually have your own children.

When I asked her to expand on the importance of carrying forth her lineage, she replied:

When the child comes from your own environment, inheriting your DNA...it’s kind of like a variation on the theme of your life. Somehow I think that if it is our child, then we’re not only going to be influencing his life from the outside, but also from the inside—from the fact that it is our flesh and blood. Well, just flesh, not blood; the blood is going to be from the surrogate.

Many of the intended parents I interviewed shared Ariana’s view that biogenetic connections are crucial in passing on “some variation of [their] theme of life,” yet at the same time, they

acknowledged the exigency of the surrogate's own blood. This is in contradiction to medical and policy language in India, which consistently defines motherhood in terms of genetic or intended motherhood, effectively excluding the work of the gestational surrogate.

Indeed, the narratives of many participants in my study reflect a tension between policy discourse that prioritizes the genetic relationship between parent and child, and the experiences of parents (and some surrogates) who believed in the "bond of blood" that existed between surrogate mother and baby. Moreover, many parents had limited contact with their surrogate mother, and felt deeply conflicted about the hierarchies of race and class that permeated this relationship. Here, notions of culture and heritage came to the fore, as many parents I interviewed consciously strove to "maintain the Indian element" in their children's identity. As my research findings reveal, ideas about a child's biogenetic origins emerge in tension with a child's right to identity, often understood as inseparable from its surrogate mother and *her* ethnic, cultural and religious background.

Clearly, the demand for ARTs in India by global consumers signals dramatic "reproductive entanglements" with kinship relations as well as governmental regulation at the local and international level (Rapp 2011). Throughout my fieldwork, I noted a disjuncture that exists between policy and the lived experiences of actors involved in surrogacy, and more fine-grained qualitative research is needed to inform ongoing policy debates about surrogacy. While medical and policy discourse in India endeavor to compartmentalize the multiple actors involved in making babies through surrogacy, effectively defining the commissioning couple or individual as the parent, the rights of surrogate mothers remain insufficiently protected. Certainly, reproductive tourism in India provides a unique lens through which to view the complexities and nuances of changing notions of kinship and family, and reveals how participants in the business of surrogacy in India take up the work of kinship, in articulating and defining their relationships to one another as well as the child's relationship to the wide range of actors encountered in transnational reproduction.

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