Why Do Indian Surrogate Mothers Still Remain in Poverty?

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Abstract

After the release of new Surrogacy (Regulation) Bill in 2020, surrogate mothers in India showed greater concerns over the rights to their bodies. Despite receiving economic compensation from the intending parents, surrogates have failed to convert their income into greater well-beingness. In understanding what Sen (1999) claimed as *Capability Poverty*, the research investigated the concept through a dynamic interaction analysis of Bourdieu (1984)'s *Capital* formation throughout the contracted pregnancy, contributing to the surrogacy literature a novel ground in depicting a more dynamic capital formation. The inconvertibility of economic capital for social, cultural, and emotional capital proved a continued suffering for surrogates, including both physical exploitations due to oppressive medical settings and psychological burdens from stigmatisation (re)produced from the traditional values and geographies of class. In debating over whether surrogates possess actual ability to exercise their agency over structure, it is essential that this research reminds once again their choices over work are not made in isolation from socioeconomic and cultural factors.

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Understanding Sen's Capability Poverty through the Dynamic Interaction Analysis of Bourdieu's Capital Formation in Contracted Pregnancy

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Introduction

In the Global South, informal work is often unstable and precarious, causing destabilization of the daily lives of workers (Allison, 2012), sometimes even causing stigmatization within their own society (Millar, 2014). On the other hand, these works can also provide them with financial support and social belonging, alongside time flexibility and even future aspirations to their family members. Despite being risky and dangerous, many people in middle-and-low-income countries still tilt towards informal work, avoiding direct participation of the formal economy. Thus, the precarity and exploitative labour conditions embedded within

post-war Fordism era have become part of the everyday-life experience of the labouring poor (Millar, 2014), of which is also a "class-of-the-making" that is difficult to escape (Standing, 2014: 974).

Built-off of a widely accepted argument that informal workers' choices over work are constrained by socioeconomic structure and cultural norms, with little possibility to alter through agency, this research sets the tone by recognising and probing into the importance and power of Bourdieu's *Habitus* (1986) over agency. For Bourdieu, *Habitus* is not only a "structuring" but a deeply buried "structured" structure shaped by money (economic capital), the cultivation of practices and knowledge (cultural capital), and acquaintances and networks (social capital) (Ortner, 1998). In applying *Habitus* to the escaping from precarity and poverty, this overdetermining factor shapes these informal workers' dispositions by their conformity to the dominance of others, simultaneously limiting their ability to exercise power and agency. The fact that every-day poverty "organizes practices and the perception of practices" (Bourdieu, 1984:170) for people working in the informal economy has largely constrained the re-making of their class position, in turn limiting the coins they possess and exchange in the "game of Roulette" (Bourdieu, 1986: 241) – the capital in hand is limited.

Another important concept to clarify for this research is the type of poverty identified through Sen's *Capability Approach* : "Capability Poverty" (Sen, 1999). As reducing income deprivation alone is no longer sufficient for anti-poverty actions under the multidimensional poverty analysis, targeting the difficulty in converting income into "functionings" (1999: 88) has widened the understanding of poverty in general, within which the concept of 'capability poverty' captures more necessities for a holistic "well-beingness" for individuals. By shifting the primary focus away from *means* to *ends* that people have reason and capacity to pursue the substantive freedoms, the discussing of capability poverty helps acknowledge the complex nature and causes of poverty, the instrumental relation between income and capability, and particularly the respective contingent consequences on different gender and social roles, in this case, the surrogate mothers.

Surrogacy is a gender-specific form of industrial contract labour that exists under a larger global medical tourism industry, and specifically in India these jobs are often rigidified within racial and class hierarchies (Twine, 2012). Despite having large amount of renumeration (Pande 2010), the invasive medical procedure may bring forth physically exploitative consequences for women, limiting their possibility to escape from capability poverty. Even with some feminists supporting the right and freedom to enter surrogacy contracts, the fact that women may have to suffer from physical risks, pain, and even death attract other rhetoric criticizing surrogacy as "industrialization of pregnancy" and the "degradation" and "commodification" of women's bodies and reproductive labour (Twine, 2012: 16). However, regardless of a pro-or-against perspective, when viewing surrogates' ability to exercise their agency through the lens of Bourdieu's *Habitus*, their decisions are not made in isolation from socioeconomic and cultural factors, but influenced by the factors of race, class position, maternal and marital status, and their gender role in family and society.

This research hopes to argue analytically that surrogates are persistently trapped in Sen's "capability poverty" due to the inconvertibility of Bourdieu's economic, cultural, and social *capital*. Leveraging a secondary analysis of the existing data (qualitative interviews), this research provides a novel methodological approach – a dynamic interaction analysis of Bourdieu's *capital* formations on surrogates' contracted pregnancy – to better understand the continued suffering for surrogates due to the inconvertibility of economic capital for social, cultural, and emotional capital.

Background: The Development of Surrogacy in India

Since the legalization of commercial surrogacy in India in 2002, the industry has boomed due to the advanced assisted reproductive technology (ART) and its relatively low medical costs. With an unregulated market having more than 25,000 children born in 2015 (Söderström-Anttila et al., 2016), and was estimated to worth \$2.3 billion (Deonandan et al., 2012), the rapidly growing transnational demand for surrogacy (Vora, 2013) has urged many young and often less-educated women living in rural India to become surrogates. However, as more media stories began to unfold the concerns regarding the unethical treatments on surrogates and predicaments of parentless and stateless surrogacy kids, the Indian government drafted a new Surrogacy (Regulation) Bill in 2016 banning cross-border commercial surrogacy, permitting only "altruistic surrogacy"

for heterosexual infertile Indian couples.

Passed by the lower house of Parliament in August 2019 and approved by the union Cabinet on recommend amendments to the legislation in February 202011For surrogates including allowing any "willing woman" including widows and divorced woman the rights to avail for surrogacy, removing the five-year waiting period, and extending their insurance coverage to three years., the new Bill awaiting final approval by the upper house is deemed as part of Prime Minister Modi's conservative agenda to legally preserve traditional family and gender norms (Rozée et al 2020: 12). Even though the growing trend of awareness towards protecting women's "right to make reproductive choices" has been considered by the Supreme Court under Article 21 for "liberty", the Indian "structure", from Bourdieu's Habitus perspectives and as Pande interpreted (2009a: 382), is a "California-like market liberalism fixed by rigid political narratives and regulatory dogmas".

Without fully considering the legislation's multifaceted influences on women's rights to their bodies, the non-paid and compassion-only altruistic model not only denies the legitimacy of women as wage earners but limits the possibility of surrogates' portfolio of Bourdieu's *capital* to convert from one to another. As the Bill remains a needs-based rather a rights-based approach towards surrogacy, women participating fear that the upcoming ban in the post-COVID era would push the surrogacy market underground, leaving them further behind in poverty. Falling short of protecting bodily autonomy, female bodies are no longer their own as they are prone to monetarisation through exploitative reproductive technology practices. As a result, the value attached to bodies may be easily distorted under the paternalistic and imbalanced gendered relations both within the society and at home (Vora, 2013).

Methods

This research leverages the "research question-driven" approach to probe into poverty challenges facing Indian surrogates. In having a priori hypothesis that despite the economic compensation the surrogates still suffer from Sen's capability poverty, this research addresses the question by conducting "secondary analysis of existing data (Cheng & Philips, 2014)" on qualitative interviews over time gathered by researchers, including Deomampo (2013), Pande (2009a, 2009b, 2010, 2011 & 2014), Rozée et al (2020) and Vora (2013). Further nuancing the understanding of surrogates' portfolio of Bourdieu's *Capital*. this research provides a novel idea and methodological approach – a dynamic interaction analysis of Bourdieu (1984)'s *Capital*formation – to better comprehend the lived realities of the Indian surrogates and to confirm their inability to escape capability poverty throughout the contracted pregnancy.

On Indian Surrogates: Portfolio of Bourdieu's Capital and the Emotional Capital

Before discussing the portfolio of capital available to surrogates, it is pivotal to reiterate the imbalanced impacts the external structure has on these women, and to acknowledge the formation of capital of all forms is self-reflexive. Coined with the term "stratified reproduction" (Colen, 1984; Ginsburg and Rapp, 1995), the concept depicts how the imbalanced capabilities gained through gendered power relations often disempower women and empower their male counterparts in childbearing, nurturing, and education. Alongside social reproductive tasks, physical contracted pregnancy is also completed, experienced, and valued differentially due to inequalities embedded in socioeconomic hierarchies and historical and cultural contexts (Markens, 2007).

Although external structure can be market-based environment that emphasizes competition and individualism (Hann & Hart, 2011), it can also serve as socio-cultural framework that creates market sufferation for individuals (Zaloom, 2006) and specifically deepens Marx's alienation on reproductive labour (Oliver, 1989). Thus, the instrumentality against external structure carried by surrogates (Goslinga-Roy, 2000) constrains the convertibility of economic, social, and cultural capital.

Economic Capital

The continued long-term monetary and in-kind benefits from cross-border intending parents before the new Bill drafted have served as the most convincing "pull factor" for young women to participate in commercial surrogacy. Compared to other low wage-paid employment in India, according to several interviews conducted by Pande (2011) and Vora (2013), women approach surrogacy rather as an "one-time shot" to provide them with immeasurable economic assistance. And the fact that their clear intentions towards money earned from surrogacy made these women cherish the opportunity even more (Rozée et al, 2020). However, the absence of binding law for the surrogacy market in the pre-revised Bill era has imposed greater risks and much unclear boundary of renumeration for such unprotected contractual relationships. As defined by the Indian government, surrogates are mostly living in critical financial conditions, as they must repay heavy debts or substitute their husband for work (Rozée et al, 2020). On the other hand, being able to gain extra attention and care from others simultaneously, surrogates interviewed by Rozée et al (2020) often possess a positive experience towards surrogacy as they earn more11Sometimes surrogates earn the same amount as five years of total family income, specifically when their husbands are of informal contracts or unemployment (Pande, 2010). and do not have to return home late after work, in which could effectively avoid harassment or bad reputation (Rudrappa, 2015).

But to escape from poverty, especially capability-wise, is another thing. Despite possessing considerable income, the very nature of surrogacy being physically, and sometimes psychologically, exploitative and culturally disruptive brings forth the social condemnation and stigmatization within household that reduces the possibility to convert economic capital into social (i.e., expand social networks) or cultural capital (i.e., reduce stigmatisation in community).

Cultural Capital

The formation of cultural capital is relatively complex and often negatively accumulated. Before the bill was revised, despite the legal permissibility of commercial surrogacy, surrogates claim that they often face dilemmas and social condemnation for surrogacy being easily imagined as and associated with extra-marital relationships for "sexualized care work" (Pande, 2010: 142). Unaware by the public of the fact that surrogacy could occur without sexual intercourses, surrogacy is often mislabelled as sinful "dirty work" (Pande, 2014: 155) trapped with "moral taints" (Hughes, 1951). Having recognized that cultural capital accumulation is a historical process, for a patriarchal society like India, surrogacy is never an accepted practice in the community, and women are often not welcomed to engage with renumerated activities outside the home. Married women are required to conform traditionally to their husband and their body is only acceptable for childbearing and nurturing of the family. To protect and preserve the reputation of their family, some surrogates also tend not to notify their larger family of their pregnancy commitment (Pande 2009b), while others, in the very last months of pregnancy, choose to seclude themselves in the medical facilities' dormitories temporarily avoiding criticism.

In short, the deeply rooted cultural constraints have negatively affected the forming and accumulating of the "embodied" form11Indicating the long-lasting dispositions of surrogates' mind and body. of cultural capital for surrogates, and the commercialization of the motherhood aligning with moral condemnation on "cultural knowledge and practices" has indeed contrasted surrogates' rights towards surrogacy (Rozée et al, 2020: 10). Meanwhile, it creates a high threshold to barricade the convertibility of cultural capital to economic (i.e., increase income) and social capital.

Social Capital

Associated with social networks and family relationships, social capital for surrogates should be understood in both societal aspect (i.e., with intending parents) and private sector (i.e., within family) separately, and above all, in a self-reflexive manner. By nature, despite its rather obscure and "temporarily-existing" characteristics, the social ties established between surrogates and cross-border intending mothers before the new Bill launched are generally deemed to create positive social capital for surrogates. For example, when taking up surrogacy work, these young mothers are often taken good care of as these international intending parents tend to provide extra medical and both monetary and non-monetary support. Despite this, surrogates are told by the clinics to be grateful for having surrogacy as "God's gift", in which reduced their inborne resistance when facing injustices. The "gift-giving sisterhood" narrative has, being real or imagined, provided them with social bonding and a sense of belonging despite the class, race, and power difference

(Pande, 2011).

However, judging from the opposite perspective, as surrogates are often the chosen and needy mothers to "fulfilling their familial duties", rhetoric like "gift," "mission" and "sisterhood" have strengthened the external reliance of surrogates on contractual relationship within which the idea of "reciprocity" is never equally executed. Under the North-South commercial surrogacy context, though this kind of give-and-take social tie is positively constructed, the imbalanced relationship makes the social bonding harder to maintain after the contract terminates.

On the other hand, under the impacts of traditional Indian values and geographies of class, social capital in family and local communities is accumulated negatively. The effort of these women as wage-earning individuals and sometimes even breadwinners of the family has not much been recognized socially but ironically downplayed because of socio-cultural factors, making their image of dutiful mothers reinforced unintendedly. More generally, neither the social capital accumulated from ties with intending parents could easily transform into economic or cultural capital, nor the social capital from family and community could complete vice versa, especially the latter has already negatively influenced the formation of social capital.

The Bridging of Emotional Capital

From the above analysis, this research finds that it is challenging to convert any of the surrogate's portfolio of *Bourdieu*'s capital from one to another, meaning that surrogates are more inclined to remain in Sen's capability poverty. Therefore, understanding how surrogates support and sustain themselves mentally and psychologically across the contracted pregnancy is imperative. Being the variant of social capital from feminists' critique, and specifically confined with affective bonding within private sphere, the emerging and accumulating of "emotional capital" (Nowotny, 1981: 148) is the key.

Judging from the disadvantageous circumstances that surrogates inhabit, such as their tendency to be poor11According to Wilkinson (1995), the emotional wellbeing is much easier to be taken care of in privileged circumstances, while people living in poverty are easier to suffer due to the "emotionally draining experience" (Oppenheim and Harker, 1996)., emotional capital serves as the resource for women to respond to and even confront against barriers in adversities (Reay, 2004). As the capital-forming process itself is selfreflexive and self-struggling, it can be regarded as, for one, the reluctance of surrogates portraying themselves as vulnerable victims, and secondly, as mothers and wives keen to take back control of their lives (Rozée et al 2020). The denial of viewing less-privileged groups like surrogates only with dichotomous portrayals (i.e., immobility vs. mobility; power vs. resistance) is also supported by Deomampo (2013: 521), who states that poor women may argue to have the autonomy over their reproductive rights.

Understood as a form of capital to be built up over time, it provides surrogates with not only abstract feelings like care, concern, and attention (Allatt 1993) to self-reflect upon, but also competencies to self-overcome and offset the effect of the negatively accumulated cultural capital (i.e., reduce the stigmatisation), at the same time self-supporting the forming of positively obtained social capital. Nevertheless, while accumulating emotional capital, as Pande (2020: 971) cautiously points out on unintended outcomes of surrogates' selfaffirmation on sense of self-worth and dignity, the "gender inequalities" on non-or-low paid female informal workers may be reinforced, and such consequence may push even more women back into poverty.

Struggle for Agency: Relational Autonomy and Autonomy Competency in Poverty

With emotional capital, the extent to which surrogates can strive for agency and escape from poverty requires further understanding on the multi-faceted aspects of autonomy. As agency represents individuals' means to act and of self-achievements (Gooptu, 2013), it entails the idea of "relational self-autonomy" (Millar, 2014), of which is widely used by individuals to distance or detach themselves from specific power relations for liberation, even if that indicates lived realities in much more fragile times (Graeber, 2009). For surrogates, women bodies were agencies both undergoing normalization of social experience and resistance to politics (Harcourt 2009).

As relational autonomy highlights the context of "oppressive socialisation" and the connection of agent's

self-conception and capacity within the social context (Mackenzie & Stoljar 2000: 3-4), when viewing Bourdieu's *Habitus*, surrogates are leveraging the autonomy against the power of structure, in particular attempting to offset the negatively accumulated cultural capital caused by stigma. Being members of a modern and knowledgeable society, surrogates develop strategies to overcome the negative representation of surrogacy by leveraging the classic "Condemnation of the condemners (Ashforth & Kreiner, 1999)" to counterbalance the social stigma attached to dirty and sinful work.

Despite being deeply constrained by socioeconomic and gender frames, as well as practices within institutions22The constraints embedded within the social context bring forth a two-way understanding of surrogates: One being intrinsically relational (i.e., their self-conceptions are constituted by elements of social context), and the other being causally relational (i.e., their nature is influenced by socio-historical conditions) (Mackenzie & Stoljar 2000: 21-22), surrogates facing a limited degree of "reproductive liberty (Roberts, 1995)" and available options (Raz, 1986) often reveal a degree of "autonomy competence (Meyers, 1987)" as a central part of the struggle for agency. Based on the oppressive social and medical settings where relational autonomy functions, autonomy competency takes a step forward in proving women as surrogates are de-facto "partially autonomous" in their lives (Meyers 1987: 627-628), corresponding also with "dynamic autonomy (Keller, 1987)" as a competency growing under "domination, denied connectedness, and defensive separateness (Mackenzie & Stoljar, 2000: 9-10)". To escape from capability poverty, Indian surrogates living under domination with limited resilience and autonomy competency tend to leverage emotional capital to avoid being reduced to a "status of a pure alienated victim" (Falquet 2008: 53), to balance the "mother-worker identity" considering all possible conflicts of interests (Pande 2010: 969), and most critically, to disrupt gender hierarchies privileging genetic ties but not maternal bonds established by bodily substances and reproductive labour (Pande, 2009a).

Results: Dynamic Interaction Analysis of Bourdieu's Capital Formations in Contracted Pregnancy

Based on the theoretical foundations of socioeconomic constraints set for Bourdieu's *capital* on Indian surrogates, this section incorporates relevant secondary analyses and brings forth an innovative time-bound dynamic interaction analysis of capital formations across contracted pregnancy, to better understand how surrogates self-reflexively form varied types of capitals, and why they remain in capability poverty.

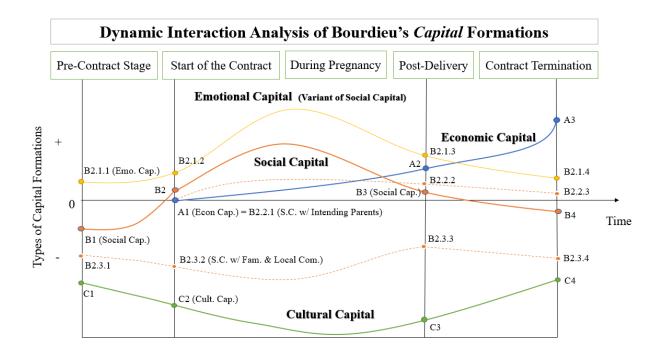


Chart: Dynamic Interaction Analysis of Bourdieu's CapitalFormations (Source: Analysed by author)

The flowchart divides the contracted pregnancy into three stages (pre-contract, pregnancy, and post-delivery stage) and four specific time points (prior to the informed consent, the start of the contract, child delivery, and the date for contract termination). The x-axis represents separate time periods, while the y-axis explains the level of capital accumulated, either positively or negatively. The ebbs and flows of all types of capital formations remain highly self-reflexive from surrogates' perspectives and are associated with their self-positioning in Indian society, confined to all socioeconomic constraints and their struggle for agency. The dynamic interaction analysis constitutes three original types of Bourdieu's *capital*, being economic, cultural, and social. Viewing social capital as an aggregated form of capital, besides emotional capital being the main variant, there are two other underlying sub-variants: one accumulated from ties with intending parents whereas the other within family and local communities.

According to the previous analysis on the forming of all capitals, economic capital is the most direct as it is accumulated positively throughout. It begins with A1 at the start of the contract as some intending parents start to provide monetary and in-kind benefits during surrogate's pregnancy, and gradually increase across post-delivery stage, at A2, till contract terminates, at A3. For cultural capital, it remains negatively accumulated across all stages due to the influence of social stigma. And the fact that cultural knowledge and traditional values have heavily influenced the forming of social capital makes it situate at an even lower and negative entry point, at C1, than that of social capital, at B1, and its sub-variant form, at B2.3.1. Cultural capital increases negatively over time, crossing C2, reaching its peak during the last few months of pregnancy, and gradually decreases in post-delivery stage passing C3 until contract terminates, at C4, of which the last point remains roughly the same as C1 for the power of Bourdieu's Habitus may oppress surrogates as it does at the initial status.

Lastly, the trajectory of the original type of social capital (B1 to B4) fluctuates based on the synergy of the route changing of emotional capital (B2.1.1 to B2.1.4) and that of the two sub-variant forms of social capital (B2.2.1 to B2.2.4 & B2.3.1 to B2.3.4). Looking firstly at emotional capital, it is formed positively initially, at B2.1.1, showing the level of autonomy competency acquired by surrogates in relational autonomy when struggling for agency. When entering the contracted pregnancy, at B2.1.2, emotional capital follows the pattern of original type of social capital from B2 to B4, continuing to increase during pregnancy and

decreasing over time from B2.1.3 to B2.1.4, terminating roughly at where the initial point B2.1.1 situates as emotional capital is self-reflexive and thus decreases back to where surrogates initially are socially and culturally. Shifting towards the two sub-variants: one with intending parents and the other with family and local communities, the former only increases after the contract begins, at B2.2.1, whereas the latter already existed in the negative value in pre-contract stage, at B2.3.1.

As the social capital with intending parents grows positively over time during surrogate's pregnancy mainly because of the "gift-giving sisterhood", it gradually decreases after giving birth, at B2.2.2, and terminates at B2.2.3, remaining slightly positive in the hope to have further external social bonding afterwards. Regarding the social capital with family and local communities, it moves similarly as that of cultural capital due to the power of structure and that of emotional capital for being self-reflexive, continuing to negatively accumulate after the contract begins, at B2.3.2. The interesting flat U-turn before entering the post-delivery stage, at B2.3.3, symbolises an (possible) enhanced perception by the locals on surrogates (Arvidsson et al, 2017), but then again decreases till the similar level of initial status as the contract terminates, at B2.3.4, for a more stigmatised perception on surrogates may outperform the positive thinking from family especially husband on their wife.

Conclusion

With the dynamic interaction analysis, this research re-affirms that surrogates remain in Sen's capability poverty: unconvertible portfolio of Bourdieu's capital, even with the bridging of emotional capital. However, understanding how surrogates "both exert power and are subject to it (Deomampo 2013: 532)" is one thing, but to know how to target the issue is another. In the face of new Surrogacy (Regulation) Bill executed in 2020, the surrogates may be easily trapped in a "Faustian bargain (Wood, 2003)" – to stay poor to stay secure. How to overcome the so-called surrogacy-or-poverty moral dilemmas towards reproductive injustices (Bailey, 2000) is perhaps of the imperative for the current government. Although this research provides a novel ground in depicting surrogates' living difficulties, more empirical evidence is needed to advance the current findings and better serve as the foundation for future government efforts.

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