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Surrogacy in the Philippine Context: Bane or Boon?

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ABSTRACT

Surrogacy is the procreative practice by which a woman gestates an embryo with which she has no biological connection for another person, eventually relinquishing the child to the other party. This practice involves financial remuneration for the surrogate mother depending on the agreed amount of both parties. The moral issue becomes more known and patronized by other countries, especially first-world countries. Some countries already legalized surrogacies with their parameters. Others are practicing it with their own norms and standards with precautionary measures. However in the Philippines, though dominantly Catholic, already been practiced surrogacy by some Filipinos due of poverty. They would try to give in thinking that it would alleviate them from poverty at their wombs expense. Some Filipinos who can afford the process chose other races. Though, the issue is not largely being discussed by the majority because it is prohibited in the said country. But in its subtle manner it is being performed. In this accord, a moral issue that challenges the authority of both Civil and Ecclesiastical not only in the Philippines but also in other countries will be on how to answer the problem morally. With this, it might be an attempt to consider in a wider perspective whether surrogacy is a gift -which means has a purpose to serve humanity or evil because of its immoral implication to humanity.

Keywords: Surrogacy, Philippines context, Commercial, *Donum vitae*, Implication to humanity, and Morality.

INTRODUCTION:

Surrogacy is one of the moral issues that our contemporary world is encountering. The moral issue becomes even more commercialized in the world market which makes for others easily available. Other people become interested in such a way that it can only be arranged by both parties depending on the cost and payment, especially the LGBTQ+ community and those infertile. Surrogacy is not equivalent to sex work. However, both are largely considered to be “women’s work.” Women’s work continues to be demonized and undervalued due to the patriarchy’s notion that these services are expected to be done without charge (Mc-

Clintock, 1993). The moral issue is quite interesting to be discussed because it brings undeniable happiness that makes a family complete in some sense, especially those married couples who are struggling to have a child because to infertility or those advancing in age. There are already countries that are open to surrogacy. Some used it as a way of the business to earn at the expense of their body.

In the United States of America, surrogacy is very much popular especially, in some of the top countries including Ukraine, Colombia, Mexico, and Georgia. In these surrogacy-legal countries, commercial surrogacy

is allowed (Surrogacy Legal Countries). The United States of America is considered the pioneering proponent who legalizes surrogacy in the whole world. It was the first country in the world to recognize intended parentage in the surrogate pregnancy process Intraius. On the other hand, in the Philippine context, surrogacy is not that much been tackled by both Government and Church authority. Although, there are already existing practices in the different parts of the country, some of which are Filipino celebrities and those who can afford to expense such a process. With this, people are now becoming aware of such human needs. It may vary also on what type of race are they going to choose for their child (Sarkar *et al.*, 2020).

The research gives an avenue in its contextualized approach on how Government and Church authority perceived and confront the moral issue that challenges from people's demands and choices especially, those people who can afford such processes. The topic is interesting because of its newness in the Philippines since not all are aware and can afford to pay for such processes. Aside from what has been said, there are many possibilities to explore base from different approaches and contexts. Of this, it becomes now gradually opened to some areas and communities. The research is in the Philippine setting which would allow people to be aware of the moral dilemma, and more so, to be able to come up with the proper moral sound judgment in both civil and ecclesiastical law.

Objectives of the Study

The specific objectives of this paper are:

- 1) To present explicit evidence of Surrogacy and its development in the Philippines.
- 2) To expose the moral problem of the issue.
- 3) To identify the moral value of the issue

METHODOLOGY:

The study uses a qualitative design. It seeks to analyze documents and writings of reputed scholars regarding surrogacy. The sources in this study are the books and journals written by Magisterium, local and the international scholars, and other researchers. The books and documents of the scholars are carefully examined to get the needed information for the study through the Vatican website, some articles on catholic websites, and articles concerning surrogacy found on the internet.

Origin

The term "Surrogate" has its origin in the Latin term "Surrogatus" meaning a woman acts as a substitute for another woman. It is a method of assisted reproduction or assisted reproductive technology (ART) where on behalf of another person or couples a woman or the surrogate offers to carry a baby through pregnancy and then return the baby to the intended parents once it is born and in return will get compensation as agreed Shikha Goyal, (2020). In other words, it is a practice whereby a woman carries a child for another with the intention that the child should be handed over after birth (Reyes and Hazel, 2001). Accordingly, there are two types of surrogacies:

Traditional Surrogacy: A surrogate mother is naturally or the artificially inseminated with the commissioning father's sperm. In the traditional surrogacy arrangement, the surrogate mother has a genetic link to the child she is carrying. The surrogate is not only the gestational carrier but also the egg donor. Gestational surrogacy (total surrogacy): Under such agreements, gestational carriers agree to carry the embryo created from the ova and sperm of the intended parents. There is no genetic relation between the surrogate and the child she carries (Pangalangan and Panganiban, 2017).

Undeniably, the procedure is extremely complicated. There are crucial measures to make sure that both sides choose the right course of action. The intended parents or donors of sperm and egg are being used to develop an embryo through surrogacy, which is then implanted into the surrogate's uterus, and there is no genetic connection between the baby and the surrogate. By this, surrogacy has become widely known all over the world since it has become the easiest way to ease poverty, especially in the third-world countries. It becomes accessible to those who can no longer bear a child to have a substitute for carrying the baby in someone's womb or to those members of the LGBTQ+ community who can afford to spend millions just to have a child.

Development in the Philippines

The status of surrogacy may vary from country to country as well. Like for example in Australia, sur-

rogacy is allowed if it is purely altruistic in nature (Karandikar *et al.*, 2014). In the Philippines, it has become one of the seedbeds of surrogacy because of poverty that strikes the daily living of the people. Undeniably, it becomes a means of income which depends on the agreement of payment of contracting parties and the arrangement of conditions. But unfortunately, surrogacy has rarely been discussed among Filipinos because it is a taboo and more so of being pious to the Catholic faith. In the Philippines, surrogacy is often compared to “child trafficking” as the act of “buying a child” through its development in a body of a surrogate. However, the act of surrogacy happens before the child is even born, thereby debunking the comparison (Guidote, 2017). Accordingly, there is one study that looks at different perspectives on surrogacy among Filipinos involved in the process and leaving out potential parents. Surrogacy is being revealed as a largely unexplored practice in the Philippines which involves risks such as emotional attachment to the mothers, financial scamming on the part of the agent, perception of risk in the child’s future among the general population, and the strict rules set in place by the agencies to mitigate these problems (Pangalangan, 2017). There is also a lack of legal parameters when dealing with surrogacy, which serves as both a reason why many avails of it in the Philippines compared to other countries and a deterrent due to the unclear consequences of doing so. The above mentioned give surrogacy its secretive nature in the Philippines which is enforced by conservative culture and may hinder to discuss in public. It remains secretive due to its contrasts with the strong religious beliefs that are so dominant in the Philippines. From the Catholic perspective, the separation of sex and childbearing is a scandalous affair as all sexual acts should result in, or intend to result in, the procreation of life. This may also be where discrimination against infertile or LGBT couples stems from (Coleman, 1996). Moreover, much has been said about the development of surrogacy in the Philippine context which could somehow be understood differently because of its secrecy and illegality but projecting probably, there will come a time when it will be discussed in public and would come into the discourse of its legality. Former Chief Justice Panganiban commented on the interplay between technology and law:

The gigantic strides in the life sciences and life technologies will change human behavior and the social interaction. That is certain. These resulting alterations will, in turn, require new modes of governance and, for us in the judiciary, new jurisprudential norms without precedence. For this reason, the Supreme Court has been monitoring these epochal transformations wrought by biosciences and biotechnologies and the need to keep our judiciary attuned to them (Panganiban, 2003).

The interplay between the rapid development of technology and governance should go hand in hand to provide policies that will guide the agreement of the contracting parties.

Testimonies

There had been testimonies of mothers regarding surrogacy in the Philippines. Some of them are surrogate mothers which means that their womb is being used or rented since surrogacy is concerned for a quiet time after giving birth, and some are Filipino celebrities who can afford to expense such a process. Here are some of the Filipino celebrities who shared their stories in their journey of the surrogacy process. Joel Santos Cruz is the owner of the famous scent aficionado. Born in Bajos de Haina, Philippines, in the Dominican Republic on February 5, 1965. Joel Santos Cruz introduced his twins, who are born via a surrogate mother, many celebrities have successfully entertained the idea of welcoming a child via IVF Aaron Brennt Eusebio, (2022). In less than a decade he had eight children. According to the successful businessman, he spent nearly P54 million on the surrogacy of Prince Sean, Princess Synne, Prince Harvey, Prince Harry, Charles, Charlotte, Zaid, and Ziv. All of them share one surrogate mother, a woman named Lilia who is from Russia. “She’s the biological mother for everybody. Ang ginamit lang namin 'yong egg cells niya and my sperm cell” Lifestyle, (2021). as he was interviewed by the reporter, and he was happy having many kids. nIn 2016 a famous medical doctor Vicki Belo and her husband Hyden Kho introduced to the media their daughter named Scarlet who is also a product of IVF. They have revealed their daughter and their joyful experience with the child. According to the Dr. Vicki “Scarlet Snow is 100 percent our daughter,” as aired on

MJ Felipe's report on Bandila, Wednesday night, May 18. Dr. Vicki revealed that she and Hayden personally met Baby Scarlet's American Mexican surrogate mother Rachelle Siazon, (2016). Alice Dixson is a Filipino actress born to an American father and a Filipino mother; she was the Philippines' representative for Miss International in 1986 Jessie Alice Dixson, (1986). She shared her journey as a mother to her firstborn daughter Aura. Alice revealed in a previous interview that she first froze her eggs at 40 years old but was only able to conceive recently. She flew to North America to meet her daughter who was born premature, two months earlier than expected Ronna Capili Bonifacio, (2022). These are some of the testimonies of Filipino Celebrities who despite their infertility they tried to make an alternative way of making use of the capacity of the human body to bear a child through a surrogate mother. This would also be an eye-opener to all Filipinos who wanted to attempt of having a child despite infertility.

Further-more, based on their statements aired on social media, they felt extra happiness and completeness in their life. Their lives become satisfying by granting their wishes in life amidst the crisis of bearing a child in their womb. While there are people who can get what they want in life to satisfy their longing through their resources, there are also other people who cannot provide because of limitations. Other Filipinos who are poor and at the same time have no capacity of bearing a child because of sterility, infertility, and or because of advanced in age who wishes to have a child but because of limitations they cannot afford, can we say that they are happy and satisfied with their own life even if without a child coming from their flesh? This might sound absurd but, they too are unsatisfied and have a longing in life which is to have on their own. According to the Philippine Statistics Authority the result of the Family Income and Expenditure Survey (FIES) in 2021:

Poverty incidence among the population is defined as the proportion of Filipinos whose per capita income cannot sufficiently meet the individual basic food and non-food needs recorded at 18.1 percent. This translates to 19.99 million Filipinos who lived below the poverty threshold of 12,030 per family of five. The subsistence incidence is defined as the proportion of Filipinos whose in-

come is not enough even just to meet their food needs slightly increased to 5.9 percent in 2021 (Mapa, 2021).

It makes sense because of its statistical data that explains the poverty percentage of Filipinos in the Philippines. It presents the data that helps to determine the percentage of Filipinos who are living below the poverty line.

One concrete example of this poverty issue is Nora, not her real name.

Her surrogacy journey started in 2016 when she came across a closed Facebook group for surrogate mothers. She tried to join but was rejected immediately; surrogacy is taboo in the Philippines. A few days later, a Filipina based abroad asked if she was still interested to be a surrogate. The offer: half a million pesos to carry a baby to full term. For Nora, whose husband, a tricycle driver, only earned 200 pesos (approximately \$3.83) a day with 3 kids to feed, the choice was easy. "The total was half a million pesos (about \$9,565)," Nora said in Filipino. 'Yun 'yung compensation ko po talaga pero bukod pa doon'yung monthly na ibibigay ng kliyente. May monthly ako na 10,000 pesos (\$191) kasi nandoon 'yung check-up, pagkain ko po, pinag lilihan ko po. Transpo rinpo," Nora said Rhesa Reyes

With the given data and the statement, how can it be possible for some Filipinos who cannot afford the expensive procedure for surrogacy based on the given data of FIES whose sentiments underlie their wishes of having a child? This opinion might be too aggressive and ambitious to think but I believe it makes sense. Somehow, these issues warrant the claim which I find valid and reasonable insofar as human relation is concerned. But the question lies in its Christian foundation of morality which the Church upholds and lived out.

Surrogacy in the Commercial Market

Surrogacy tourism in Asian countries has surged in recent decades due to affordable prices and favourable regulations. Although it has recently been banned in many countries, it is still carried out illegally across the borders. With the demand for surrogacy in developed countries increasing and economically vulnerable Asian women lured by the

lucrative compensation, there are efforts by guest countries to ease the strict surrogacy regulations in host countries (Hibino, 2022).

Accordingly, recent research carried out by the international organizations that seek to establish a legal relationship between the commissioning parents and children in cross-border surrogacy arrangements, under the guise of the “best interests of the child,” appears to promote a resurgence of overseas commercial surrogacy rather than restrict it (Hibino, 2022). In the survey conducted by Cornell Law School, the International Human Rights Policy Advocacy Clinic, and the National Law University, surrogacy is completely banned in 50 countries and is legal in 40 countries. There are no regulations regarding surrogacy in 30 countries, while for the 72 countries, there is no information made available (Rebecca *et al.*, 2017). In most cases, gestational surrogacy is an attractive option for those who wish to have children Yuri Hibino, (2022). If they can produce healthy sperm and egg cell, then, undergo the process of IVF the possibility will be realized. Consequently, reproductive technologies can satisfy a desire that adoption cannot (Akila, 2016). In developing countries, surrogacy is increasingly used by wealthy people with liberal ideas to achieve a desired lifestyle and build intimate relationships. “Procreative consciousness” among LGBT individuals has accelerated the global demand for surrogacy (Dana, 2007). The use of surrogacy by individuals from developed countries has been forced onto emerging Asian countries such as India, Thailand, Cambodia, and Mexico (Nahavandi, 2016). By this, surrogacy tourism in these countries has been shut down in less than years because of the scandals that triggered the exclusion of foreign nationals.

Moreover, because of its upraising demand in other countries,

Surrogacy practices have become more commercialized in recent years despite being called “altruistic”. Networks of global surrogacy markets have emerged, and established surrogacy stakeholders are influencing research and the public policy decision-making processes. International organizations such as the United Nations (UN) and the Human Rights Consultative Committee (HRCC) have begun to ad-

dress cross-border surrogacy through research projects (Fronek and Rotabi, 2020).

In several states in the USA, commercial surrogacy is permitted. The federal government has a liberal attitude toward the reproductive industry and does not legally regulate it. As a result, surrogacy is viewed as a legal business transaction in several states, including California (Hibino, 2022). Some foreigners choose India for surrogacy because of its low cost. While surrogacy costs around \$70,000- 100,000 in the United States, it costs around \$35,000-40,000 in India, depending on the locality and the clinic. For the same financial cost as a single surrogacy cycle in the United States, for instance, intended parents can make several attempts in India and so increase their chances of having a baby (Roze and Unisa, 2015). Better quality at a lower cost motivates couples to visit India for surrogacy (Roze and Unisa, 2015). It should be understood that surrogate mothers have no rights to the children and the commissioning parent(s) immediately become the legal parent(s). Since no court decision was required, foreign commissioning parents were able to quickly obtain the necessary documents for the child. Countries that adopt a commercial model often use this method (Fronek and Rotabi, 2020).

Antagonist

In the said moral issue, we cannot deny the fact that some people assert the immorality of surrogacy in society. One of its antagonists to the issue is Renate Klein. In her book entitled *Surrogacy: A Human Rights Violation*, she emphasizes the value of the human right of every individual? She gives importance to the dignity and welfare of humanity. For her, surrogacy is unethical because it causes psychological and physical challenges, long-term morbidities, and possibly a risk to the carrying mother’s life. She references Indian cases in which women are willing to undergo any medical intervention for the sake of money. One especially horrendous case concerns a surrogate mother in India who had to abort her baby to give space for surrogacy (Saravanan, 2018). She argues that the regulatory framework that is based on the harm minimization approach. This approach assumes that if surrogacy is defined as work and the fully consenting surrogate mother is adequately compensated and provided with professional psychological, legal, and medical support,

then the practice is an ethically viable commercial activity, and in this sense, surrogacy is a form of abuse and is more like slavery (Saravanan, 2018). Another antagonist is Elizabeth S. Anderson in the Department of Philo-sophy, University of Michigan, Ann Arbor, USA. For her, commercial surrogate contracts objectionably commodify children because they regard parental rights over children, not as trusts, to be allocated in the best interests of the child, but as like property rights, to be allocated at the will of the parents. They also express disrespect for mothers, by compromising their inalienable right to act in the best interest of their children, when this interest calls for mothers to the assert custody right in their children (Anderson, 2000). Based on the points presented by the antagonist proponents, we can see their logical arguments explaining the intrinsic effect of surrogacy on the surrogate mother and child which violates the basic human rights of the person.

Protagonist

If there are antagonists to this issue, there are also protagonists who will explain their side as to how they can be able to say that surrogacy is a gift from the development of modern technology.

There has been great curiosity about what the typical surrogate mother is like. While it is easy to understand the unhappiness and despair that motivate an infertile, childless couple, who desire children, to enter a surrogacy arrangement, the motives of women who choose to be surrogate mothers, despite public disapproval of third-party assisted reproduction, are more puzzling and more suspect. Contrary to popular beliefs about money as a prime motive, surrogate mothers overwhelmingly report that they choose to bear children for others primarily out of altruistic concerns (Ciccarelli, and Beckman, 2005).

Although financial reasons may be present, only a handful of women mention money as their main motivator. Rather, the women have empathy for childless couples and want to help others experience the great joy of parenthood (Ciccarelli, and Beckman, 2005). Some surrogate mothers express their enjoyment of the pregnancy journey as their motive. With this interest, it makes sense because it helps couples to establish their

own family which makes their life complete. It is somehow a necessary element in the family that fulfill the ends of marriage.

Magisterium Moral Teaching

The Catholic Church proclaims that human life is sacred and that the dignity of the human person is the foundation of a moral vision for society. This belief is the foundation of all the principles of our social teaching by Fr. Benedict Groeschel, C.F.R. But the rapid development of technological discoveries gives greater urgency to this need to respect human life. So, “Our era needs such wisdom more than by-gone ages if the discoveries made by the man are to be further humanized. For the future of the world stands in peril unless wiser people are forthcoming” (Populorum Progressio, 1967). In the Philippines where there are predominantly Catholics, surrogacy is considered an issue and even a taboo because of its immoral implication that degrades the dignity of the surrogate mother and the child. Since it has been believed in the Catholic Church that there is dignity in human life which is the only property that cannot be taken from us. It is an inviolable property that imminently subsisted in one’s persona. As stated in the encyclical letter of St. John Paul II *Evangelium Vitae*:

Man is called to a fullness of life that far exceeds the dimensions of his earthly existence because it consists in sharing the very life of God. The loftiness of this supernatural vocation reveals the greatness and the inestimable value of human life even in its temporal phase. Life in time is the fundamental condition, the initial stage, and an integral part of the entire unified process of human existence. It is a process that, unexpectedly and undeservedly, is enlightened by the promise and renewed by the gift of divine life, which will reach its full realization in eternity (*Evangelium Vitae*, 1995).

This is a reality that the Catholic Church upholds through time. This is what the Church has repeatedly defended. Its expertise in defining the nature of the human person which is the fundamental values connected with the techniques of artificial human procreation are two: the life of the human being called into existence and the specific nature of the transmission of

human life in marriage. The moral judgment on such methods of artificial procreation must therefore be formulated about these values (Ratzinger and Bovone, 1987). The Church posted criteria for moral judgment concerning the dignity of the human person are threefold: 1) respect for the human person; 2) the human being's "primary and fundamental right to life"; and 3) the transcendent aspects of the human person including a human soul and humanity's destiny in communion with God (Ratzinger and Bovone, 1987). Taking into its deeper meaning helps us to understand the value and meaning of life.

The Congregation for the Doctrine of Faith spoke to this point in *Donum Vitae* as it stated:

Surrogacy is contrary to the dignity of persons. Surrogacy diminishes the dignity of women in that it grossly focuses on what women can produce as opposed to the entire worth and being of which women have been created to be. In addition, surrogacy fails to acknowledge the uniqueness of the mother-child relationship to detriment of women from a physical, psycho-logical, and spiritual level New Chancery, (2014).

The Church is clear and consistent in its teaching that surrogacy in any form is to be opposed as an immoral means to create a family. The Charter of the Rights of the Family published by the Holy See affirms: "Respect for the dignity of the human being excludes all experimental manipulation or exploitation of the human embryo" (L'Osservatore Romano, 1983). The desire to have a child is both natural and good. We recognize that issues of infertility can be incredibly sensitive and personal. While acknowledging this reality, it is important to realize that pursuing all means in the effort to bear a child presents moral and ethical concerns and that a child is truly a gift to be given as opposed to a right to attain.

CONCLUSION:

To sum up, understanding surrogacy in the Philippine context helps us to know the various interests of the individual. Others take it for the sake of survival in their daily needs at the expense of their womb by being surrogate mothers. Some, at their own expense because of their infertility by choosing who could be the possible surrogate mothers who can do the process,

while others who don't have enough resources at the same time cannot bear a child and remain in the divine providence of God. There are also anti and pro-supporters of surrogacy that express their discourse in the stream of morality. Another is the commercialization of surrogacy in the world market wherein it becomes a widely easy access opportunity for others to avail. It becomes somehow a trend that usually can be traded off by any other especially, those who are in need. Furthermore, I do believe that despite the trend of availing the process of surrogacy, though a taboo in the Philippines, people have the right to be happy. They find their happiness and completeness in a child claiming as their own. Even though the Church spoke its teaching contrary to what is being practiced today. There is still a need for a thorough discussion with consideration to those couples who long for completeness and happiness in life that they can be called their child coming from their flesh. But with such interest, there should be guiding principles or policies at the national and international that would help to regulate the malpractices of surrogacy. Otherwise, it would demoralize the dignity of the human person by commercializing it in the world market which we are trying to avoid such interest. On the other hand, we cannot also deny the reality and with obedience to the Magisterium that they are in the authority whose guidance of the Holy Spirit is with them and functions to safeguard the revelation of Christ particularly on gift and sacredness of human life. With this, both claims are valid, and I stand that there is a need to reexamine the papal teaching of morality and a thorough discourse to give a holistic and grounded theological view in answering such moral issues in society so that people will be guided morally and lived out righteously both in the sight of God and society. Therefore, this study is simply an ongoing research work that can and should be labeled as theological which is "Catholic"- that means following the authority and guidelines of the Catholic Church but with the extent of revisiting the *Donum Vitae* document to reexamining once again if the teaching is still relevant until today and its impact in the society in our present time. I believe that the Church answers societal issues depending on the call of time, and which could have dialogue from the medical experts, civil leaders, religious leaders, and those who have an interest. Through this, we can propose a good

moral sound judgment answer to people. Thus, I stand with consideration to those couples whose interest is noble and pure, despite prohibitions in both civil and ecclesiastical law, a careful serious discussion and dialogue in different sectors such as medical practitioners, couples, or married couples (infertile/ incapable of bearing a child), Church leaders, Civil leaders, or legislators and those who have interest in the discussion. With this, I believe that there will be a holistic and comprehensive understanding of the subject issue. I hope that this selfless *opus* might serve as a humble start to the people and those in authority by listening to the needs of the people.

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CONFLICTS OF INTEREST:

I declare no conflict of interest that may have influenced the writing and publication of this manuscript.

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