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Surrogate Pregnancies as Reproductive Exploitation of Rural Women in Tabasco

Alquiler de vientres como explotación reproductiva de mujeres rurales de Tabasco

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Abstract: Surrogacy is a form of reproductive exploitation that impacts impoverished rural women. Tabasco legalized the practice of “surrogate mother” in 1997. This practice is highly questioned by abolitionist feminists. This article analyzes its implementation and its consequences for rural women in Tabasco. The theoretical framework used is the feminist gender perspective. Methodological include qualitative approaches such snowball sampling, in-depth interviews, case studies, documentary review, Facebook consultations and WhatsApp chats. Informants included women who served as surrogates, as well as lawyers, psychologists, feminists, government officials, the husband of a surrogate and a journalist. The conclusions reveal strong economic interests, dangerous legal loopholes, and negative effects on the physical and emotional health of women.

Key words: gender, feminism, maternity, rurality, women.

Resumen: El alquiler de vientres es una modalidad de explotación reproductiva que afecta a las mujeres rurales empobrecidas. Tabasco legalizó la figura de “madre subrogada” en 1997. Esta práctica es muy cuestionada por grupos feministas abolicionistas. El presente artículo analiza cómo se realiza y qué consecuencias tiene para las mujeres rurales de Tabasco. El marco teórico utilizado es la perspectiva de género feminista. Las herramientas metodológicas fueron cualitativas: “bola de nieve”, entrevistas a profundidad, estudios de caso, revisión documental, consulta de Facebook y chats de WhatsApp. Las informantes fueron mujeres que



alquilaron su vientre, así como abogadas, psicólogas, feministas, funcionarias, además del esposo de una mujer gestante y un periodista. Las conclusiones muestran fuertes intereses económicos, peligrosos vacíos legales y negativos efectos en la salud física y emocional de las mujeres.

Palabras clave: género, feminismo, maternidades, ruralidad, mujeres.

Introduction¹

This article aims to analyze the interacting contexts involved in the issue of surrogacy², considering the theoretical framework of gender perspective and feminism applied to a case study of rural women in Tabasco. The text includes: 1) introduction, 2) methodology based on the theoretical approach of gender perspective and feminism, qualitative tools, selected informants, and territory, 3) definition of terms, 4) transition from a rural community to a surrogacy clinic, 5) reproductive biotechnology and the steps of the process, 6) physical and psychological consequences on surrogate women, as well as the maternal-filial bond, 7) economic context: where patriarchal desires align with neoliberal capitalism, and where the needs of impoverished women lead them to rent their wombs, 8) regulatory context: the surrogacy contract, 9) legislative proposals on the subject, and 10) abolitionist feminist stance against surrogacy.

The background of this article is supported by the political, legal, economic, feminist, physical, and psychological health discussions that have been raised in Mexico in the context of the legalization of surrogacy in the state of Tabasco in its civil code since 1997, and the ruling of the Supreme Court of Justice of the Nation (SCJN) issued in 2021, which recognized: 1) The right to assisted reproduction is a constitutional right of individuals to freely decide on the number and spacing of their children. 2) Third party actors must be involved in the process, as their non-recognition is contrary to the Constitution of the United States of Mexico. 3) The right of homosexual couples and 4) foreign couples to use

1 This article was developed as part of a master's research project entitled "Surrogate motherhood in rural communities of Tabasco: analysis with a feminist gender perspective," which was funded by Conacyt and presented at the Colegio de Postgraduados.

2 Abolitionist feminism employs the term "surrogacy" instead of the euphemism "maternity or gestational surrogacy" to highlight that this practice involves renting a woman's womb, constituting a form of reproductive exploitation.

the practice of surrogacy (Murillo, 2021). On June 7th, 2021, the Supreme Court of Justice of the Nation exhorted the Congress of the Union and the Congresses of the States to legislate on surrogacy in order to protect the rights of women and to avoid negative consequences for children born through this reproductive technique (Mosso, 2021).

Abolitionist feminist groups reacted against the ruling of the SCJN as they consider it legalizes reproductive exploitation and the commodification of women's bodies, in addition to endorsing the buying and selling of babies, thus committing the crime of trafficking, as well as failing to uphold the legal principle of the best interest of the child.

Methodology

The research on surrogacy among rural women in Tabasco presented a complex theoretical, methodological, feminist, and political challenge. There is a paucity of comprehensive, transparent, and reliable information on the subject from clinics, lawyers, the government, requesting couples, and pregnant women.

A qualitative approach was employed to gain a deeper understanding of the phenomenon and to inquire about the findings rather than to generalize the results. The objective was to gain insight into the decision-making process and to appreciate the nuances of individual experiences. The qualitative methodology is based on phenomenology, which entails an exploration of the “way in which the world is experienced.” The reality that matters is what people perceive (Taylor and Bogdan, 1994: 16).

Feminism is an interpretative theoretical framework that “deals with offering the image of the reality that women experience” (Álvarez Gayou, 200: 50). In order to gain insight into the perspectives of women and surrogacy, a variety of methodological tools were employed, including case studies, in-depth interviews, bibliographic consultations, virtual information on Facebook, and consultation of chats on the subject. The agencies advertise surrogacy through Facebook and WhatsApp, through groups that are open to the general public. One of the most consulted groups on WhatsApp is “Surrogate Motherhood,” with more than 150 participants, including recruiters, applicants, and women offering to rent their wombs.

The primary informants were selected through the “snowball” strategy (Alloati, 2014), whereby contacts were established through a feminist organization in Tabasco, which has connections with numerous pregnant

women. In addition, the following individuals participated in the study: an abolitionist lawyer, a lawyer in favor of surrogacy, a psychologist, three members of a feminist collective, an official of the Tabasco State Institute for Women, a federal deputy, a journalist, two women who rented their wombs (one 34 years old and the other 38 years old) and the husband of one of these women. Ethical agreements on data and confidentiality were established by mutual consent with the informants. In the case of the pregnant women, the husband, and the feminist activists, fictitious names were used. In the case of the rest, real names were used. Fieldwork was conducted in the state of Tabasco in Villahermosa and Huimanguillo, including informants from Nacajuca and Jonuta, during the months of May to June 2022.

The construction of enunciation and the political site of departure

The theoretical and methodological analysis was informed by feminist epistemological and political principles, including situated methodology. According to Donna Haraway (1991), situated epistemology values the place from which the researcher knows, and therefore the authors of this article are situated in the theoretical and political site of abolitionist feminism to analyze the issue of surrogacy. In feminist epistemology, experiences are a fundamental piece of the puzzle. They position women as relevant subjects of research by recovering their experiences and voices (Harding, 2002). Furthermore, Eli Bartra (2012: 68) states that “feminist methodology explicitly expresses the relationship between politics and science”, as well as the relationship between social and political gender mandates and research. In this regard, we concur with Norma Blázquez (2012: 21) that “one of the central commitments of feminism is change for women in particular and progressive social change in general.” Consequently, feminist methodology encompasses a conceptual political stance that strives to advocate for the position of women in the world through academic research (Güereca, 2016).

Consequently, the study of surrogacy necessitates a theoretical approach and a methodology based on the feminist gender perspective³. This is essential to elucidate the influence of the roles of motherhood and the economic, political, social, medical, and legal framework that is present in the problem.

3 “It is a theoretical, methodological and political category that critically analyzes the inequality and discrimination of women proposing the depatriarchalization of society and the elimination of all types of violence against women” (Alberti, 2019: 231).

As Cobo (2005: 253) notes, the gender perspective identifies the “normative designation based on sex on which the patriarchal system is sustained with the aim of perpetuating the hierarchization between women and men.” This perspective provides a valuable insight into the system in which the practice of surrogacy is accepted and legitimized. The patriarchal system has been the subject of analysis by Kate Millett (2010) and Gerda Lerner (1991), who have both concluded that it is a social structure of subordination of women throughout history. Patriarchy mandates women’s place in the private sphere, highlighting the role of mothers and homemakers as a mandatory destiny. Motherhood gives meaning to women’s lives as the only option for social recognition. Millett (2010) challenges this patriarchal mandate with the slogan “The personal is political,” which critiques the patriarchal structure for its expropriation of women’s right to citizenship and their ability to decide about their own bodies.

Surrogacy represents a patriarchal form of expropriation of women’s bodies through neoliberal culture and market economy, which promotes a highly lucrative business. As Laura Nuño (2016) notes, patriarchy has been appropriating women’s reproductive capacity for centuries. However, the fourth wave of feminism identifies a novel aspect of patriarchal actions, namely the separation of the relationship between gestation and maternity. In essence, women are regarded as vessels, receptacles for gestating products (babies) that others will purchase.

Nuria Varela (2019: 190) refers to Margaret Atwood’s ‘The Handmaid’s Tale’ to exemplify that “when Atwood wrote the book (in 1984), it was a dystopia; now, reading the book disturbs due to its resemblance to certain increasingly common and normalized realities and discourses”.

What are we talking about? Definitions to understand surrogacy

A brief definition of surrogacy consists of the following: it is the practice whereby intending couples hire a woman to gestate an embryo created through In Vitro Fertilization (IVF) technology until childbirth, after which the newborn is handed over to the commissioning or intending couple, who will then legally register the baby as their own. ‘This is a biotechnology in the field of assisted reproduction whose direct beneficiaries are couples unable to conceive children in their own womb’ (Amador, 2010:199).

The term intended or contracting parties arises from legal practice to define those who “contract a woman to carry out the pregnancy” (Jouve, 2017: 154). IVF consists of “the implantation of an embryo from gametes of the intended or donor persons” (Iglesias and Gómez, 2012: 114).

The practice has been designated “surrogacy” with the verb “subrogate” defined as “to substitute or place someone in the stead of another person” (RAE, 2001). The term “surrogacy” is employed by entities associated with this practice, including infertility clinics, reproductive tourism companies, health professionals, government agents, international organizations, and law firms. It is also referred to as “gestation by substitution,” as evidenced by Article 10 of Law 14/2006 of May 26 on Assisted Human Reproduction Techniques in Spain, which declares such contracts to be null and void. The term “surrogacy,” as used by international and Mexican feminist abolitionist collectives, refers to a form of reproductive exploitation against women. This term was first coined in 1982 by the Committee of Experts on Genetic Engineering of the Council of Europe. On the other hand, the term “carrier motherhood,” was created in 1982 by the same committee. “Reproductive exploitation” is defined as “the use of women’s capacity to gestate and give birth in order to produce creatures that satisfy the desire for paternity or maternity of third parties” (Iglesias and Gómez, 2021: 109).

What are the steps involved in the transition from a rural community to a surrogacy clinic?

Ana is 38 years of age and resides with her family in a rural community in Tabasco. A neighbor of her sister, who had already undergone the surrogacy process, extended an invitation to her. The two proceeded to the Reprogyn agency to finalize the terms of the contract, which stipulated Ana’s obligation to be a permanent candidate until an applicant couple selected her. The clinic is owned by Los Angeles Hospital, which oversees the entirety of the embryo transfer, gestation, and delivery process for Ana. One of the initial requirements is for Ana to provide birth certificates for herself, her husband, and their children. The rationale behind this request is unclear, which contravenes her right to data protection. Furthermore, the agency informed her that if she wished to have her documents returned, she would have to pay for them.

The agency offered 200,000 pesos (10,256 dollars) to Ana. The process begins when the “candidates” undergo a psychological assessment to evaluate

their strengths and weaknesses, as well as undergoing therapies to detach from the baby to prepare them for the gestation process.

I was taken to therapy, which helped me a lot with the problems I had with my teenage daughter. There, they already told me that I shouldn't get attached to the baby because it wasn't mine. They said if I did that, it would be ungrateful, because the couple who chose me did so in good faith (Ana, 38 years old, 2022, Villahermosa).

Once the contract was signed, Ana had to wait two years until she was "chosen." However, she did not become pregnant. On another occasion, she lost the baby. The monetary costs of the embryo transfer were very high for the requesting couple, and Ana, when she did not become pregnant, had to pay for the necessary medications in the process because the clinic did not want to take care of it and neither did the requesting couple.

Because Ana did not become pregnant, the couple who had hired her took her to Toluca to a clandestine clinic. She was separated from her family in Tabasco and kept in the couple's house for 11 months until the documents of the twins she had given birth to were in order. The applicant father had assumed the role of Ana's common-law husband in order to circumvent the hospital and the civil registry, which would otherwise have hindered the babies' registration.

Upon completion of the process, Ana was returned to Tabasco with her family.

Once everything was in order, they let me come back, and I still talk to them because they send me pictures of the children (Ana, 38 years old, 2022, Villahermosa).

Upon completion of the process, Ana was queried as to whether she would be willing to repeat it. She responded by citing the following:

I would like to do it again to finish building my house (...) but it would be for the next year because I have to rest my body for at least a year (Ana, 38 years old, 2022, Villahermosa).

The clinic advised her to rest for at least a year, citing the potential for serious physical and mental consequences following the procedure. Despite the absence of a follow-up plan for post-procedure physical and mental health, it is reasonable to assume that there are significant risks associated with the process. Edith, a feminist lawyer, stated:

Two of the women who rented their wombs had cancer. One has already passed away, and the other is no longer afflicted with the disease, but she is experiencing depression. She has already made three suicide attempts, and the psychologist advised her not to discuss the matter further (Edith, feminist lawyer, 2022).

What happens to the babies? In the event that the baby does not meet the applicant couple's requirements, there is no legal mechanism to hold them responsible. If, during gestation, a medical condition is discovered or the couple decides not to have the baby, the clinic terminates the pregnancy, regardless of the stage of gestation and the negative consequences it may have on the mother's health. The abandonment of minors is a common occurrence, which serves to illustrate the irresponsibility of couples, agencies, and governments that permit surrogacy. This results in the biological mothers being left with the baby without any compensation from the couple or the clinic. The following testimony provides an account of this serious situation:

The couple in question was homosexual, and the infant was in the process of being born when they were on vacation in Cozumel. They were informed that the child had been born, but they stated that they lacked the necessary funds at that moment and that they would return at a later time. Sonia was the individual responsible for caring for the infant, as she lacked the financial resources to do so. After a period of time, they returned to claim the child. The couple abducted the infant, but at the border, they were prevented from removing the child. He was consequently placed in the care of the Integrated Family Development System (DIF) in Tijuana. The process of returning him was complex, and he was separated from his mother for a period of two months. Sonia was profoundly distressed, having raised the child as her own (Edith, feminist lawyer, 2022).

It is of significant importance to ascertain the opinions of the husbands of pregnant women regarding the process. Ricardo, Ana's husband, was interviewed.

I offer my unreserved support to Ana in whatever decision she makes. When she informed me that she was not going to engage in sexual intercourse with anyone, and that this course of action would be beneficial to us, I assured her that I would stand by her (Ricardo, husband of Ana, 35 years old, 2022, Villahermosa).

Ricardo's testimony allows us to gain insight into two crucial aspects: firstly, his concern about Ana's intimate relationship with another man, and secondly, the support he provides, given that he stands to gain economic benefits. Ricardo regards his wife as an object that, in terms of sexual relations, belongs to him, and therefore he determines the number of times he will rent her womb to obtain resources. Ricardo has developed the ability to negotiate with couples requesting surrogate pregnancies without the need for an intermediary agency or clinic.

We charge around 350,000 pesos per pregnancy, and if twins are involved, the cost increases. This is expensive; indeed, we tell couples. If they want to have their baby, they

need to have money because they have to pay for all the appointments, medications, and clothing. And, indeed, if they want it here in Tabasco, it is more expensive because all the paperwork is in order. But if they ask us in another state, they have to find a clinic because we only know about the city there. We have a contact who can arrange it... but it is not legal. (Ricardo, 35 years old, husband of Ana, 2022, Villahermosa).

Ricardo also gives an account of how he benefited from the money he received:

The earnings from the business were used to purchase the motorcycle and I no longer need to work in the business because I work as a delivery man and I like that better, I don't have to work all day, only when I want to (Ricardo, 35 years old, husband of Ana, 2022, Villahermosa).

Biotechnology at the service of surrogacy

The biotechnological process of reproduction is complex and involves several people. Bartolini's study shows the crossovers that can occur in clinics involving up to six "parent-mothers": 1) the gestating mother, 2) the requesting mother, 3) the mother who provides the eggs, 4) the requesting father, 5) the genetic father and 6) the spouse of the gestating woman considered as a surrogate father (Bartolini *et al.*, 2014: 40).

In her research on the Indian case, researcher Monica Amador (2010) identifies two types of applicant couples:

1) Heterosexual couples in which the woman does not produce eggs or cannot gestate the pregnancy in her womb, or both, and decide to purchase an external in vitro egg and mix it with the sperm of her male partner. 2) Homosexual couples, men, who purchase the eggs. In general, one of them provides his sperm and then implants the embryos in the surrogate woman. The occurrence of single women and single men is relatively uncommon (Amador, 2010: 207).

These couples desire to have a genetically conceived child that establishes consanguineous kinship ties for the transmission of inheritance. According to Amador (2010: 208), "blood (...) has been interpreted as a human-sacred trait that unites."

In addition to the aforementioned couples, single men and single women may also be eligible for surrogacy (IVF, 2023).

In the case of pregnant women, the requirements considered by reproductive clinics in India were as follows: the woman must be between the ages of 21 and 30, must have a proven state of good health, must not have any sexually transmitted diseases, must have previously given birth at least once, and must not smoke or drink alcohol.

In addition, the husband must consent to the procedure (Amador, 2010: 210). He serves as a guarantor, ensuring that the pregnant woman will comply with the terms of the gestational contract (Amador, 2010: 204). Pregnant women are subjected to comprehensive evaluations to ascertain their suitability for carrying out a successful pregnancy, both physically and emotionally (IVF, 2023).

The phases of the process

The surrogacy process is comprised of three stages: 1) the procurement of gametes, 2) the formation of the embryo in vitro, and 3) the implantation in the pregnant woman and maternal-fetal bonding. Each stage is subject to a multitude of scientific, medical, legal, market, social, and cultural guidelines.

Phase 1. Obtaining the gametes (eggs and sperm). The most common tendency is for the sperm to come from the applicant father, while obtaining the egg follows a more complicated process: 1) the egg can be donated by the pregnant woman (this modality is called “traditional surrogacy”), in which case artificial insemination is used to insert it into the uterus, 2) donation by the applicant woman, and 3) purchase of the egg from an anonymous woman. In cases 2 and 3, IVF is used and is called “gestational surrogacy”.

Additionally, the possibility exists that the two gametes originate from anonymous donors, thereby negating any genetic relationship between the gestating woman and the baby, as well as between the adoptive parents (Jouve de la Barreda, 2017: 154). The practice of purchasing eggs and sperm from banks in Europe and the United States is another avenue that has emerged due to the high quality of the gametes available.

Ovodonation. The cost of eggs can range from \$3,000 to \$10,000, depending on the donor’s race, “medical history, psychological profile, personality, profession, skills, and private life background. For instance, one couple interviewed stated that they purchased the eggs in the United States because the donors at these egg banks are typically athletic and disciplined girls” (Amador, 2010: 206). The clinics offer a catalog of women whose eggs are available to clinics and agencies. This occurs particularly with homosexual couples, although it is more expensive, it also ensures that the baby will be conceived under design.

Ovarian stimulation is a procedure that aims to produce a high number of eggs through a hormonal treatment that hyperstimulates the ovary. This procedure is performed on both egg donors and egg recipient women who are going to undergo IVF. The procedure is designed “to create a hormonal environment that stimulates the development of multiple follicles until they reach maturity, thereby inducing ovulation and the release of one or more eggs in a pharmacologically stimulated cycle” (Jouve de la Barreda, 2017: 156). The pregnant woman is subjected to estrogen and progesterone injections to render the uterus receptive to embryo implantation, which may have adverse effects on the pregnant woman’s health (Barolini *et al.*, 2014: 47). Ten to twenty eggs can be generated and extracted through a puncture.

Ovarian stimulation produces high health risks in women, due to the treatment with human chorionic gonadotropin (HCG) that activates ovulation but causes “ovarian hyperstimulation syndrome (OHSS)”. OHSS causes the “cystic enlargement of the ovaries and an expulsion of fluid from the intravascular space due to increased capillary permeability and ovarian neoangiogenesis” (Jouve de la Barreda, 2017: 175). The physical health consequences are presented later in this article.

Phase 2: In Vitro Fertilization. This is the implantation of the embryo derived from the gametes of the commissioning or donor couples into the gestating woman’s uterus (Iglesias y Gómez, 2021: 113). It is referred to as heterogeneous fertilization, as the egg and sperm originate from donors (Jouve de la Barreda, 2017).

Phase 3. Implantation in the pregnant woman and maternal-fetal bonding

Following implantation, a complex process ensues. During the first eight weeks after fertilization, the embryo is the developing entity. However, from the ninth week onward, the embryo becomes the fetus, which will develop its genome in conjunction with that of the biological mother.

A molecular dialogue exists between the growing fetus and the mother who welcomes it, which is essential for the fetus’s harmonious development. The human placenta is highly complex, penetrating the maternal uterus. During development, the fetus must capture sufficient nutrients and eliminate waste products while remaining in the uterus, requiring a highly complex interaction (Jouve de la Barreda, 2017: 155).

The maternal-fetal bond is observed in the physiology of the mother’s brain during pregnancy, in changes in the endocrine system influenced

by pregnancy hormones, as well as in the presence of oxytocin and other neuropeptides that respond to the fetus's needs.

There is evidence that stem cells from the fetus pass into the circulating blood during pregnancy and come to settle in different maternal tissues. (...) Furthermore, the fetal stem cells will be dispersed throughout the mother's body throughout her life. (...). This, together with the effects on brain development, reinforces the affirmation of the indelible psychological relationship established between the pregnant mother and the fetus (Jouve de la Barreda, 2017:159).

Fetal microchimerism, or cellular exchange between the biological mother and the fetus, influences the epigenome of the baby. This demonstrates the significant impact of the gestation period on the development of both the mother and the baby. The effects of this process are long-lasting, leaving "an imprint that will last for life and that in many aspects will condition the physical and emotional health of the baby". (Iglesias y Gómez, 2021: 121).

The concealment of the physical and psychological consequences in pregnant women

Advertising presents a contract in which all parties win, where everything is easy, without complications. However, scientific research shows serious physical and psychological consequences for pregnant mothers.

Consequences in the bodies

The consequences of ovarian stimulation for both the donor woman and the pregnant woman can include "unwanted pregnancy, renal failure, intrauterine polyps, ovarian cyst, thromboembolism, respiratory distress, hemorrhage due to ovarian rupture, infertility, and possible risk of early menopause" (Iglesias and Gómez, 2021: 117). Given the potential adverse health consequences, it is imperative that the "informed consent" of women undergoing ovarian stimulation be explicitly stated in the contract. However, in most cases, pregnant women lack access to information about the associated risks, largely due to the fact that such information is withheld from them by the clinics and the high level of illiteracy that prevents them from comprehending the contracts and grasping the medical terminology utilized.

The negative consequences of IVF are related to the high failure rates in achieving pregnancy. In response, infertility clinics employ a range of strategies to ensure success, including:

The use of eggs from younger women, healthy sperm, and embryo implantation in women of ideal age are all measures that can be taken to increase the likelihood of a successful pregnancy. However, it is important to note that these measures do not guarantee a pregnancy, let alone a successful delivery (...) This is why many specialists hire two surrogate mothers for each client (López Guzmán, 2017: 209).

In India, the practice of implanting multiple embryos in a single pregnancy was permitted, resulting in the potential for multiple pregnancies and elevated risks to the health of both the pregnant woman and the fetus. These risks include high-risk pregnancy, premature abortion, “fetal malformation, future reproductive complications, and even sterility” (Amador, 2010: 207).

Another negative physical consequence is the high doses of hormones used for ovarian stimulation and other invasive interventions to force pregnancy and childbirth. Also affecting physical health are repeated attempts at embryo transfer if they do not become pregnant, as well as the harmful effects of fetal microchimeriosis, i.e., the presence of fetal cells in maternal tissues and in the baby. This is the coexistence of two different cell populations, originating from genetically distinct individuals. Maternal-fetal microchimerism, or the presence of fetal cells in maternal tissues, begins in the second week of gestation and increases during the third trimester of pregnancy. This phenomenon has been associated with the development of autoimmune diseases such as Sjögren’s syndrome, systemic sclerosis, systemic lupus erythematosus, and rheumatoid arthritis. Allogeneic cells, which are cells from a different individual, can persist in the mother’s body for decades (Arias *et al.*, 2020).

A number of studies have indicated that these cells are associated with the development of breast and ovarian cancer, which has resulted in the demise of numerous women who underwent surrogacy.

In the obstetric context, the utilization of assisted human reproduction techniques has been associated with an increased prevalence of ectopic pregnancies, placenta previa, miscarriages, “premature births, genetic malformations, and infections” (Bartolini *et al.*, 2014: 47). Obstetric violence against women is perpetrated through the performance of cesarean deliveries without the voluntary, express, and informed consent of the woman. This violence is further evidenced by

the forced lying-down and immobilization of the woman during labor, and the subsequent denial of the woman's right to breastfeed her infant immediately after birth.

The physical consequences of a nine-month pregnancy include:

Mood, appetite, skin pigmentation, widening of the pelvis, uterus, breasts and body size, increased secretions, nausea, vomiting, anxiety, insomnia, weakness, excessive sweating, back pain, changes in body rhythm, changes in heart rate, blood and respiratory pressure, changes in metabolism and decreased assimilation of calcium, nutrients and oxygen, all of which are nutrients that are transferred to the fetus for its formation (Amador, 2010: 213).

In the case of physical abnormalities in children, the following conditions may be observed: premature births, fetal death, low birth weight, fetal anomalies, and higher blood pressure (RECAV, 2018).

Consequences on minds

The clinics utilize detachment therapies to compel expectant mothers to acknowledge that the fetus they are carrying is not their biological child and that they have no emotional connection to it. The contract prohibits the mothers from forming an emotional bond with the baby. In the case of the process in Israel, the Israeli expectant mothers are convinced that there is no emotional bond with the baby and consider that:

The contribution of the being is not essential in the development of the fetus, which allows them to maintain distance in front of the fetus and to accept more easily the social distance that separates them from the surrogates (...) and not only the surrogates but also the egg donors conceive themselves as caregivers whose work is intended to help another woman or couple (Olavarría, 2018: 14).

These psychological mechanisms of manipulation have significant consequences on the emotional well-being of women and their children. The objective is to induce cognitive dissociation. The pregnant woman is convinced that she must demonstrate indifference, abandonment, and separation during pregnancy with respect to an entity that is not her son or daughter. From the perspective of humanistic anthropology, the relationship between body and spirit is indissoluble, which means that these therapies of detachment have a detrimental impact on the mental health of the pregnant mother and the fetus.

The consequences of psychological therapies suffered by pregnant women in clinics include depression due to detachment, postpartum depression, anguish, and even suicide attempts. According to the

Psychological Care Manual for Victims of Male Abuse (Álvarez *et al.*, 2016), a high percentage of victims of mistreatment present a psychopathological profile characterized by stress and depression.

The metaphorical “golden thread” that connects a mother and her son or daughter

The close bond between mother and child begins at conception and is strengthened during pregnancy. Communication through the mother’s brain function with the child is observed with functional neuroimaging techniques. According to the molecular biologist Natalia Lopez Moratalla (2008), these techniques show that there are areas of the mother’s brain that are activated when she hears or visualizes her son or daughter, establishing a “neural correlate of emotion”. The brain areas capture the reactions of the mother with her child activating the cognitive-affective system of both mother and child, providing emotional stability for the benefit of the baby’s mental health (Bartolini *et al.*, 2014). The physical, biochemical, emotional, and cerebral bonds generated in pregnancy are very deep and indelible.

The clinics subject pregnant women to detachment therapy with the intention of severing maternal-filial ties. This is done with the aim of forgetting, suppressing, and blocking these ties. The separation from the mother has far-reaching psychological effects on the purchased children, as the right to identity is violated. In the United States, there is a generation of children who are now 40 years old. They are aware that they were sold, and organizations have been established to sue the state for failing to protect their right to identity and allowing them to be trafficked (González López, 2022). This is the case of Olivia Maurel, born through surrogacy in Kentucky. She presents at international conferences to advocate for the abolition of this practice, citing the effects of the aforementioned practice on her own sense of uprootedness as a contributing factor to her suicide attempts (García, 2024).

In the case of rural women in Tabasco, Mrs. Sonia underwent the process of surrogacy to assist with the financial burden of her husband’s cancer treatment. However, upon the birth of the child, the intended parents failed to claim custody, resulting in Sonia retaining custody. The child was subsequently stolen, leading to Sonia developing cancer (information gathered during fieldwork). The emotional and physical bond between mother and child is a crucial aspect of the relationship.

The capitalist market economy at the service of patriarchal desires

The application of biomedical advances to Assisted Reproductive Technologies, including in vitro fertilization (IVF) and artificial insemination, constitutes a set of methods employed to achieve the birth of a new human being. It is crucial to distinguish that the practice of surrogacy is not a biomedical technique of assisted reproduction. Surrogacy represents a form of exploitation of women that, through a biomedical method and a legally-sanctioned but unequal contract between parties, allows for the purchase of a new human being.

The binomial between Assisted Reproduction Technologies and the demand in the market for the purchase of human beings through individualized catalogs generates growing profits for this industry. According to data from Expert Market Research Insights (EMR), in its report “Global Surrogacy Market Outlook” for 2022, it shows that the profits obtained were 167.2 billion dollars and it is estimated that during the period 2023-2031 it will increase to 302.3 billion (EMR, 2022).

It is crucial to highlight the geopolitical and gender economic dimensions of surrogacy that reveal the disparities between regions and between sexes. Human experimentation is conducted in countries with high poverty rates, weak democracies, a lack of human rights guarantees, deep patriarchal structures, and multiple forms of violence against women in Africa, Latin America, and Asia (Amador, 2010). Consequently, robust financial structures are established that traffic in human beings, through companies that espouse an “ethical capitalism” that they claim contributes to the reduction of inequalities by addressing two issues: infertility in the First World and poverty in the Third World (López Guzmán, 2017: 206). The “ethical” narrative employed by companies such as Circle Surrogacy, the Center for Surrogate Parenting Inc. in the United States, and the Ukrainian clinic Feskov emphasizes in their marketing materials that all parties benefit: the intended parents, the gestating woman, and the infant (Jouve, 2017). However, this is not the case in reality.

Neoliberal capitalist globalization is the fast track to obtain eggs from white women in Georgia or South Africa, frozen sperm from the United States, and embryos implanted in pregnant women in Colombia, Mexico, Guatemala, Albania and Greece at lower prices compared to other countries such as the United States.

It is a new system of capitalist production that Laura Nuño (2016: 687) calls “the reproductive mode of production”, which is characterized by:

The speed with which the desire can be satisfied, the ability to choose the sex, genotype, or race of the child, the absence of suitability tests for intended parents, the individualized attention offered by the companies, the exhaustive medical controls of the gestational gamete, the personalized financing, the possibility of obtaining a “brand new” child (...) without previous biographical experiences and lower costs.

This system has been consolidated within neoliberal capitalism as a global market model that commodifies women’s bodies and offers a unique commodity: a new human being. The economic benefits are so high that many countries have developed and promoted “reproductive tourism” (López Guzmán, 2017: 210). In India, the Ministry of Finance, the Legislative Commission and government agencies implemented since 2003 programs to encourage reproductive tourism as a way to attract foreign exchange, promoting the creation of clinics, providing financial incentives, improvement of airport, hotel, restaurant infrastructure, also agreements were made between clinics and travel agencies to offer tourist packages at a good price (López Guzmán, 2017: 210), and offers to foreign investment to encourage the rental of wombs at better prices than in other countries, such as Europe or the United States (Amador, 2010: 203).

The costs associated with the process include the payment to the pregnant mother, the purchase of eggs or sperm, the donation of sperm, clinical care, diagnostics, travel to the host countries, lodging and food (López Guzmán, 2017: 202). In order to attract foreign investment, host countries seek to provide security through efficiency, “speed, tax discount, quality of medical equipment, flexible regulatory framework and confidentiality” (Amador, 2010: 205).

The following countries have legalized surrogacy: Ukraine, Russia, Kazakhstan, Georgia, Greece (Puleo, 2017: 166), Israel, the United States (Rodríguez Yong and Martínez Muñoz, 2012), Colombia, Mexico, and Guatemala (IVFConception, 2023).

Table 1 shows the comparative costs according to different countries.⁴

The report (2023) indicates that the surrogacy market is poised for significant growth, driven by two key factors: 1) demographic (high demand for surrogacy as an alternative to the rising prevalence of infertility in developed countries) and 2) financial (the necessity for financial advancement in developing countries). The report examines the various types of gestational surrogacy, including gestational and traditional surrogacy, as well as the technologies employed, such as in vitro fertilization (IVF),

4 This table can be found in the Annex at the end of this article (Editor’s note).

intrauterine insemination (IUI), and other methods. It also provides a regional breakdown, including North America, Europe, Asia, Latin America, the Middle East, and Africa. Notably, the report highlights the Asian market as having the highest growth potential in the coming years (EMR, 2023).

It is important to note that pregnant women only receive a portion of these benefits, ranging from 0.9% to 20%, depending on the agencies and countries involved (Nuño, 2016: 41).

In the case of Mexico, in 2023, intermediary agencies offered reproductive packages ranging from US\$90,000 to US\$120,000 (not including the medical and legal costs of the process), while the pregnant woman received an average of US\$9,000 to US\$10,000 (Hernández Villegas, 2023).

From a critical feminist perspective, surrogacy has become a mode of commodity production that objectifies women's bodies, treating them as mere merchandise. This practice contributes to what has been termed "abusive extractivism, which devastates the natural resources of impoverished countries and has its parallel in the exploitation of women's sexual and reproductive capacity" (Iglesias and Gómez, 2021: 12).

The dire circumstances of impoverished women compel them to engage in the practice of renting out their wombs

In the case of Tabasco, the economic benefits of surrogacy are significant to the state's finances and to the household economies of rural women.

In Mexico, poverty affects 60% of the rural population (Vargas-Espíndola *et al.*, 2020), with indigenous women experiencing the most severe forms of poverty, including the highest rates of educational backwardness, malnutrition, and health problems (Morgan, 2011). Women in rural areas are confronted with conditions of poverty that result in an increased burden of care work, greater obstacles to labor insertion, a lower monetary income, and greater limitations on access to basic services and necessities (CEDRSSA, 2014).

Tabasco is the entity with the fourth largest rural population in the country and of this population 50.2% are women (INEGI, 2020). It also occupies the seventh place nationally in percentage of population in poverty, with 54.5% (Coneval, 2020a). Three of the municipalities with 72% of the indigenous population living in poverty are Centla, Macuspana and Nacajuca (Coneval, 2020b).

Working poverty has negative effects on the income received by households if it is considered that many of these are headed by women between 14 and 44 years of age, causing them to depend mostly on government support due to the wage gap (Coneval, 2018).

According to the National Agricultural Survey (INEGI, 2019), only 12.4% of rural women in Tabasco are engaged in paid agricultural activities, so they need to be employed in other activities to make a living (Arias *et al.*, 2022).

The women who rent their wombs belong to marginalized environments where their homes lack basic services such as water, electricity, or drainage, as well as household appliances such as refrigerators, televisions, and fans (which are necessary in Tabasco due to the high temperatures that affect the preservation of food and people's health). Having the financial resources to obtain better living conditions is a goal as Ana mentions:

The funds I have accumulated have been utilized to construct a concrete roof and alter the flooring. I intend to construct an additional floor and undertake the gestation process for the remainder of the house. (Ana, 38 years old, 2022, Villahermosa).

The key that unlocks the chest of desires: the surrogacy agreement

Surrogacy can be done in two ways: 1) by signing a contract or 2) altruistically.

Signing the contract

The signing of the contract involves: requesting couples, lawyers, clinics and pregnant women. Those in favor of the commodification of surrogacy claim that the contract benefits all parties, since the requesting couples fulfill their wishes to have a son or daughter, the poor pregnant women obtain resources to cover their needs, and the host countries earn foreign currency that will boost financial development (Nuño, 2016: 689). However, not everything is beneficial for all parties, since pregnant women put their health and life at risk during the pregnancy, delivery and postpartum process, in addition to the fact that the child is deprived of the right to know his or her origin and identity, a right established in the Convention on the Rights of the Child, articles 7 and 8.

The contract conceals significant issues pertaining to consumerist society, which commercializes bodies and generates illicit profits from

forced surrogacy and the trafficking of women for reproductive exploitation (Nuño, 2016: 689). Illustrative examples of organized crime in relation to surrogacy include the case of Thailand and the trafficking of minors in Nigeria (Bartolini *et al.*, 2014, 22-24). This practice can be described as “reproductive exploitation,” whereby women’s bodies are traded, and payment is made for the acquisition of a human being. In the context of commercial surrogacy, the object of the contract is a creature that has been ordered according to the client’s specifications (Nuño, 2016: 687).

In the context of law, a contract is established between two parties with equal legal value. In order for a contract to be valid, it is necessary for both parties to have informed knowledge. This means that the pregnant woman must be able to read, which is not the case for the majority of impoverished rural women. Furthermore, the woman must understand “the biotechnological explanations that are encrypted in the language of communicative engineering” (Amador, 2010: 201). Consequently, to posit that low-income women, who are compelled by vital subsistence needs to sign a document without understanding its terms or the consequences it will have on their lives, is to acknowledge the existence of a gender, legal, social, and economic inequality between the parties involved.

Pregnant women often enter into contracts influenced by third-party intermediaries, including family members, friends, and husbands. These individuals may exert undue influence, violating the women’s willingness to accept the terms of the contract, confidentiality, and the intended use of the money received. In the case of India, “the mediator is typically the spouse, who, according to Indian authorities, is recommended to act as a guardian” (Amador, 2010: 202). This role entails ensuring that the woman does not interrupt the process, submits to medical controls, takes the prescribed medications and food, and hands over the baby even if she wants to keep it once it is born. It is noteworthy that the spouse is designated as the guardian for the woman to comply with the contract. This indicates that patriarchal control of women’s bodies is exercised through the patriarch who is closest to her, namely her husband. A similar phenomenon is observed in the case of rural women in Tabasco, where husbands pressure their wives to rent their wombs when they require financial assistance.

“To legalize is to legitimize a practice of exploitation of women” (Iglesias and Gómez, 2021: 127). In surrogacy the contract is not supported by a free or informed act, because “consent requires an

autonomous self not mediated by survival or subordination” (Nuño, 2016: 690). Rural women in Tabasco or India struggle for survival and are subordinated by the structural patriarchy of their countries. Therefore, it should be asked why it is consented, under what conditions, to what and how. When Rousseau, Locke, Hobbes and Kant mentioned that modern society was based on the contract between free individuals, they did not include women, because they are considered neither individuals nor free. In the words of Stuart Mill, “covenants that nullify freedom cannot be considered valid” (Nuño, 2016: 691). Puleo will take up Carole Pateman’s concept of “sexual contract” to propose another concept, that of “sexual subcontract in the patriarchy of consent” (Puleo, 2017: 176) to indicate that women’s rights are manipulated under the false appearance that they consent, and they freely decide about their bodies, when this is not the case. Pateman (1995: 195) will rightly state that “the surrogacy contract is another means through which the patriarchal subordination is ensured” of women, whose body is considered an object that can be used in parts and whose product (the baby) “are now commodities in the world of neoliberal capitalist globalization” (Puleo, 2017: 177).

To consider as legitimate the labor contract of women who rent their wombs is “to encourage the practice and favor the interest of the industry that benefits from it” (Iglesias and Gómez, 2021: 127). In addition, a new redefinition of motherhood is produced by considering that the mother’s body can be rented, and the father’s function is not to engender but to buy the baby (Puleo, 2017: 178). With this, the pregnant woman and the baby are means devoid of human dignity that are subordinated to achieve the desires of the requesting couples (Iglesias and Gómez, 2021).

Regulating desires: Surrogacy as a right

The Grupo de Información en Reproducción Elegida (Information Group on Chosen Reproduction, GIRE) advocates for regulating the practice, as it represents an alternative that fulfills the desire to exercise motherhood and fatherhood for couples who cannot conceive autonomously. Therefore, they suggest that state legislations in Mexico should address this issue from an authorized legal and medical standpoint (GIRE, 2017). Those advocating for the legalization of surrogacy argue that it prevents a greater harm, as illegal practice has adverse consequences on pregnant women and leaves babies unprotected.

Based on fieldwork in Tabasco, key informants were interviewed: political representatives and officials from the State Institute for Women (IEM), who expressed the opinion that surrogacy should be better regulated, as they perceive this practice as a service to which all individuals desiring to become mothers and fathers are entitled. This perspective is reflected in the testimony of Biella Castellanos, Director of Psychosocial Legal Services for Victims at the IEM:

There are same-sex couples who want to have children, why should they be denied that right? Now, if they have legislation in their favor, let them take advantage of it (Biella Castellanos, 2022, Villahermosa).

The argument to regulate to prevent a greater harm has been questioned by feminist researchers, who argue that it cannot be justified legally or ethically, as it contravenes international and national laws promoting gender equality (CEDAW, Belém do Pará, Beijing Platform, etc.) and child protection (Convention on the Rights of the Child), as well as international provisions on human trafficking established in the Palermo Protocol, Article 3 of which specifies:

a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Such exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, or practices similar to slavery, servitude or the removal of organs

b) The consent of the victim of trafficking in persons to any form of intentional exploitation described in subparagraph (a) of this article shall not be taken into account when any of the means set forth in that subparagraph have been used (Palermo Protocol, 2004).

Pregnant women are included in the category of “trafficking in persons” due to their high degree of vulnerability, receipt of payments to obtain consent, forms of sexual exploitation and organ extraction. Likewise, in the General Law to Prevent, Punish and Eradicate Crimes of Human Trafficking in Mexico, Article 10 specifies that the exploitation of a person shall be understood as: “X. Trafficking in organs, tissues and cells of living human beings in the terms of Article 30 of the present Law”. Article 30 indicates that “a penalty of 15 to 25 years of imprisonment

and a fine of 2,000 to 30,000 days shall be imposed on anyone who extracts, removes or obtains an organ, tissue or cells from living human beings, in exchange for a benefit or through a commercial transaction” (Ley Trata de Personas, 2023).

Desires are individual, everyone has specific desires, while rights are general to the entire population. The state is the guarantor of rights, not of desires, therefore men and women who wish to be fathers and mothers cannot legitimize their desires by arguing that they are rights. The state cannot legislate to guarantee the desires of men and women by exploiting women’s bodies; therefore, surrogacy cannot be legalized. As a practice that exploits human beings (women) and trades in human beings (buying and selling babies), it is illegal, and the state is obliged to prohibit it.

The altruistic alternative of surrogacy motherhood

Due to the multiple criticisms received by commercial surrogacy, altruistic maternity has been considered as an alternative that allows the agreement between the commissioning parents and the gestational mother without any payment for the latter. In some countries, altruistic surrogacy is legal, such as Portugal, United Kingdom, Canada (Guerra, 2017: 3), Australia (García, 2018) and Cuba (Fernández *et al.*, 2023).

There are two denominations: altruistic surrogacy and solidarity gestation. In the case of Cuba, it is called “solidarity gestation” in the Family Code and is based on the right of every person to have a family. Article 28 of the Code establishes that solidarity gestation can only be performed between family members or between persons united by close emotional ties “for the benefit of women with a medical pathology that prevents them from gestation, sterile persons, single men or couples of men” (Code, 2022, Art. 28.2). It is altruistic because “any type of remuneration or gift is prohibited, except for the legal obligation to provide food in favor of the conceived and the compensation of expenses generated by pregnancy and childbirth” (Code, 2022, Art. 28.3).

It is worth mentioning that in Cuba, the “Constitution of the Republic, approved in 2019, evidences the insertion of the right of solidarity management and reaffirms the principles of equality without making differences” (Fernandez *et al.*, 2023: 6). No contract is carried out between the parties, but it is mandatory to obtain a judicial permission granted by a family court for the clinic to proceed with an embryo transfer. Only with judicial authorization can the baby be registered as a son or daughter of the

commissioning parents. It is interesting to note that “this practice will not be performed for convenience, for aesthetic reasons or to save the effort and time required for gestation, delivery and breastfeeding, as has occurred in other countries” (Fernandez *et al.*, 2023: 7).

In the case of Canada, altruistic gestation is allowed to Canadian citizens, as well as to foreigners and all types of couples. The expectant mother may receive compensation for pregnancy expenses but is prohibited from receiving a salary. “Canadian healthcare is public and pays for all services” (Guerra, 2017: 3), but if the mother receives any financial remuneration, fines and “prison sentences of up to 10 years” apply (Guerra, 2017). In the case of the UK, the gestational mother has up to six months to “decide whether to relinquish parentage” of the baby. There is no contract, “trust is the underpinning of the relationship between mother and intended parents” (Guerra, 2017: 3).

Altruistic gestation presents ethical, legal, medical, and economic problems that affect the dignity of the mother and the best interests of the baby. There are legal gaps in the matter such as those raised by Bellver (2017): who makes the decision in case of abortion of a baby gestated by surrogacy, whose child is the child during pregnancy, does the gestational carrier have the right to repent and keep the baby, should the surrogate be a relative or a non-related person, how to solve the problem of compensation, is altruistic surrogacy an alternative for women who cannot gestate, is there an altruistic desire of surrogate women to help their relatives and friends, is there an altruistic desire of surrogate women to help their relatives and friends?

Finally, it would be worth mentioning the best interests of minors and analyzing whether their rights and interests are violated by the practice of surrogacy in two aspects: the Civil Registry and maternity benefits (Garibo, 2017).

International abolitionist legislative proposals

Abolitionist feminists have proposed laws, decrees, and regulations to ban surrogacy, achieving significant milestones. The objective is to abolish this practice globally, in all countries worldwide. The Committee on Bioethics of Spain, in 2017, concludes by recommending “a universal prohibition of international surrogacy” (Iglesias y Gómez, 2021: 134).

Worldwide, countries that prohibit surrogacy include Cambodia, Thailand, Nepal (ACEprensa, 2019), France, Germany, Italy, Poland, the Netherlands, Spain (Blas, 2023), among others.

India. In 2012, the government bans surrogacy for homosexual couples; in 2016, the commercialization of surrogacy is banned due to pressure from abolitionist feminists and civil associations. In 2019, the Parliament “passes a law prohibiting the commercial practice of surrogacy but allows altruistic surrogacy only for infertile Indian married couples through a close relative” (ACEprensa, 2019).

Europe. In 2020, the European Parliament, in its report on gender equality (2019/2169) of November 25, 2020, paragraph 32:

It acknowledges that sexual exploitation for reproductive and surrogacy purposes, or for purposes such as forced marriages, prostitution, and pornography, is unacceptable and constitutes a violation of human dignity and human rights; therefore, it requests (...) the elaboration of a Directive on combating trafficking for sexual exploitation in the European Union (Iglesias y Gómez, 2021: 136).

Spain. In 2023 the Organic Law 1/2023 of February 28, Article 32, prohibits surrogacy, and in its article 33 prohibits commercial promotion by any means (Ley 1/2023 28 febrero).

How is surrogacy considered in Mexico from the resolution of the Supreme Court of Justice of the Nation from 2021 to 2024?

In Mexico, this practice is legal in the state of Tabasco since 1997 and in recent years it has been regulated in Sinaloa and Jalisco. However, in Coahuila and Querétaro it is expressly prohibited, while the rest of the states do not have a clear legal framework, such as in the State of Mexico and Mexico City where although surrogacy is not allowed, it is also not prohibited.

Surrogacy is regulated in Tabasco due to the mandate of Governor Roberto Madrazo, who approved the reform to the Civil Code of the state to include the figures of “surrogate mother” and “commissioning couple”, which caused the entity to become a center for reproductive tourism.

This situation began in 1997 and continued until 2016 when the State Chamber of Deputies promoted a reform that established restrictions for carrying out the practice, among which the prohibition of foreign couples and same-sex couples to access the baby-buying market, as well as the prohibition of intermediaries for the realization of the process,

stood out. The regulation of the practice was under federal supervision by the Ministry of Health to ensure that the health of women and children was not put at risk. This federal oversight lasted from 2016 until 2021. It is worth noting that despite the Ministry of Health being in charge of regulating the processes in this matter, there is a lack of information and opacity in the records, as it is not possible to access a registry that accounts for the number of births or the physical and emotional health status of women who were victims of reproductive exploitation.

The 2016 reform led to numerous complaints from fertility clinics; specifically, the so-called Fertility Center filed an amparo lawsuit in 2021 before the Supreme Court of Justice of the Nation (SCJN)⁵ to remove the established restrictions, alleging a violation of rights for foreign individuals and discrimination based on sexual orientation (Murillo, 2021). The amparo was accepted and the clinic's argumentation was approved by the SCJN, which eliminated the restrictions of the 2016 reform, and currently clinics in the state of Tabasco serve foreign couples and same-sex couples who wish to purchase a baby.

Abolitionist feminist collectives expressed their dissatisfaction with the Court's ruling and made proposals to promote abolition. A brief summary of proposals is presented:

2022. Some activists, such as Teresa Ulloa Ziaurriz, spearheaded legal changes with the support of Deputy Beatriz Rojas Martínez and Senator José Narro Céspedes, both from the National Regeneration Movement party (MORENA) to reform Article 30 of the General Law for the Prevention, Punishment, and Eradication of Crimes in Trafficking in Persons and for the Protection and Assistance of Victims, as well as Article 462 of the General Health Law. These reform proposals suggest classifying surrogacy as a crime and penalizing the offense of extraction, removal, or obtaining of an organ or its functions, so that surrogacy and "egg donation" would be punished with a penalty of 15 to 25 years in prison, and a fine of 2,000 to 30,000 days of the minimum wage for those found responsible (Ballinas, 2022; Hernández Villegas, 2023).

2022. June. Senator Marcela Mora Arellano from the PES presented the initiative:

With a bill to amend Article 30 of the General Law for the Prevention, Punishment, and Eradication of Crimes in Trafficking in Persons and for the Protection and

⁵ This amparo was promoted by Minister Jorge Mario Pardo Rebolledo in response to a request from the Fertility Center Clinic of Tabasco. The clinic argued that the 2016 reform prevented the existence of intermediaries, which violated its labor rights.

Assistance of Victims of these Crimes. This initiative seeks **to penalize surrogacy** as a form of **human trafficking and to protect the right to identity of girls and boys born** through this practice (Ulloa, 2023: 3).

2023. Senator Jose Narro Cespedes of MORENA presented:

The draft decree proposes reforms to the General Law on the Rights of Children and Adolescents, the General Law on Women's Access to a Life Free of Violence, and the General Law on Health. The objective is **to abolish surrogacy** in Mexico and to qualify it as **a form of organ trafficking** (Ulloa, 2023: 2).

2023. Senator José Luis Picha Gómez of the PAN presented a draft decree “Whereby the Federal Law for Surrogacy and Altruistic Gestation is Issued (...). This initiative seeks **to regulate surrogacy and altruistic gestation** as an option for individuals who are unable to have biological children” (Ulloa, 2023: 2).

2023. Senator Blanca Estela Piña Gudiño of MORENA presented an initiative to “modify Article 30 of the General Law to prevent, punish, eradicate crimes related to human trafficking and for the protection and assistance to the victims of these crimes,” with the objective of “**sanctioning womb renting as a modality of human trafficking, which guarantees that women in vulnerable situations are not punished**” (Ulloa, 2023: 3).

2024. Forum on the prohibition of surrogacy through any modality or agreement will be held. The forum is organized by Congresswomen Blanca Alcalá Ruiz (PRI) and Congresswoman Juanna A. Felipe Torres (PAN) and the feminist collectives TODAS MÉXICO and Feminist Women's International. The forum will take place on March 5th at the Legislative Palace of San Lazaro, Mexico City.

In addition to legislative proposals, there are citizen mobilizations, actions, and feminist abolitionist struggle.

The feminist abolitionist position

Considering the aforementioned issues and their complexity, the feminist argument for the abolition of surrogacy is presented below. It is first necessary to define the two central concepts of feminism and abolitionism. Feminism is defined as:

A philosophical current, a scientific theory, a political proposal, and a social movement that challenges the principles of patriarchy. Feminism critiques patriarchy and asserts that women are not inferior, are not property, and are not at the service of men (Alberti, 2019: 317).

In this definition we find the basis of surrogacy: the idea that women are property through a contract and the idea that women must “serve others”, “be for others” and give them the product of pregnancy: a baby. In relation to the definition of abolitionist feminism, we propose the following: current of radical feminism that promotes the cessation of the expressions of 10 patriarchal structures: 1) trafficking in women, 2) prostitution, 3) pornography, 4) surrogacy, 5) all kinds of violence against women, including femicide, 6) against the erasure of women in the legislative, political, social and economic spheres, 7) sexual violence, 8) reproductive violence, 9) gender stereotypes, generism, and 10) queerism (Abolitionist Journals, 2022-2023).

The 14 feminist abolitionist arguments

The following is a summary of the abolitionist arguments:

1. The patriarchal system objectifies women's bodies, and the capitalist system commercializes them by promoting surrogacy. These systems produce inequalities that cause vulnerability, lack of protection, and defenselessness among impoverished women who are forced to rent their wombs as an alternative to poverty.

2. Women are not merely reproductive vessels. Surrogacy results in the “erasure of the woman,” in this case, “erasure of the mother,” which renders the significance of pregnancy and its impact on the gestated child invisible (Iglesias and Gómez, 2021: 117).

3. Reproductive exploitation of women in vulnerable situations. For abolitionist feminism, surrogacy is defined as the recruitment of a woman in a situation of vulnerability caused by gender, class, and racial inequalities. This woman is then subjected to intensive hormonal treatments in order to perform an embryo transfer and cause a pregnancy, which she must successfully carry to term, by strictly following a series of rules imposed by the fertility clinics where the process is carried out.

4. Surrogacy is not a technique to solve infertility problems. It is not a technique that cures infertility. On the contrary, despite the delivery of a newborn, the contracting persons continue to have the same infertility impediments. Thus, surrogacy by same-sex couples will not solve the problem that they will never be able to procreate, and, in the case of women who do not wish to use their bodies to give life to a new being, they will not become pregnant because they have rented a womb.

5. Surrogacy is not a biomedical technique of human reproduction. A distinction must be made between 1) IVF techniques and 2) the commercial use of these techniques. Biomedical techniques are important advances in science; however, the commercial use of these techniques, commodifying women's bodies, is not acceptable in relation to human rights and the principles of equality.

6. Wishes are not rights.

Being a parent, in itself is not a human right, neither sexual, nor reproductive; it is a capacity (...) We have the right to decide about our body (...) to choose to have children or not and with whom, to plan when and how many, and that the health system takes care of us well and equally (...) to confuse individual desires with universal rights is, to say the least, selfish (Isabel Serrano, 2019: 3, quoted in Iglesias and Gómez, 2021: 118).

The desire to be a father is individual and cannot be guaranteed by the State as a right, because the State cannot use another human being to fulfill the desires of a first. Rights are guaranteed by the State universally, desires are individual. The State cannot guarantee that women are used to fulfill desires to be parents. "The desire to be a father is not a right because the State would have to guarantee to be a father, how? Since they cannot give birth then women and babies are bought, that is, human beings are used as merchandise and that is forbidden by law" (González López, 2022).

7. Pregnant women have no freedom or agency to decide about their bodies. Surrogacy deepens the social class division by promoting the enslavement of the poorest women (Iglesias and Gómez, 2021). There is no freedom of decision when living in conditions of poverty and need.

8. Surrogacy contracts are not valid. Reason 1: Pregnant women are not informed about the content of the contract because, in some cases, they cannot read, do not know the language in which it is written, and do not know the terms of biomedicine. Reason 2: The consent of women is carried out under the principle of women's economic vulnerability and lack of freedom of choice. In legal terms, the consent of a woman who is pressured by economic issues to sign a contract is invalid. This is reason three. If one of the parties cannot regret any of the terms of the contract, the contract is null and void (González López, 2022).

9. Damage to the physical and psychological health of the pregnant woman. Microchemerosis, changes in metabolism, detachment therapies and other consequences.

10. Detachment therapies disrupt the biological, neuronal, emotional, and mother-filial bond. Medical research has demonstrated that the prenatal

relationship with the mother plays a pivotal role in the development of the human being (Iglesias y Gómez, 2021: 121).

11. Maternal-filial bonds are annulled. Detachment therapies aim to break the maternal-filial bond. Medical and legal evidence indicates that these bonds endure throughout life.

12. The deprivation of the rights of filiation, identity, and origin of babies born through surrogacy. Since Roman law, the filiation of the baby is determined in accordance with the maxim “*mater semper certa est*,” which states that the mother is always recognized as the one who gives birth (Bartolini *et al.*, 2014: 24). Consequently, the maternal-filial bond is established from the moment of birth and continues until the death of the mother and the child.

13. The practice of surrogacy is distinct from the adoption of a child. In surrogacy, the child’s right to maternal filiation, to know its parents, and to know its origin is annulled.

14. The right to abortion for women is annulled. In surrogacy contracts, the decision to abort is made by the doctors and the requesting couples, not by the pregnant women.

These 14 arguments form the foundation of the abolitionist struggle.

The struggle of abolitionist feminist collectives

In Mexico, the National Feminist Networks Alliance brings together the following abolitionist feminist collectives: National Feminist Front, MX Feminist Constituents, Network of Shelters, MIRA Urban Thinkers, Regional Coalition against Trafficking of Women and Girls in Latin America and the Caribbean, We Have Other Data, National Alertist Network, National Front of Feminist Lesbians, International Women’s Declaration, Mexico Chapter (WDI-Mexico), Mexican Lesbian Feminist Abolitionist Movement (MLFAM). The Alliance organizes Abolitionist Conferences (2022 and 2023) and disseminates information on the topic through social media channels (alianzaderedesfeministas, Facebook, 2023).

The main abolitionist manifestos and actions are presented below:

2015. Manifesto “We are not vessels”, signed by renowned Spanish feminists such as Amelia Valcarcel, Victoria Camps, Ana de Miguel, Alicia Millares, Luisa Posada, Laura Nuño, Rosa Cobo, among others. The manifesto opposes the regulation of the practice of surrogacy for seeing it as unethical and considering that women are seen as mere reproductive bodies, vessels, incubators (Puleo, 2017).

2018. The State Network Against Surrogacy (RECAV-Spain) demands the Spanish government to express its opposition to the recommendation of the Population Fund and the Commissioner for Human Rights of the UN that promotes the legalization of surrogacy in countries. RECAV disseminated a statement highlighting that countries must respect international treaties that prohibit the transfer of children born through surrogacy, nor their civil registration as it goes against the human rights of minors, as well as women (RECAV, 2018).

2020. Manifesto for the Universal Abolition of Surrogacy, issued by the International Coalition for the Abolition of Surrogacy (CIAMS).

2020. Latin American Manifesto against Reproductive Exploitation, issued by CIAMS. The practice of “surrogacy” is a form of discrimination, violence and violation of human and fundamental rights of women, girls and boys, and contravenes the provisions of international conventions and treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention Against Transnational Organized Crime, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention Against Transnational Organized Crime, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Organized Crime Convention, the International Convention on the Rights of the Child, as well as the Optional Protocol to the International Convention on the Rights of the Child on the sale of children.

The perspective of freedom and desire underlying the discourse promoting the legalization of “surrogacy” and presenting itself as a progressive discourse is actually a neoliberal and postmodern postulate invoking an apparent individual freedom of women hired as “surrogates” (CIAMS, 2020).

2021. Webinar “We are women, not incubators”. April 1st. Positioning of the collective Marea Verde Tabasco against the injunction filed by the company Fertility Center that defends surrogacy. This company represents the lucrative interests of reproductive exploitation, uses a double standard discourse by justifying the practice in the free decision of women to sign contracts, but what underlies it is the impoverishment that forces these women to rent their wombs as a livelihood strategy (Rojas, 2021).

2021. Presentation of the book *“Wombs for Rent: The Bad People”* by Nuria Gonzalez Lopez, at the Chamber of Deputies, November 21 st, 2021.

2022. Forum on “Surrogacy in the Law”, organized by the Chamber of Deputies, at the Congress of the Republic, February 25th.

2022. Statement “We are Women, Not Incubators, no to surrogacy!”, presented before the Congress of Mexico City against the initiatives presented to regulate surrogacy, February.

2022. Statement “Against surrogacy as a form of exploitation of women’s bodies” presented at a press conference on March 7th by the National Feminist Network Alliance of Mexico.

We demand: 1) the Supreme Court of the Nation to withdraw its recommendation to legalize the practice of surrogacy throughout the country. We ask that it consider feminist arguments in favor of women’s human rights to prohibit this practice. 2) To the federal entities to repeal surrogacy (Tabasco and Sinaloa). 3) To the Congress of Mexico City to withdraw the bills that promote the approval of surrogacy (cimacnoticias, 2022).

2022. National abolitionist conferences. “Surrogacy”. Saturday, July 16th, organized by the Alliance of National Feminist Networks (Youtube).

2023. National abolitionist conference. “Sexual and reproductive exploitation (surrogacy)”. VI Abolitionist Day, on Saturday 26th August. Youtube and Facebook Alianza de Redes Feministas Nacionales.

2024. Abolitionist feminist agenda delivered to the presidential candidates: Claudia Sheinbaum Pardo and Bertha Xochitl Galvez Ruiz in the electoral process in Mexico.

Conclusions

Ana is a rural woman from Tabasco whose experience shows us the complexity of surrogacy. Through her account of the process of hiring, pregnancy, and delivery of twins in Toluca, she concludes that surrogacy is a form of patriarchal violence against women because it commodifies and objectifies their bodies. The high economic profits generated by the reproductive industry in the state of Tabasco, through the clinics and civil registries in charge of issuing birth certificates for newborns between 1997 and 2021, show the success of this practice on an economic and legal level.

However, on the flip side of the coin are the rural women who rent their wombs and suffer the physical and psychological consequences. These women are the subjects of international laws, bioethical research,

economic analysis, and life experiences that argue for the abolition of this practice. Surrogacy is a practice of patriarchal reproductive exploitation that affects the most vulnerable women in poverty, leading them to rent their wombs as a survival strategy. This situation of economic vulnerability is exploited by the international and national market as an extractivist practice that justifies itself by arguing that women decide “freely” to sign the surrogacy contract.

Freedom of choice can only be granted in a context of equality among peers, and rural women from Tabasco are not on equal footing with the requesting couples, agencies, lawyers, doctors, and officials involved in surrogacy. Furthermore, from a legal perspective, it is established that the mother of the newborn corresponds to the pregnant woman who gave birth to the baby (*mater semper certa est*), and the civil registration of the baby’s parentage corresponds to the gestational mother. The negative repercussions on both physical and psychological health are severe: diseases triggered by hormonal treatments, microchimerism, cancer, and even deaths.

Finally, even if women were to sign freely, were not in conditions of poverty, and medical advances prevented the negative repercussions of surrogacy, this patriarchal capitalist practice must be abolished because it affects the human rights of women and children by going against international laws prohibiting the trafficking of women, the removal of organs, and the buying and selling of babies.

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Annex

Table 1

Costs of the surrogacy process in various countries. 2023

Countries	Regulation	Applicants	Cost (USD)	Legal Certainty
Ukraine	Commercial	Heterosexual couples	60,000	Strong
Georgia	Commercial	Heterosexual couples	60,000	Strong
Colombia	Altruistic	Singles, heterosexual and homosexual couples	70,000	Reliable
Mexico	Altruistic	Singles, heterosexual and homosexual couples	80,000	Reliable
Greece	Altruistic	Heterosexual couples and single women	80,000	Strong
United States of America	Commercial	Singles, heterosexual and homosexual couples	150,000	Strong

Source: <http://ivfconceptions.com/best-countries-for-surrogacy> [27 de agosto de 2023].

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