

Commercial Surrogacy: Invisible Reproductive Workers in Ghana

Owusu Boampong, University of Cape Coast, Ghana
Sabina Appiah-Boateng, University of Cape Coast, Ghana
Nana Yaw Osei, Association of Childless Couples, Ghana
Richard Ametefe, University of Cape Coast, Ghana

ABSTRACT

The issues facing surrogates are labour issues. However, there is scanty literature on the working conditions of surrogates in sub-Saharan Africa. This article explores the labour conditions of these unprotected and invisible reproductive workers in Ghana. In-depth interviews were conducted with key informants between 2018 and 2019. The study revealed the following: 1) Baby agents were increasingly playing a dominant role in the surrogacy industry, and through the surrogacy homes are able to create docile and disciplined surrogates. 2) Surrogacy agreements were oppressive and designed to reinforce the control over the bodies of surrogates. 3) Pregnancy-related scars leave emotional scars on the minds of surrogates. We recommend state regulation of the industry to ensure strict supervision of baby agents to minimise exploitation of surrogates.

KEYWORDS

surrogacy home; baby agents; surrogates; commercial surrogacy; Ghana

Introduction

Recent advances in Assisted Reproductive Technologies (ARTs) have made it possible for aspiring parents who may have fertility difficulties to have babies. These advances have led to a boom in the assisted reproductive industry, where poor women rent their wombs to intending parents in order to have babies. It has been described as a multi-billion-dollar industry that is driven by innovations in reproductive technologies (Sarkar, 2018). The application of biotechnology to conception and commercial surrogacy has transformed reproductive roles once regarded as unpaid work into one of paid labour (Kroløkke and Pant, 2012; Sarkar, 2017, 2018). Conception and birthing have come to assume commercial status, where pregnancy carriers rent their wombs to intending parents for financial rewards (Sarkar, 2017). Once a common feature in the West and India, ARTs are gaining popularity in sub-Saharan Africa (Gerrits, 2016, 2018; Hörbst and Gerrits, 2016). The first baby in sub-Saharan Africa conceived through in-vitro fertilisation (IVF) is believed to have been born at Lagos University Teaching Hospital in Nigeria in 1989 (Hiadzi, 2014).

Surrogates have been described in some quarters as “repropreneurs” who provide reproductive services through the renting of wombs to achieve better lives for themselves and their own children in the future (Kroløkke and Pant, 2012). The services they provide are explained within the framework of rational choice theory (Rose, 1999; Vora, 2009). Consequently, surrogates are regarded as liberal market individuals with the freedom to sell or rent parts of their bodies for

financial gain. Other scholars, however, draw attention to the extreme commodification of body parts of surrogates and donors (Pande, 2009; Kroløkke and Pant, 2012). Pande (2010) has been one of the leading feminist anthropologists to have framed surrogacy as reproductive labour and survival strategy; she draws attention to the enormous control that surrogacy brokers and fertility clinics exercise over the bodies of surrogate mothers using dormitory techniques. The use of dormitory techniques not only provides spaces of control but also spaces of resistance by surrogates, at least in India. Similarly, Sarkar (2017, 2018) frames reproductive workers (indeed informal workers) as people with rights (just like children born through surrogacy and intending parents) that must be protected. However, the rights of surrogates are very often ignored in national legislation. As she puts it: “The question of the protection/rights of surrogates as a particular kind of worker remains largely epiphenomenal to ... [policy] discussion” (Sarkar, 2018: 363). The surrogate mothers remain unprotected by national laws and are subjected to extreme forms of exploitation (Adomako-Kwakye and Owusu-Dapaa, 2020).

Existing research on infertility and assisted reproductive technologies in sub-Saharan Africa focuses on transnational travels of intending parents from Europe and America (largely diaspora Ghanaians) to seek assisted reproductive services, the push and pull factors for such transnational travels (Gerrits, 2018), the psychosocial consequences of childlessness on couples (Fledderjohann, 2012; Osei, 2014), the origin and development of IVF, and transnational flows of ART skills and knowledge to aid the functioning of the IVF industry (Gerrits, 2016). Within the context of sub-Saharan Africa, the discourse on commercial gestational surrogacy has been silent on surrogates and the fallout from the commodification of their labour. Relatedly, Gerrits (2016) draws attention to the little research on the practices of baby agents who recruit surrogates to carry pregnancies for other people for financial reward. We explore in this article surrogates engaged in commercial surrogacy and how their labour conditions are intertwined with the role of baby brokers. The questions we pose are: What labour conditions ensue from commercial surrogacy arrangements in Ghana? How does the insertion of baby agents into these arrangements affect the conditions of work of surrogates? The insertion of baby agents into commercial surrogacy arrangements in Ghana leads to contradictory outcomes. On the one hand, the baby agents offer disciplined surrogates for effective surrogacy services to their clients. On the other hand, there are indications of heightened exploitation of surrogates through these third-party arrangements.

The article has been structured into seven sections. Following the introductory section is one which describes the methodology employed for the study and the difficulties encountered in the field. The next section highlights neo-liberal and feminist discourses on commercial surrogacy, and pays particular attention to the framing of baby agents as transaction-cost-reducing agents and also as exploitative. The feminist perspectives on labour dormitory technique are given particular importance in this section. The Ghanaian context of commercial surrogacy is captured in section four. Section five discusses the brokering role of baby agents and the use of surrogacy homes in the industry. Section six highlights labour conditions of the surrogates. Section seven concludes the article and makes recommendations.

Methodology and Fieldwork Difficulties

The study employed an explorative research design. The data collection process took place between October 2018 and August 2019. The research team had to spend some time building confidence and trust with the few people who granted our request for interviews. One of the co-authors, who is an active stakeholder in the surrogacy business and an advocate for the regulation of surrogacy in Ghana, facilitated the initial identification of the key informants. In all, eight informants were

interviewed for this study. These comprise three informants from fertility clinics (anonymised as Clinics W, Y, Z), four key informants from baby agencies (A, B, C, D), and a human rights lawyer and advocate for the protection of the rights of surrogates. The informants were interviewed one-on-one, using an interview guide.

Some individuals and baby agents who had earlier agreed to participate in the study eventually withdrew. In one instance, the agency was hostile towards the research team when we visited its premises for the interview, and this is partly explained by the fact that surrogacy in Ghana is not regulated by the state and that they would not want their activities in the limelight. We could not interview a single commercial surrogate for the study; they remain highly invisible and therefore could not be located for interviews. We initially planned to use a snowball strategy to locate the surrogates but this was not possible. The informants were either unwilling to divulge further information about the surrogates or had lost all contact with them. It was also explained that some surrogates discontinued the use of their regular telephone numbers to erase any form of contact with the agents and the fertility clinics. Regardless of this shortcoming, the study relied on the responses of the other informants who granted the interviews to gain an understanding of the conditions of work of surrogates either engaged directly by the fertility clinics or through baby agents. The interview guide solicited responses to questions on the socio-economic characteristics of surrogates, the increasing popularity of the use of surrogacy homes, the nature of surrogacy contracts, financial rewards, and the labour and emotional conditions of the surrogates.

Neo-liberal and Feminist Perspectives on Commercial Surrogacy

The neo-liberal perspective on commercial surrogacy believes in individual freedom to make choices, entrepreneurial spirit based on interest maximisation and the free market system (Rose, 1999; Vora, 2009). In line with this, Kroløkke and Pant (2012: 233) refer to “repreneurs” – a kind of entrepreneurship in which an individual is transformed into a “mobile ... worker in reproductive services”. The surrogate is seen as an independent and rational individual capable of making responsible and rational decisions to turn part of her body (in this case the womb) into a vehicle for the foetus (the product) for a price reward. The surrogate is an anonymous maternal caretaker and invisible worker whose functions are restricted to the period of gestation. Kroløkke and Pant further note that the role of the surrogate is short-term and she is expected to self-regulate her behaviour during the entire gestation period by adopting appropriate lifestyle choices such as abstinence from sex, alcohol and smoking in order not to injure the foetus. The surrogate, at the same time, is expected to remain emotionally disengaged from the surrogate child. In this way, surrogacy is framed “within an individualistic rhetoric of choice and draws upon an understanding of the body as individually owned and governed ... the ideology of neoliberalism reconfigures the ... surrogate into a rational, choice-making, and responsible individual” (Kroløkke and Pant, 2012: 234). The neo-liberal ideology frames the surrogate mother as a transient vessel who should not have any emotional attachment with the baby; she is only needed because of her womb and therefore is disposable after the baby is delivered, just like any used commodity (Pande, 2010).

Galbraith, McLachlan and Swales (2005) offer a transaction cost variant of the free market analysis of commercial surrogacy and draw attention to the uncertainty and risks prevalent in anonymous surrogacy transactions. According to these authors, to achieve certainty in the surrogacy marketplace requires institutions, such as surrogacy agencies, that reduce transaction costs. The transaction costs are very often associated with information asymmetry between surrogates and intending parents. Galbraith et al. identify the risks pertaining to the surrogacy market to include moral hazards, and search and screening costs. Moral hazards in surrogacy

arrangements occur when the intending parents cannot easily align their interests to those of the surrogates. The authors observe that when the pregnancy is successful, the health of the child will depend on whether or not the surrogate mother smokes, drinks or takes recreational drugs. In this instance, intending parents would wish that the surrogates abstain from these behaviours, but it is always a challenge to gather all the information regarding the health status and lifestyle of the surrogates before the contract is entered into. It is also difficult to enforce the actions of surrogates *ex post* when pregnancy is successful. In this regard, the intending parents would have to incur additional costs to screen a potential surrogate and monitor her to ensure that her actions and behaviour do not in any way negatively affect the health of the foetus. Another major cost often faced by the intending parents is the search cost, which has to do with the time, effort and finance required to find surrogates who possess the characteristics suitable for the surrogacy arrangement.

The coordination functions of surrogacy agencies, in the view of Galbraith et al., are important for reducing search costs. They observe, “Commercial surrogacy agencies reduce transaction costs to both surrogates and the commissioning parents and this is the way they earn their fees ... A key element of the reduction in transaction costs is the reduction in the risks associated with the surrogacy arrangement...” (Galbraith et al., 2005: 25). The appeal and the desirability of baby agents are linked to their ability to reduce search and screening costs, as well as moral hazards in the surrogacy marketplace. Similarly, Carbone and Madeira (2015) observe that the insertion of baby agents into the surrogacy value chain tends to normalise the market because, as repeat players in the industry, they help to institutionalise practices and norms in the interests of both surrogates and intending parents. In the absence of comprehensive state regulation, baby brokers may “lock in” practices that smoothen the surrogacy arrangement. Brokers “act on the basis of past experience ... [and] tend to incorporate lessons gleaned from past experiences into new procedures” (Carbone and Madeira, 2015: 25). They recruit surrogates that meet the qualifying medical conditions, receive payment from intending parents, pay standardised fees to surrogates, and offer professional, legal and psychological services to surrogates. Schurr and Walmsley (2014) point to the significant role surrogacy agents, both local and international, play in the booming Mexican surrogacy industry. Local agencies recruit surrogates and match them with intending parents, with other agencies focusing on “developing surrogacy as a reputable and well-paid job ... and providing high quality accommodation and medical care (Schurr and Walmsley, 2014: 2). These practices, according to Carbone and Madeira (2015), are routinely performed by surrogacy agencies, and help to normalise the surrogacy industry.

Feminist scholars such as Vertommen and Barbagallo (2021), Vora (2015, 2019), Pande (2010)), Lewis (2017) and Rudrappa (2015) offer the fiercest critique of the neo-liberal and benign posture of surrogacy arrangements, which portray surrogates as self-interested individuals who receive financial rewards for taking the autonomous decision to participate in surrogacy arrangements. These scholars largely frame surrogacy from a labour perspective and draw attention to the dehumanising dimension of commercial surrogacy. Commercial surrogacy exemplifies an extreme form of commodification of the female body and its reproductive capacity (Sharp, 2000); “commodification leads to ‘thingification’ – processes by which children are made into (designer) products and women who are poor and perhaps living in the third world, are commodified and exploited” (Kroløkke, 2009, cited in Kroløkke and Pant, 2012: 235). The fetishism with the creation of “designer babies” without blemish displaces the surrogate mothers, rendering them completely invisible in the reproductive process (Sharp, 2000), with prominence given to the product (the surrogate baby) and the technology. Commercial surrogacy, in effect, represents “hyper-exploitative business based on the extreme objectification, commodification, medicalization, disciplining and alienation of women’s bodies (Vertommen and Barbagallo, 2021: 6).

Pande (2010) regards surrogacy as reproductive labour and a survival strategy among poor women. She defines surrogacy as a new kind of labour that is stigmatised, disciplined and exploited. She uses reproductive labour to denote “both works undertaken as a means of earning income as well as the process of childbirth” (Pande, 2010: 972). Thus, commercial surrogacy blurs the distinction between productive and reproductive work. Sarkar (2018) powerfully captures this new kind of labour in this way:

By turning women’s capacity to bear children, i.e. a very special form of labour power, into a particular kind of commodity, whereby some women carry and deliver children on behalf of other women in exchange for monetary compensations, commercial surrogacy brings the most fundamental and hitherto un-commodified aspect of reproductive labour, childbearing, within the ambit of paid work (Sarkar, 2018: 353).

This new form of paid labour has characteristics and conditions similar to the informal economy (Sarkar, 2018). The surrogates, particularly in developing countries, are unrecognised, unrecorded, unprotected, unregulated, and as a result face precarious labour conditions. Situating surrogacy in the context of labour analysis, in the view of Vertommen and Barbagallo, brings into focus the conditions under which surrogates operate:

...a labour analysis of gestation brings our attention to the actually existing conditions under which this work occurs. In making these conditions visible and rendering them within a labour process, it is possible to critically investigate how the conditions of surrogacy are co-constitutive of the gendered and racialised dynamics of unwaged pregnancy/motherhood (Vertommen and Barbagallo, 2021: 10).

Wilkinson (2003) has delved into the exploitative nature of surrogacy and suggested that surrogates are more likely to be underpaid and face enormous conception risk relative to the benefits that accrue to the intending parents and other third parties. The surrogacy agents, just like in any commercial transaction, extract surplus value from the surrogates through their rent-seeking behaviour (Birinig, 1995); in the process they deny the surrogates the ability to appropriate the full value of engaging in commercial surrogacy. Physically, the surrogate mothers face the risk of pregnancy-related complications that could lead to their inability to give birth again or even death, yet they are not compensated for disabilities and deformities that might result from the procedure (Adomako-Kwakye and Owusu-Dapaa, 2020). Psychologically, they have to contend with the grief, regret and loss that linger for long periods after giving up the surrogate child to the intended parents (Brinig, 1995). Jacobson (2016) and Rudrappa (2015) also allude to the emotional stress of having to give up the baby to the intended parents after delivery.

Wilkinson (2003) recognises the exploitative nature of commercial surrogacy yet he does not support its ban because, according to him, a ban will not necessarily remove the conditions (that is, poverty) that could make surrogates vulnerable to exploitation elsewhere if not through surrogacy. In their commentary on the ban of commercial surrogacy in Mexico, Schurr and Perler (2015) indicate that the conversation around the ban failed to engage the material conditions of women which propelled them to take up reproductive work. Vertommen and Barbagallo (2021: 8) in a similar vein argue that the choice of becoming a surrogate in the surrogacy marketplace is actually structured by the economic realities of the women: “... it is the material realities of neoliberal economics and women’s uneven access to income and welfare that structure women’s ‘choices’ to become surrogates....”

According to Wilkinson (2003), banning surrogacy may not necessarily be the answer to

exploitation as poor women could be predisposed to exploitation elsewhere. The author argues for surrogates to be paid well, and at the same time improvement to their working conditions in other sectors (where poor women could equally be exploited) is sought through state regulation. Sarkar (2018: 363) equally supports the regulation of commercial surrogacy using the labour rights approach and argues that the best possible way of protecting the rights of surrogates is through the International Labour Organization's (ILO) decent work agenda for informal workers, which guarantees "a minimum social floor through rights and regulation of those rights". Sarkar also states that surrogates, like any type of worker, have rights to the decency of work that ensures access to fair compensation, legal representation and freedom from servitude.

Pande (2010, 2014) highlights the excessive control fertility clinics and surrogacy agencies exercise over the bodies of surrogates to produce what she calls the "perfect mother-worker combination". The "disciplinary project" produces a perfect mother who nurtures and cares for the foetus and at the same time is required to behave professionally as a submissive, disposable worker who must not develop any emotional attachment to the baby and is ready to give the baby to the intended parents without causing any trouble. The good surrogacy mother and a disciplined worker in the case of commercial surrogacy in India was achieved through counselling, surrogacy contract and putting the surrogates in hotels. The use of surrogacy hotels represents "exceptional managerial control over the workforce, with no access to a home space independent of the [workspace]" (Pun, 2007: 245). In the view of Pande (2010), economic vulnerability is not a sufficient criterion for the selection of a surrogate; rather, a surrogate must be a disciplined contract worker willing to give up the surrogate baby immediately after delivery. Surrogates with these perfect characteristics do not appear by chance but are produced through the use of deliberate enclosures (Foucault, 1995; Pun, 2007). By keeping the surrogate at the hotels, the fertility clinics and the agencies are able to exert complete control over them throughout the period of the pregnancy. Pande (2010) demonstrates the agency of the surrogates in India, who resisted their disposability by building bonds of connection with the intended parents and the babies. The surrogacy hostels became sites of resistance as "the surrogates develop a sense of collective identity and the ability to demand some minimum rights and protection from exploitation" (Pande, 2010: 990).

ART and the Ghanaian Baby Market

Ghana, South Africa and Nigeria have been described as "comparative regional success stories" when it comes to the establishment of IVF clinics (Inhorn and Patrizio, 2015: 6). The number of ART clinics in sub-Saharan Africa is on the increase, with some 110 clinics operating in the region (IFFS, 2019). Fifteen countries in the region have registered with the African Network and Registry for ART (ANARA), the regional monitoring body, with South Africa, Nigeria and Ghana having the largest number of ART clinics (IFFS, 2019; Moll et al., 2022). South Africa and Ghana are regarded as the "reprohub" in sub-Saharan Africa (Moll et al., 2022).

The first IVF baby in Ghana was born in 1995. The procedure was conducted by a private clinic, the Pro Vita Hospital (Gerrits, 2016). This foremost fertility clinic was established by a German-trained gynaecologist who, after many years of medical practice in Germany, returned to Ghana to set up his private fertility clinic. As of 2015, about fourteen clinics offered assisted reproductive technologies around the Accra-Tema enclave in Ghana. ARTs available in Ghana include in-vitro fertilisation (IVF), intrauterine insemination (IUI), intracytoplasmic sperm injection (ICSI) and testicular sperm extraction (TESE). However, Gerrits (2016) reports that the fledgling ART sector in Ghana faces the challenge of a lack of high-quality embryology knowledge,

to the extent that two leading fertility facilities in the country have to rely on foreign embryologists to carry out their treatments. The narrative of these fertility clinics is about their ability to ensure that childless couples with the financial wherewithal can also have babies through the use of assisted reproductive technologies.¹ These clinics are privately owned by medical entrepreneurs who provide private health care in the lucrative market of childlessness, primarily for profit-making motives (Gerrits, 2016). The sector is privately driven with virtually no support from the government of Ghana. Gerrits (2016: 4) characterises the liberal ART sector in this way: “Ghana may thus be described as neoliberal in its ART policy as it largely relies ‘on self-regulation and market forces’ similar to the US which lacks a central ART policy or ART registry.” An informant we interviewed indicated the growing demand for fertility treatment; the employer, being conscious of the money that could be made from the sector, ventured into the ART sector. This reinforces the neo-liberal view of the Ghanaian ART sector as driven by profit-motivated private medical entrepreneurs:

The fertility clinic is almost six years old. The hospital was running without this aspect until my boss introduced it ... My boss is a businessman. He always wants to make profit and extra money, and again he realised this aspect was gaining market and so he introduced it (Interview, Clinic Z informant, 1 November 2018).

The users of assisted reproductive services of the clinics are expatriates who reside in Ghana, clients from neighbouring West African countries (Nigeria, Ivory Coast and Burkina Faso), diaspora Ghanaians living in the United States and Europe, and resident middle-class Ghanaians. As at 2019, Ghana had eighteen ART centres, all of which were private-hospital-based clinics (IFFS, 2019). Currently there is no assisted reproductive technology legislation in Ghana (Gerrits, 2016). However, Ghana’s ART has professional standards and guidelines in place (IFFS, 2019).

Surrogates in Ghana are framed as rational actors and survivalists in the fertility marketplace who rent out their wombs for financial consideration.

Based on my conversations with surrogates during fieldwork, I am not inclined to consider them as (merely) victims of the ART industry ... The reproductive jobs provide them with financial opportunities that they would not otherwise have had. Without denying the potential for exploitation, I frame surrogacy as a survival strategy and reproductive labour (Gerrits, 2018: 3).

Just like Pande (2010) and Sarkar (2018), Gerrits characterises surrogates in Ghana as reproductive labourers who pursue this work as a survival strategy. However, Adomako-Kwakye and Owusu-Dapaa (2020) draw attention to the vulnerability of surrogate mothers and the unequal power relations between them and other powerful actors, which predisposes them to exploitation in the industry.

Baby Agents as Surrogacy Brokers

The fertility clinics either recruit surrogates directly or rely on third-party baby agents. However, it emerged from the interviews that the clinics prefer the services of brokers. The surrogacy brokers search for, screen, contract and accommodate the surrogates, often at undisclosed premises, for

¹ The infertility rate among Ghanaian women is about 15 per cent, and about 40 per cent of men are also deemed infertile (Ghana Statistical Service, Ghana Health Service and ICF Macro, 2009; Gerrits, 2018).

the entire gestation period. This arrangement frees the hands of the clinics from non-core surrogacy functions (such as the provision of care), and enables them to concentrate on core medical procedures. On the question of why fertility Clinic W does not recruit surrogates directly, the response was:

It would be too much work. If you have to accommodate, have somebody taking care of them ... it is a whole industry; we can't do everything (Interview, Clinic W informant, 6 November 2018).

In another instance, the difficulty of recruiting surrogates was the motivation behind the use of the services of surrogacy brokers. When Clinic Z was asked about why it uses the services of one particular baby agent that is run by a retired nurse, they responded that it ensures the supply of surrogates:

[It is] more reliable, dependable, provides little or no trouble for donors and surrogates (Interview, Clinic Z informant, 1 November 2018).

Baby Agency A was established in the early 2000s and draws its clients from Ghana, the United States, Holland, the United Kingdom, Switzerland and francophone African countries such as Togo, Benin, Ivory Coast, Mali, Burkina Faso and Congo. It has recruited a fluent French speaker to facilitate ease of communication between its francophone clients and the fertility clinic. At the time of the interview, the agency had twelve surrogates who were residents at the “home” and employed three nurses to care for them. The surrogates spend twelve months in the surrogacy home; the first three months are used to “prepare” them for the IVF procedure. During this period surrogates are monitored to ensure that they take their medication on time. The agency operates a policy of “no phone call, no visit” and takes possession of the surrogates’ phone devices until after delivery. In one instance, when the researcher asked to speak to the surrogates, the response was, “No, I have seized their phones”. If it becomes necessary for a surrogate to make a phone call to a family member, they do so on the official phone line in the presence of the agency staff. The exact location of the surrogacy home is not known by many except the staff; it is unmarked and the secrecy surrounding the surrogacy home is best captured by one of the informants:

The surrogacy home ... you will not be able to identify ... Even neighbours don't know that it is a surrogacy home (Interview, Key Informant A, 4 May 2019).

The agency keeps the home secret to ensure that husbands and boyfriends are denied physical access to the surrogates to prevent potential sexual encounters. The secrecy also serves to anonymise the relationship between the surrogate mothers and the intending parents. The surrogates and the intending parents seek anonymity because of the social stigma attached to commercial surrogacy in Ghanaian society. For the surrogates, this protects them from the displeasure of having to answer to close friends and relatives about the whereabouts of the baby post-delivery. Intending parents prefer anonymity to forestall future blackmail for money from surrogates who find themselves in financial difficulties later on.

We are in Africa. If people find out that a woman wasn't able to carry her own pregnancy, it is a whole big social issue and we sometimes advise the clients to go and buy fake bellies to show people that they are pregnant (Interview, Clinic Y informant, 3 March 2019).

When the informant of a baby agent was asked about why the business is kept in secrecy, this was

her response:

The client outside the country or living in Ghana will not want anyone to know that she is doing that kind of thing. So, we tell those clients to go and buy some fake belly to show people that she is pregnant (Interview, Key Informant A, 4 May 2019).

In this regard, the social stigma attached to commercial surrogacy and the need to remain anonymous on the part of both surrogates and intending parents is discursively used to explain the construction of secret surrogacy homes. Vertommen and Barbagallo (2021: 14) indicate how societal stigma rendered surrogates invisible in Georgia: “The societal stigma, shame, and taboo surrounding surrogacy have forced Georgian surrogates to remain as invisible as possible.”

The informants from the agency preferred the use of the term “homes” instead of “hotels” to convey the comfort and the luxury surrogate mothers enjoy at the surrogacy home. One of them described the surrogacy home as “a luxurious place where they [the surrogates] have their comfort”. The surrogates are not supposed to undertake strenuous tasks while in the home. They “eat, sleep, bathe, watch TV till the time of delivery”, said one informant. To buttress this, another informant contrasted the treatment the surrogates receive at the surrogacy home and the fertility clinics:

In the hospital, they have a specific menu for lunch. If the menu says yam, it is yam for everybody. But the carriers, it is what they want to eat is what is being cooked for them in the [surrogacy] home. For example, in the home, if a carrier wants to eat fufu someone will come and cook it for her (Interview, Key Informant A, 4 May 2019).

Why a Surrogacy Home?

Gerrits (2016) reports “local practices” of the fertility clinics in Ghana, where technology-assisted pregnant women were put on bed rest in the clinics’ facilities for an extended period of up to four months. This was done to prevent failure of the pregnancy that could result from travelling on bad roads, and to promptly offer medical care should IVF-related complications arise. Similarly, the surrogacy home is adopted by the baby agents for its instrumental benefits. The homes provide a controlled environment for ensuring successful gestation, avoiding risks of surrogates absconding with the pregnancy, minimising damage to the foetus resulting from unhealthy behavioural practices of surrogates and disciplining troublesome surrogates. Table 1 provides further information on some motivations for keeping surrogates in-house for the entire gestation period.

The disciplined environment provided by the surrogacy home ensures that the surrogates comply with the terms of the surrogacy arrangement. This underpinned the general preference for the services of baby agents over the direct recruitment of “walk-in” surrogates who are deemed truant, stubborn and difficult to control. This finding is consistent with the observation by Gerrits (2016: 35) that the pregnancy created through ART is culturally and financially “precious”, which therefore calls for the utmost care to prevent errors. The neo-liberal framing of the foetus as a precious and expensive commodity necessitates that it is safeguarded through strict managerial controls. While the brokerage function of the baby agents helps to reduce transaction risks – that is, reduce search, screening and monitoring costs (Galbraith et al., 2005) – keeping the surrogates in surrogacy homes also enables the surrogacy agency to exercise strict managerial control over the surrogates, a trend similar to the production of the perfect mother–worker surrogates using dormitory techniques of power to produce docile, cheap and disciplined female labour (Pun, 2007; Pande, 2010). This study, however, could not establish whether or not the surrogacy homes have

become sites of resistance and collective agency by the surrogates as observed in India by Pande (2010).

Table 1: Reasons for keeping surrogates in-house

Study Participant	Reason for using Surrogacy Home	Verbatim Quotation
Informant from a baby agency, 9 November 2018	To provide a controlled and disciplined environment	“We camp our surrogates like we camp students in the boarding houses. We do this to protect the child and the mother ... there are nurses in the surrogate home. The surrogates are mostly camped for one year. To be a carrier you have to be camped. We are very cool with the surrogates. Some of them, the way I talk to them, they get the feeling that this is a disciplined institution and are not ready to mess up.”
Informant from Clinic Z, 1 November 2018	To provide a disciplined environment	“This agent recruits her surrogates and donors under a legal contract that is binding. She keeps the females so they don’t go ... until the surrogate baby is born. She is a disciplinarian ... Our relationship with our agent is cordial. However, we also get walk-in surrogates and donors but they are not as many as the agents [provide]. We have only had two of such walk-in surrogates ... But the walk-in ones can be difficult, truant and stubborn.”
Informant from Clinic Y, 9 November 2018	Provide a controlled environment to protect the pregnancy	“We don’t want them to have sex outside ... we don’t want the surrogates to go out there to mess up. Some may go out to drink alcohol or even fight. Until the baby is born, the surrogate’s freedom is restricted.”
Informant from Clinic W, 6 November 2018	Safeguard the pregnancy from unintended harm that may result from the lifestyle choices of the surrogates	“... to safeguard the pregnancy because one cannot tell what individual surrogates would do in their various homes.”

Source: Interviews with key informants

Surrogates’ Conditions of Work

In this section, we look at the conditions of work of the surrogates as reproductive workers, focusing on the terms of the work contract, remuneration and emotional challenges confronting them. Before we delve into each of these themes, however, we first construct the vulnerability context of the surrogates as their poor social background predisposes them to exploitation.

The vulnerability of invisible reproductive workers

Surrogacy agents often recruit poor women who desperately need money for their own upkeep and to care for their families. Single mothers, migrants, poor girls and sometimes call girls are

driven by financial hardship to carry someone else's baby in their womb for financial rewards. A key informant who is an advocate for the protection of the rights of surrogates had this to say about the famous case involving Vanga Ariane Denise,² a girl who was cheated as a surrogate for carrying quadruplets for an unknown client in Accra:

You see, they target the very vulnerable women who are in the nightclubs, excuse me to say, prostitutes, bad girls who are not very aware of their rights ... So apparently what he (i.e., the fertility specialist) does is to pick these vulnerable girls from the night clubs ... then he would just promise them 10 000 cedis; and you see girls ... who sleep with men and get 5 cedis or 10 cedis, when they hear 10 000 cedis, they think it is money (Interview, Human Rights lawyer, 12 October, 2018).³

Ariane, a single mother and a migrant from Ivory Coast, needed the money to care for her son. According to this lawyer informant, Ariane hinted of other girls who were in situations similar to hers but were not bold enough to make their case public:

[She said] that there were three or four ladies that the doctor inseminated but unfortunately either some of them were so scared that they refused to come forward or that he [the doctor] was very successful in hiding them, I couldn't tell ... (Interview, Human Rights lawyer, 12 October 2018).

Obviously, financial pressures pushed individual girls to rent their wombs for commercial surrogacy, as succinctly captured by this informant:

Most of the reasons surrogates take up this role are sad stories. One tells me she needed money badly to care for the sick mum who has been booked for surgery. This lady had to be relocated to go through the process. Some need it for school fees ... (Interview, Clinic Z informant, 1 November, 2018).

Surrogacy contracts: when surrogates sign away their freedom

The relationship between the baby agents and the surrogates is a contractual one. The baby agents hire lawyers to draft the contracts. The surrogates do not have legal support to help them understand the implications of the contract terms. In one typical case, the surrogate is required to present a guarantor, preferably a family member who could act as the caretaker of the surrogate's children while she is at the surrogate home. The guarantor acts as surety to the contract; in the event of unforeseen circumstances, such as the death of a surrogate, he or she becomes the go-to person to help resolve the situation. An informant recounted how an agency had to rely on the guarantor to perform funeral rites when a surrogate died:

[The agency] had to see the family members ... there was a guarantor so the guarantor came in; we had to tell them what happened ... the agency took over the arrangements for the funeral ... she had a young boy of 8 years so the agency had to take care of that child till he completed school (Interview, Key Informant B, 7 August 2019).

The terms and conditions of some of the contracts forbid any interaction between the surrogates and the intending parents; as indicated earlier, the only contact is through the surrogacy home as a

² See My Joy Online (2015a, 2015b).

³ Equivalent to US\$2 127 (at the time of the research in 2018, the exchange rate was GHCedi 4.7 = US\$1).

way of achieving anonymity for the intending parents. The contract may contain compensation and payment schedules and mention certain practices that the surrogate cannot indulge in. It appears from the quotation below that, by signing a surrogacy contract, the surrogate mother completely surrenders her freedom, in this case to the baby agents and the fertility clinics who decide the type of food they can eat and the people to whom they can have access:

A surrogacy contract is a documentation on paper. Usually, they will ask your name, date of birth, maybe if you are attending any school. It's like normal forms we fill. [On] the responsibilities of the surrogate mothers, they are to comply with everything the agency says ... they have to take their medications on time. There's no way that you can take any medication that you want for yourself; you have to listen to doctors' advice. What they tell you to do, is what you do. There are certain foods that they are restricted from eating. So usually, they advise them not to take some things like sugary stuff ... There's no way you can step out of the surrogate home ... to hang out with friends. You don't have any access to your family and friends again till the nine months are over. That is when you can step out. So, what we do is just to keep you in the surrogate house and then from time to time they take you to the hospital. (Interview, Key Informant B, 7 August 2019).

Even though the surrogates may be willing parties, the entire process of keeping them in undisclosed locations for the entire gestation period is restrictive and infringes their right to freedom of movement. The surrogates, because of their poor social backgrounds, cannot imagine the risks associated with the surrogacy arrangement; the fertility clinics and the baby agents, on the other hand, are well-informed about the procedure. The unequal power relations, the monetary enticements and the lack of legal representation could impair the judgement of the surrogates vis-à-vis the surrogacy contracts. Adomako-Kwakye and Owusu-Dapaa (2020: 614) reinforce this position:

The surrogate mother, in most cases, is at a disadvantage having regard to the risk associated with childbirth and what she receives in return ... The status of surrogate mothers is weak due to their economic and social positions in society, allowing the superior party to make and secure better terms during negotiation with the weaker party. The mention of money in itself may crowd out the surrogate mother's mind without thinking through the effects of going through the cycle. Poverty thus would not allow the surrogate mother to reason and assess the whole process before consenting ... the law ought to intervene to ensure that parties are not unduly influenced by money to enter into contracts which have minimal benefit for them.

Fees paid to surrogates

The fees paid to surrogates vary in the industry. The premium providers charge their clients about US\$40 000 for a procedure. The informants at Baby Agent A indicated how much is paid to the surrogate mothers for their services:

Clients who need surrogate babies pay US\$40 000 and the surrogates are paid GHC15 000 (US\$3 191) for a single baby they carry and GHC30 000 (US\$6 383) for twins for successful surrogacy, while GHC10 000 (US\$2 127) is paid as compensation to surrogate mothers who lose their baby (Interview, Baby Agent A, 9 November 2018).

The agency staggers the payment of the fee to the surrogate mothers. The first instalment of GHC2 000 is paid to the guarantor once the pregnancy is confirmed and the remainder is paid after delivery. The guarantor is advised to recognise that the surrogate is "sacrificing to carry someone's

baby” and therefore should use the money prudently to cater for the needs of the surrogates’ children.

Another informant, though unwilling to disclose the exact amount paid to the surrogates they recruit, was emphatic that the remuneration the surrogates receive was sufficient so that “at the end of the day they feel they did not waste their time, go back home with plenty of cash and generally feel happy ... and smiles will be on their faces”. On the face of it, the cash payment to the surrogates appears rewarding relative to their dire economic conditions. It is important to know how the earnings of surrogate mothers in Ghana compare to, say, those in the United States and India. According to Sarkar (2018), the average cost of surrogacy in those two countries was US\$122 000 and US\$11 000–US\$35 000 respectively. This compares to the figure of US\$40 000 mentioned by Baby Agent A, which offers premium surrogacy services. A surrogate mother in the United States and India earns about US\$30 000 and US\$5 000–US\$10 000 respectively (Sarkar, 2018). A surrogate mother recruited by Baby Agent A earns about US\$3 191, which is 8 per cent of the cost the agency charges an intending parent. Even though surrogacy services appear more expensive in Ghana than in India, surrogates in Ghana, at least those recruited by Baby Agent A, are paid about two to three times less than an Indian surrogate mother receives.

The physical and emotional scars of surrogacy

The entire surrogacy process creates emotional scars for the surrogate mothers, even after the baby is delivered. The emotional bond that develops between the surrogate mother and the unborn baby during pregnancy cannot easily be erased after birth. It emerged from the study that the surrogate mothers sometimes crave to see the surrogate child and would occasionally visit or call the baby agent or the fertility clinics to inquire about the health of the child. In a particular instance, an interviewee recounted how, after delivery, the surrogate mother begged the agent to allow her to see a picture of “her” baby.

The baby agents and the fertility clinics are deliberate in recruiting surrogates who already have children. This assures them that the surrogate is healthy and has the experience to carry the pregnancy to term. Carbone and Madeira (2015) observe that surrogates who have given birth before can control their emotions. Though the surrogate may grieve over the “loss” of the surrogate child after relinquishing the baby to the intending parent, she may seek comfort in her other children.

Caesarean section, it emerged, is a common practice in the industry; it is done to increase the success of delivery and to minimise the emotional connection between the surrogate mother and the child. A key informant of Baby Agency A affirmed the widespread preference for Caesarean section over natural birthing in the industry, and her response regarding the widespread use of this method was emphatic:

Yes, all of them. Or else the surrogate will see where the baby is going and she might not allow you to take the baby along. If the woman comes to deliver and you push with your strength, for someone to come and take the baby, even if it is not for her, she won’t allow it. She will not agree. So [to reduce] the pain and [emotional] attachments C.S. is preferred ... It is a common practice all over (Interview, Informant at Baby Agency A, 5 May 2019).

The physical scars that are left on the surrogates as a result of pregnancy-related surgeries constantly remind them of the surrogacy experience, which sometimes makes them agitate for the return of the surrogate babies. The response below highlights the emotional scars that remain with the surrogate mothers after delivery:

There are negative effects on them emotionally, especially at the end of the session when it turns out that one has to undergo surgeries which they are not mentally prepared for. Some wish they could really turn back the hands of time because of the scar. The presence of scars makes some of the clients come back to retaliate even after getting all of their benefits. Some come here and make noise ... For intending parents, because they have what they desire, they move out of the scene but from experience we make intending parents pay some amount of money to manage some of these situations (Interview, Informant at Clinic Z, 1 November 2010).

Clearly, carrying the pregnancy to term naturally produces attachment, and asking the surrogate to relinquish the baby very often leads to regret and anguish (Carbone and Madeira, 2015) which amounts to emotional exploitation.

Conclusion and Recommendations

The article has explored the labour conditions of surrogate mothers who enter into commercial surrogacy arrangements with baby agents and the intending parents. In as much as the use of assisted reproductive technologies make it possible for childless couples to have babies, the entire commercial surrogacy process exposes the surrogate mothers to extreme commodification and exploitation. The article adopts the labour rights approach to the study (Sarkar, 2018) because surrogate mothers are regarded as workers with rights even though they are unprotected.

The surrogacy market in Ghana is unregulated by the state and it largely operates on the market principle where medical entrepreneurs play a dominant role. Unique phenomena that have emerged in the commercial surrogacy landscape in Ghana are the use of baby agents and surrogacy homes. By using the services of baby agents, the fertility clinics externalise surrogacy services and save themselves from the difficulty of finding and caring for surrogate mothers. The agents are able to link surrogates and intending parents, albeit in an anonymous manner, which saves both parties from the negative stigma associated with a surrogacy arrangement. The baby agents can minimise the transaction cost (searching for, screening and monitoring of surrogates) associated with a surrogacy arrangement.

One of the common features of baby agents is the establishment of surrogacy homes where surrogate mothers stay and are cared throughout the gestation period. The narrative of the agents providing comfort to the surrogates and the “hominess” of the surrogacy home is an attempt to humanise the commodification of reproductive work. The surrogacy home, in our view, is akin to Foucault’s (1995) idea of enclosures, whose creation enables the medical entrepreneurs to exercise enormous control over the bodies of the surrogates and produce docile and disciplined surrogate mothers ready to relinquish the baby after delivery.

The lopsided surrogacy contract strengthens the control of the baby agents over the surrogates. Beyond tying the surrogate mothers to the surrogacy homes, the contract gives paramountcy to the injurious practices the surrogate mothers are prohibited from engaging in. The terms are principally designed to safeguard the interest of the intending parents and for the successful delivery of the surrogacy baby. The enforceability of this contract in the court of law is, however, not very clear. The pregnancy-related risks the surrogates face are barely mentioned in the contract nor do the surrogates have legal representation to enable them to appreciate the dangers associated with the contract terms (Adomako-Kwakye and Owusu-Dapaa, 2020). As McLachlan and Swales (2001) indicate, surrogacy agreements or contracts that are unenforceable in court could be a source of exploitation.

The bonds that develop between the surrogate mother and the surrogate baby during pregnancy do not just disappear when the baby is relinquished; the surrogate mother continues to feel a sense of loss and anguish. The permanent physical scars resulting from Caesarean section, which is a common practice in the industry, permanently reminds them of the surrogacy experience.

In order to avoid cheating by baby agents and fertility clinics, Ghana needs a legal framework that ensures reasonable and guaranteed compensation for surrogate mothers, taking into account the emotional and physical challenges they go through as carriers. Critically, and as part of any future legal framework, surrogates entering into surrogacy contracts should have independent legal representation to safeguard their interests against exploitation. Baby agencies should have their operations regulated by an entity established by law.

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ACKNOWLEDGEMENTS

The research team owes a debt of gratitude to the Directorate of Research, Innovation and Consultancy (DRIC) of the University of Cape Coast, Cape Coast, Ghana, for selecting and funding this project through its Small Research Grant programme. We also appreciate the fertility clinics and surrogate homes for granting us the interviews that helped to complete the study.

DISCLOSURE

The authors report that there are no competing interests to declare.

ETHICAL APPROVAL STATEMENT

All ethical protocols such as voluntary participation, informed consent, anonymity and confidentiality were observed throughout the research. Pseudonyms have been used to protect the identities of the respondents.

BIOGRAPHICAL NOTES

OWUSU BOAMPONG is a Senior Research Fellow and Head of the Department of Integrated Development Studies, University of Cape Coast, Ghana. His research interests and publications are in the areas of informal work and inclusive urban waste management systems. [Email: owusu.boampong@ucc.edu.gh]

SABINA APPIAH-BOATENG is a Research Fellow at the Department of Peace Studies, University of Cape Coast. She holds a cotutelle certificate in PhD Development Studies from the University of Hildesheim, Germany, and the University of Cape Coast. Her research interests include gender, conflict, mental health, migration and development. [Email: saboateng@ucc.edu.gh]

NANA YAW OSEI is the Chief Executive Officer and Fertility Counsellor of The Walking Egg Medical Centre. He is currently pursuing a Doctor of Philosophy degree in Guidance and Counselling at the University of Cape Coast. He is a keen advocate for state regulation of assisted reproductive technologies in Ghana. [Email: nanayok2002@yahoo.com]

RICHARD AMETEFÉ is an Assistant Research Fellow at the Department of Peace Studies, University of Cape Coast. He is currently pursuing a split-site doctoral programme in Development Studies at the University of Cape Coast, Ghana, and the University of Hildesheim, Germany. His academic and research interests are in the areas of peace education, conflict transformation, peacebuilding, migration, culture, labour and human rights. [Email: rametefe@ucc.edu.gh]