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### On the coloniality of work

Commercial surrogacy in India

**Citation for published version:**

Limki, R 2018, 'On the coloniality of work: Commercial surrogacy in India', *Gender, Work and Organization*, vol. 25, no. 4, pp. 327-342. <https://doi.org/10.1111/gwao.12220>

**Digital Object Identifier (DOI):**

[10.1111/gwao.12220](https://doi.org/10.1111/gwao.12220)

**Link:**

[Link to publication record in Edinburgh Research Explorer](#)

**Document Version:**

Peer reviewed version

**Published In:**

Gender, Work and Organization

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## On the coloniality of work: Commercial surrogacy in India

**Abstract:** Relations of domination and subjugation in work manifest as class differentiation, but, more crucially, become intensified along lines of gender, sexual, and racial difference. This circumstance, I suggest, is neither accidental nor incidental. It is a historical effect of colonial logic that postulates gender, sexual, and racial Others as ontologically, and hence ethically, different. The articulation of difference as such legitimises gender, sexual, and racial Others as sites of domination and exploitation, and thereby naturalises them as objects of subordination in work. This circumstance may be described through the analytic of coloniality. The aim of this paper, then, is to explicate the coloniality of work as a means to comprehend the persistence of inequality and subjugation in its global organisation. Specifically, it underscores the imperative of confronting the ontological production of gender, sexual, and racial difference in the creation of relations of domination and subjugation, and thus, in the institution and operation of work *qua* work. I demonstrate the political urgency of such engagements through a discussion of commercial surrogacy in India.

**Keywords:** race, coloniality, ontology, commercial surrogacy

### Introduction

The question of work is fundamental to the operation of the modern political economic project. This centrality follows from the institution of work as a necessary and normative human activity – necessary because it secures material needs, and normative since it is viewed as an expression of moral subjectivity (Bataille, 1993; Weber, 2005). As such, work is the site for the accumulation of economic and symbolic value. This description of work, and the practices thereby inaugurated, establish and maintain relations of domination and subjugation (Marx & Engels, 1970; Marx, 1976; Deleule & Guéry, 2014). While this subjugation is manifest as class differentiation, it also, more crucially, follows lines of gender, sexual, and racial difference (Spivak, 1985; Sassen, 2002; Ehrenreich & Hochschild, 2003; Moghadam, 2005).

The political salience of this latter form of difference has prompted calls for the rigorous study of difference (cf. Acker, 1990; Nkomo & Cox, 1996; Proudford & Nkomo, 2006). In the first instance, racial and feminist critiques sought to highlight how ‘regimes of inequality’ (Acker, 2006) structure work and organisations by restaging social relations of domination and subjugation (cf. Acker, 1992; Nkomo, 1992; Gherardi, 1994). Such critiques have given rise to the study not only of the racial and gender construction of work and organisation as such, but also of the effects of difference within these contexts. In particular, researchers have sought to highlight the experience of difference amongst those with marginalised identities (cf. Tomlinson, 2008; Mcdowell, Rootham &

Hardgrove, 2016; Wyatt & Silvester, 2105), and the ways in which marginalised peoples become compelled to ‘do’ race and gender in their working contexts (cf. Bruni, Gherardi & Poggio, 2004; McDonald, 2013; Liu, 2017). More recently, studies have appropriated the analytic of ‘intersectionality’ (Crenshaw, 1989) to demonstrate how relations of inequality and experiences of difference become intensified in the instance of multiply marginalised identities (cf. Atewologun, Sealy & Vinnicombe, 2016; Carrim & Nkomo, 2016; Knight, 2016). The elaboration of such studies within the context of globalisation reveals how the production and effects of social difference are similarly replicated in the global organisation of work (cf. Parrenas, 2005; Dyer, McDowell & Batnitzky, 2010; Vora, 2010).

To be sure, the purpose of such critical research is to advance the cause of social justice by creating the conditions for equality and inclusion in the theory and practice of work and organisation. Yet, in order to fulfil this agenda, the crucial question driving, or at least that should drive, the study of difference is that of the ‘why’ – i.e. why do relations of domination and subjugation emerge *and endure* in work and organisation (Jeanes, Knight & Martin, 2011)? While systemic analyses of organisation have offered a response of the former question (Acker, 1990; Nkomo, 1992), the latter remains under-theorised.

The purpose of this paper, then, is to contribute to a theorisation of the persistence of subjugation along lines of gender, sexual, and racial difference in the global organisation of work. I start from the proposition that, insofar as work is a modality of modernity, any theorisation of inequality and exploitation in work must account for how difference has come to be instituted as a political and ethical signifier. Such an approach helps demonstrate how, rather than being a social artefact that becomes replicated within the context of work, difference is, in fact, fundamental to the unfolding of any and all activity circumscribed as work. To wit, the appearance of gender, sexual, and racial difference is the condition of possibility for the institution and operation of work *qua* work.

In order to make this argument, I will expound the coloniality of work. Comprehending work through the analytic of coloniality reveals how its distribution along lines of gender, sexual, and racial difference stems from the differential valuation of life and its associated activities. It reveals how relations of domination and exploitation in the organisation of work are an effect of, and *authorised by*, an ethical subjugation inherent in the unfolding of gender, sexual, and racial difference. Such an accounting of work reveals the ontological

priority of difference. It allows us to see how inequality and exploitation in work are not merely structural effects but instead are ontological effects of the institution of difference in modernity. It becomes clear, then, that it is the ontological basis of difference – specifically gender, sexual, and racial difference – that enables the persistence, and indeed the proliferation, of subjugation in the global organisation of work. Unless we reckon with difference as such, any endeavour at justice or liberation remain troublingly incomplete.

In order to substantiate this proposition, I will undertake a discussion of commercial surrogacy in India. Here, I analyse the relationship between surrogates and intended parents to reveal how difference becomes postulated therein. Moreover, I will show how this difference is the condition of possibility for the institution of surrogacy *qua* work. I thus affirm the coloniality of surrogacy work. More crucially, however, I will demonstrate how the ethical viability of commercial surrogacy is an effect of the coloniality of work.

I begin by providing a brief overview of the social context of commercial surrogacy in India. Thereafter, I provide an account of the analytic of coloniality to explain its relevance to the study of surrogacy, in particular, and work, in general. In the three sections that follow, I analyse the structural specificities of the Indian market in order to affirm surrogacy as an instantiation *par excellence* of the coloniality of work. More crucially, I show how the postulation of an ontological difference between surrogates and intended parents is the condition of possibility for the emergence of surrogacy as a form of work. I thereby explicate how difference is fundamental to the institution of work *qua* work. In the final section, I will thus argue that any serious consideration of subjugation in work and organisation must address coloniality as the founding logic of the Eurocentric ethico-economic project that we call ‘modernity’<sup>1</sup>.

### **The social context of commercial surrogacy**

Commercial surrogacy represents the monetisation – and in the Indian context, the marketisation – of women’s procreative activity. As such, it may be located within India’s postcolonial developmentalist trajectory. Insofar as development presents itself as a strategy of economic intervention intended towards *human* progress and, thereby, progress towards *humanness* (cf. Escobar, 1995; Nederveen Pieterse, 2001; Wilson, 2013),

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<sup>1</sup> For a critique of how ‘a particular [Eurocentered] history’ has become singularised and universalised as ‘modernity’ see Escobar (2007)

commercial surrogacy represents the promise of recuperation for economically and socially ‘underdeveloped’ women. This is especially so in the Indian context wherein moral and economic panic about population growth, and hence the reproductive capacities of the poor, has a long history rooted in the colonial project (Harkavy & Roy, 2007). In the early- to mid-twentieth century, colonial and native authorities were engaged in producing a population discourse concerned with ‘public health’ and the creation of a ‘fit’ society (Nair, 2011). Central to this discourse was a concern with poverty as a cause and effect of population growth. The trope of ‘tragic Indian motherhood’ (Nair, 2011: 233) – i.e. of young mothers confronted with high rates of maternal and infant mortality due to early marriage and frequent births – took on special significance in mobilising calls for reproductive health education. The colonial government, however, was unwilling to officially introduce family planning measures or intervene in population control, citing concerns about religious and cultural difference.

Regardless, this discourse had taken sufficient hold so that it remained a major concern for successive post-independence Indian governments. In 1952, India became the first country in the world to institute an official program for population control (Harkavy & Roy, 2007). Over successive decades, these programs have taken different forms. I will outline these in greater detail in a later section. What is of note is that these programs have consistently been aimed at the poor. Both, colonial and nationalist agendas postulated the poor as ontologically different. This difference is articulated, in the first instance, as religious and cultural difference, and then a general ‘backwardness’, all of which signify a lack of scientific rationality. The Indian context thus offers a clear example of how colonial discourses become re-written as nationalist and globalist discourses without displacing coloniality<sup>2</sup>. It is in this context that I will examine commercial surrogacy in India.

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<sup>2</sup> It is worth noting that the colonial logic underlying the surrogacy market is evident, too, in the exclusions it enacts. In the Indian context, homosexual couples and unmarried individuals are barred from entering into surrogacy relations. This, in the first instance, is the effect of the postulation of non-heteronormative appearances as counter to the “‘natural” order of things’ (Lewin, 1995: 103), so that those instituted as sexual Others are foreclosed from the possibility of legitimate reproductive activity. We may thus observe how coloniality – i.e. the institution of various Others as ontologically and ethically different – structures kinship in modernity. I will discuss this more generally in a later section.

In the contemporary moment, the foreclosure of the sexual Other has come to be rewritten either as a contingent inclusion – as evidenced by the legitimation of procreation via ART amongst queer and single individuals in certain contexts (cf. Mamo, 2007) – or as a continued exclusion on the basis of moralistic valuation, as evident in the Indian surrogacy market. The form that such rewriting takes is dependent on the socio-historical specificity of a given context; yet neither of these situations represents a displacement of ontological difference, only a different manifestation of it. An engagement with the

Surrogacy begins with the *in vitro* fertilisation of eggs that are planted into the surrogate's womb. The surrogate is then charged with the responsibility of bringing the foetus to term for its intended parent or parents. The past few years have witnessed a marked increase in interest in commercial surrogacy, especially of the gestational form. In this form of surrogacy, the surrogate merely 'rents her womb' to carry *another's* eggs – whether an intended mother's or a donor's – to term. Gestational surrogacy is, therefore, popular because it enables genetic procreation through non-sexual means. Thus far, the surrogacy market in India has only allowed for gestational surrogacy<sup>3</sup>. That is, even when donor eggs are needed, these cannot be provided by the gestational mother (Ministry of Health and Family Welfare, 2010). This is a significant particularity of the Indian market that has made it attractive to potential intended parents, especially in the transnational context.

Moreover, the costs associated with surrogacy in India are substantially lower than in many countries, especially in the global north (Vora, 2009a; Centre for Social Research, 2011). A primary reason for this cost differential is the difference in surrogate pay. Also, surrogates in India are paid in five instalments, with a substantial portion, about 75%, made after delivery of the child (Deonandan & Bente, 2012). In the case of a miscarriage or an otherwise necessary termination the surrogate is not owed the full payment promised her. This minimises the financial risk of the intended parents while increasing that of the surrogate mother.

Surrogates in India are recruited mainly from amongst the poor, and receive in compensation over 9 months what they would normally make in 9 years (Vora, 2009a). They must be 21-35 years of age, be married, and already have children of their own. They must demonstrate that their pregnancies were without complication, and do not have a recent history of substance use. Word-of-mouth recruitment proves to be a more effective practice wherein 'brokers' – former surrogates, women who are unable to be surrogates, and midwives – play a crucial role (Pande, 2010). For, in addition to dispensing information regarding the market, brokers are able to address the misinformation and any prevailing stigma associated with surrogacy. Indeed, the nature

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socio-historical circumstance that legitimates the exclusion of non-heteronormative subjects from the Indian market would add complexity to the understanding of surrogacy as a biopolitical project. However, such a discussion is beyond the scope of this paper.

<sup>3</sup> This requirement has been removed from the new Surrogacy (Regulation) Bill 2016 but the bill has not yet been passed.

of the surrogacy relation recalls anxieties surrounding the ‘selling’ of the body so that it comes to be mis/understood as a version of prostitution. However, brokers and clinicians intervene to assuage these anxieties by asserting surrogacy as a sharing of maternity so that it becomes understood as respectable and noble activity.

Yet, the possibility of undertaking only gestational surrogacy is quite explicitly intended to eschew any possibility of a genetic tie between the surrogate mother and the baby. This consolidates the surrogate’s position as a mere worker, or more specifically, a service-provider, without any rights, whether biologically naturalized or legally defined, over the baby. Indeed, the splitting off of genetic versus gestational maternity, with genetic maternity being the privileged, legally recognised form, is a particularity of the Indian market that makes it especially popular<sup>4</sup>.

Given the relatively recent emergence of the surrogacy market, the ethical issues arising therein are yet under constant review. Indeed, the Indian Parliament has been debating an Artificial Reproductive Technologies (ART) Bill since at least 2008. In its most recent iteration, released in November 2016 as the Surrogacy (Regulation) Bill, the Indian government indicated its intention to ban all forms of commercial surrogacy (Verma, 2017). Surrogacy was now to be permitted only in an altruistic form – i.e. the bill states that ‘[n]o payment other than reasonable medical expenses can be made to the surrogate mother - and, even then, under numerous stipulations. Most significantly, only Indian citizens married for a minimum of 5 years are allowed to appoint ‘a close relative’ as surrogate. The bill thus effectively bars foreign citizens from engaging in any form of surrogacy relations. While this latest version of the Bill is still under consideration, should it pass, it will have a significant impact on the Indian market, designated the ‘surrogacy capital of the world’ (Sherwell, 2015).

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<sup>4</sup> This separation is not as juridically clear, as for instance, in the US. The competing rights of intended parents and surrogate mothers are adjudicated autonomously by each state. Given public(ised) precedents, wherein surrogate mothers have claimed the children they have borne, U.S. couples are often wary of entering into surrogacy contracts at home. Much of this legal ambiguity around surrogacy contracts resides in the distinction between genetic and gestational ties and the debate around which tie is foundational to the determination of maternity. In the United Kingdom, on the other hand, the gestational mother is considered legal mother of the child she has given birth to. Intended parents are required to file a Parental Order (PO) in order to gain custody of the child. However, a PO cannot be filed within 6 weeks after the birth and should a surrogate mother decide to keep the child, she has the legal right to do so (Norton, Hudson & Culley, 2013: 273). Consequently, surrogacy contracts in the US or UK are always open to future litigation. In many European countries, including France, German, Italy and Spain, surrogacy remains illegal. (European Parliament & Directorate-General for Internal Policies of the Union, 2013).

The impending decision by the Indian government has caused considerable outcry from numerous quarters, including fertility clinics, intended parents, and surrogate mothers. On the one hand, the circumscription of people who may participate in surrogacy contracts is considered an infringement upon the right to parenthood. Additionally, the restriction of surrogacy to its altruistic form is viewed as a curtailment of women's economic opportunity and a contravention of autonomy. On the other hand, the action proposed by the Indian government is intended to protect women who undertake surrogacy as well as children born thereby (cf. Tanderup, Reddy, Patel & Nielsen, 2015). Indeed, critics of commercial surrogacy note the persistence of global economic inequalities as enabling the commodification of women and children that underlies the practice of surrogacy (Vora, 2009a,b; Bailey, 2011; Pande, 2011, 2016; Majumdar, 2014). Consequently, the proposal of the Indian government is consistent with laws in many parts of the world wherein concerns about the ethics of commodification have rendered commercial surrogacy illegal ("India introduces legislation to ban surrogacy tourism", 2015).

To be sure, this form of ethical debate is neither essential nor unique to the practice of commercial surrogacy, and is in fact a reflection of ethical debates on relations of domination and subjugation in work, in general. This, I suggest, is an effect of the coloniality of work. In the next section, I highlight the importance of engaging coloniality as a crucial methodology for comprehending domination and subjugation in the organisation of work. To do so, I outline the social character of work and the role of difference therein. I focus specifically on Kathi Weeks' *The problem with work* (2011) because her deployment of a Weberian framework offers a particularly useful analytical structure for revealing the operation of coloniality, in general. Thereafter, I draw upon conceptualisations of coloniality (Quijano, 2000, 2007; Mignolo, 2011) in order to explain its meanings and implications for the study of difference in work and organisation.

### **Methodology: On coloniality**

The question of work, according to Weeks (2011), is fundamentally political. This is because, on the one hand, work is a site of social normativisation. On the other hand, and following from this disciplinary character, work is also the site of political freedom. This duality of work is explicated by addressing the institution of modern society as a 'work society'. A work society is one wherein work operates to fulfil not only economic but also subjective need. That is, in a work society, work is the fundamental means of



actualising life in both, its material (i.e. economic) and idealist (i.e. social, political, and cultural) dimensions. Even so, the description of work is associated with the acquisition of wages. Thus, in addition to an economic function, wages perform the symbolic function of granting recognition to particular forms of activity as work. The motivation for wages – which appears as a will to work – thus obtains a moral texture, wherein work, as the attainment of wages, becomes an expression of one’s specifically human capacities. In Weeks’ account, this social, or more precisely ethical, character of work is instituted through three complementary elements: (a) a *work ethic* that operates through (b) a *subjectification function* that renders work as (c) a *disciplinary apparatus*.

First, drawing on Weber (1958) Weeks notes how the imperative to work is established through its propagation as ‘a calling’. The mythology of work woven by modernity posits it as a virtuous act – willing individuals to participate in it as an act of self-determination and engage with it as a process of self-realisation. The ‘work ethic’ thus engendered ‘promote[s] our acceptance of and powerful identification with work and help[s] to make it such a potent object of desire and privileged field of aspiration’ (Weeks, 2011: 12). The promulgation of this ethic is intended to interpellate individuals into differential roles and positionalities with respect to work. This is the subjectification function of the work ethic which produces the consciousness of ‘employer’ and ‘employee’, so as to authorise employers as exploiting subjects and garner consent from employees as exploitable subjects (2011: 39–40, 53). Insofar as work is thus sanctioned as a relation of domination and subjugation, it is able to create, appropriate, and transform subjectivities in the service of capital. To wit, work is a disciplinary apparatus charged with the manufacture of docile subjects. This function of work is especially insidious with regards gender, sexually and racially subordinated subjects.

Given that work is activity granted recognition as such through the conferral of wages, its very definition is contingent upon what forms of productive activity are valued/included and devalued/excluded. These negotiations, Weeks acknowledges, are undertaken around gender, sexual, and racial lines (2011: 14). Historically, unwaged activity has been performed by enslaved and colonised peoples, and by nominally free women, in the form of slave and colonial (including reproductive) labour; whereas waged activity has been the provenance of white men. This separation of waged and unwaged activity – of work and non-work – along lines of racial, sexual and gender difference is not a historical accident but rather a specific and enduring effect of coloniality.

Anibal Quijano describes coloniality as an arrangement of power propagated through a ‘cognitive model’ (2000: 552) that affirms a categorical distinction between Europe and non-Europe. Here, Europe is mythologised as the teleological locus of the world – i.e. as the space where all history of human civilization culminates. This description follows from the presumption that the space of Europe is a manifestation of rationality that is an essential and exclusive provenance of the European mind. In contrast, non-Europe is designated as the space of irrationality – primitive, without the capacity for historical or teleological mo(tiva)tion – and, hence, lacking any ethical value. This difference is posited as ‘natural’ – or, more precisely, ethical degradation of the space of non-Europe is authorized by locating it in the state of nature. Accordingly, the forms of existence that inhabit these spaces are affirmed as ontologically closer to nature (2000: 555; see also Silva, 2007). Lacking rational capacity and moral will, they are cast as lesser or non-beings, instituted in unresolvable difference. Thus coloniality institutes an ontological and ethical difference between Europe and its Others (Quijano, 2000; Mignolo, 2011)

Crucially, this arrangement of power inaugurates a ‘new technology of domination/exploitation, in this case race/labor ... articulated in such a way that the two elements appeared naturally associated’ (Quijano, 2000: 537). That is, the coloniality of power not only assigns specific forms of activity to specific forms of existence, but also makes these associations appear natural. Indeed, coloniality affirms those belonging to non-Europe as incapable of higher orders of activity due to their rational and moral deficiencies. Moreover, given the ontological resemblance between non-Europe(ans) and nature, their bodies, too, are viewed as of nature and, hence, ‘dominable and exploitable’ (2000: 555). To wit, coloniality naturalises the activity of racial, gender, and sexual Others as that which does not merit recompense – i.e. not work, since work, as noted above, is a descriptor of waged activity. Thus, fundamental to the conception and operation of work is the institution of racial, gender, and sexual difference as ontological and hence ethical difference. This circumstance represents the coloniality of work.

The expansion of work in contemporary society – whereby previously unwaged activity becomes waged – does not indicate a displacement of coloniality. As Quijano asserts, given that ‘the racial axis... has proven to be more durable and stable than the colonialism in whose matrix it was established... the model of power that is globally hegemonic today presupposes an element of coloniality’ (2000: 533). Indeed, even as the expansion of work represents the possibility of a material emancipation for the racially,

sexually or gender subjugated Other, it maintains ontological difference. The inclusion of racial, gender, and sexual others into contemporary work society, then, represents neither ethical equity nor ontological emancipation. Instead, what unfolds is a re-writing of difference in a socio-cultural grammar even as the ontological basis of difference, as the condition of possibility for subjugation, persists, albeit as a hidden script (cf. Mignolo, 2000).

Recalling Weeks, the incorporation of previously unwaged activity as under- or subordinately waged work is legitimised by the discourse of the work ethic which sanctions low wages ‘as a reflection of individual character rather than a consequence of the structure of waged employment’ (2011: 61). Weeks acknowledges the ontological force of the work ethic – i.e. its role in sanctioning exploiting and exploitable subjects (2011: 53) – and how it interpellates subjects differentially as per gender, sex, race, and other categories of difference. Yet, following the preceding discussion of coloniality, it becomes imperative to comprehend this differential interpellation not merely as socio-historical effect – i.e. wherein the incorporation of unwaged activity, historically associated with the Others of Europe, is transformed into the subordinated labour performed by racial, gender and sexual others. Rather, the analytic of coloniality highlights how, insofar as the work ethic posits work as a calling and sanctions wages as an expression of the will to work, it is rooted, in the first instance, in the foreclosure of the Others of Europe. In its contemporary articulation, the work ethic presents itself to these Others as a recuperative force, whereby inclusion into the work society is fulfilled through the self-determined mobilisation of exploitability, postulated as an effect of ethical, or more precisely, ontological difference. Thus, coloniality remains fundamental to the unfolding of activity as work.

In the next three sections, I analyse the Indian surrogacy market through Weeks’ tripartite formulation of work. That is, I show how the market propagates a particular form of work *ethic* in order to *subjectify* poor Indian women as workers and thereby *discipline* them in becoming proper modern subjects. In so doing, I will reveal how the postulation of an ethical difference between poor women and intended parents is the condition of possibility for the unfolding of this process. I thereby affirm the coloniality of surrogacy work.

## Surrogacy work as a calling

The function of the work ethic, according to Weeks (2011), is to institute work as a virtuous activity by positing it as a calling. As indicated earlier, surrogates in India are recruited primarily from amongst the poor. This occurs through poor women with children experiencing themselves as ‘bad mothers’ (Pande, 2010) – i.e. the inability to ensure the economic and social betterment of their children becomes evidence of the non-fulfilment of their maternal duties. As such, an economic condition – that of being poor – becomes posited, instead, as an ethical lack. It is precisely this lack, however, that is a condition of possibility for producing a ‘good surrogate’.

Fertility clinics tap into women’s anxieties about being a ‘bad mother’ to call them into work. This call is not merely an economic but a moral one (Vora, 2009b,a). The work of surrogacy is instituted, in fact, as an exercise of maternity. First, this work enables poor mothers to fulfil their duties towards their own children. It is simultaneously posited as an act of sharing the joys of maternity, or parenthood, with intended parents – ‘of being able to give a gift to an infertile couple that is a gift usually given only by god’ (2009a: 273; Majumdar, 2014). Such affirmations, of course, are not so much a denial of the financial motivations of their undertakings, as a subsumption of economic need under individual virtue. Surrogacy thus seems to substantiate the recuperative power of work – first, due to the valorisation of the activity of those left on the outside or at the margins of the waged sphere, and second, because in establishing itself as a calling it enables the expression of ethical subjectivity. It is precisely at this juncture, however, that the coloniality of work makes itself starkly apparent.

The surrogacy market interpellates both, poor Indian mothers and couples desirous of yet unable to bear children, as enterprising subjects. The enterprising subject is the ideal subject of the market – one who is self-reliant, responsible, ambitious and astute. They recognise work as a means of self-realisation, and are willing to utilise all means available to them in attaining this goal (Gay, 1996; Ainsworth & Hardy, 2008; Wee & Brooks, 2012). In undertaking surrogacy work, then, poor women follow the call to submit the primary means of production available to them – i.e. the body and its capacities – to ART, choosing to “construct’ and [make] what they will ‘out of’ the givens of existence and environmental constraints’ (Strathern, 1992: 39). Beyond subjection to work, the enterprising subject also recognises consumption as a means to self-actualisation – one for whom ‘there is, in a sense, no choice *not* to consume’ (1992: 37; original emphasis).

Intended parents are thus also able to confirm themselves as enterprising subjects through the consumption of ART as a means to realise parenthood since '[t]o imagine an absence of desire would be an affront to the means that exist to satisfy it' (1992: 37). As such, the surrogacy relation appears as virtuous exchange between enterprising subjects. Yet, this exchange is, in fact, also a consumptive one.

In subjecting herself to ART, the surrogate mother answers the call to not only work but also become the means of production. That is, she is both the raw material (as organic matter) and the tool (its physiological capacities) fundamental to her work. This is especially so during the gestation period when her body and its capacities are the only technology utilised. Consequently, the consumptive relation of intended parents extends beyond ART to the surrogate mother herself. To wit, the surrogate mother is an object of consumption for intended parents. This relation – between being consumed and consuming – is the appearance of an ethical differential. The consummability of poor Indian women is the condition of possibility for their emergence as surrogate mothers; whereas the materialisation of intended parents is contingent upon their existence already as consumers. Thus, the mobilisation of maternity as an ethic in the surrogacy market actualises, in fact, the exploitability of poor women. This circumstance, I will later demonstrate, is an effect of the naturalisation of poor women as ethically degraded as opposed to the ethical idealisation of intended parents. This postulation of an ethical difference is fundamental to the relationship between surrogates and intended parents, and thus represents the coloniality therein.

### **Surrogacy work as the subjectification of modern workers**

The function of the work ethic, according to Weeks, is to manufacture subjects that consent to becoming exploiters and the exploited. In the context of the Indian surrogacy market, this manufacture occurs in the space of surrogacy 'homes'. As per the formal and legal policies of the Indian market, to be a surrogate, a woman must, for cultural and biological reasons, already be a mother. Indeed, as detailed above, this status as mother is a key recruitment strategy for surrogacy clinics. Yet, once recruited, the woman's status as mother is suspended for the duration of the surrogacy process. This suspension is effected by the existence of surrogate 'homes' where surrogates are required to live, so as to be 'protected' from the demands of their own family lives and also so that they may be constantly monitored. During this time, the movement of surrogates around and outside the hostel is quite restricted, in order to minimise any issues caused by exertion or

contagion. Surrogates are allowed visits from their husbands/partners and children; however, they are encouraged not to stay overnight. This regimentation of life in the hostels is legitimised through the positioning of surrogates as unfamiliar with, and thus unqualified for, modern ways of being a ‘good mother’. As one doctor interviewed in Pande’s study states:

In a way it’s also very good for all the mothers to stay together, laugh, play, and stay happy. It’s a good way of passing time for them. And it prevents them from always wanting to go home. If we send her home, she is bound to start doing housework. *She doesn’t know any better.* But here we can ensure that she gets complete rest. When the surrogate has her own children, she has them without even realising what happened – in fun and games. But in this pregnancy a lot depends on her actions. And we want nothing to go wrong. In the other hostel, we’ve also started English and computer lessons for them. We want them to learn something, some skills to face the world better after staying with us. *We can’t take care of them forever!* (2010: 983; original emphasis)

Thus, the surrogate home thus becomes posited as a space wherein poor women can establish themselves as modern through the cultivation of a worker subjectivity

Furthermore, during the course of their pregnancies, surrogates receive psychological counselling on how to be good ‘mother-workers’ (Pande, 2010)– that is, how to be a good worker without developing, or at least without being affected by, any affective ties with the child she is carrying. Vora’s research demonstrates, for example, how surrogate mothers are encouraged ‘to think of their bodies through the western medical model, where the body operates like a machine composed of parts and exists largely separate from the self’ (2009a: 271). Pande likewise finds that surrogates are counselled to remain ‘constantly aware of [their] disposability and the transience of [their] identity as a worker and yet [to love] the product of [their] transient labour (the foetus) as [their] own’ (2010: 978). This love, however, entails a displacement of the self in favour of intended parents. Surrogates are trained to ‘love [the foetus] even more than you love your own, because it is someone else’s’ (2010: 978). Consequently, any trace of affective attachment that the surrogate might experience towards the child she carries is pre-emptively counselled away. This circumstance represents the dispossession of the surrogate’s maternal, or affective, subjectivity, voluntary and temporary though it may be. As such, this process of dispossession renders her ‘a becoming *being for*’ the intended parents.

I borrow this phrase from Hortense Spillers’ account of the African slave trade with/in the Americas, wherein she describes the condition that inaugurates the slave as a ‘theft of

the body'. Here, theft does not merely indicate kidnapping but, more crucially, 'a wilful and violent... severing of the captive body from its motive will, its active desire' so that 'the captive body reduces to a thing, a becoming *being for* the captor' (1987: 67). To be sure, the production of poor women as surrogates cannot be comprehended as the severing of motive will precisely because of their interpellation as workers. Yet, the space of the surrogacy home does attempt a form of theft of the body. The suspension of bodily autonomy and affective subjectivity enacted therein represents a negation of the will of the surrogate intended towards the will of intended parents. It is as such, in this 'becoming being for', that the surrogacy relation reveals itself as an ethical transaction between poor Indian women and intended parents.

The subjectification of poor Indian women as surrogates proceeds through an appeal to precisely that aspect of the self – their maternal affect – that they must ultimately dispossess themselves of in order to fulfil the possibility of kinship for intended parents. Surrogacy work represents a diminishing of the subjectivity of poor women. Of course, this circumstance of subjective transformation describes the universal condition of workers within a capitalist system of production (cf. Pateman, 1988; Williams, 1991). Yet, unlike most forms of work, the primary form of value produced by this subjection is not economic but ethical value. That is, given that the labour of the surrogate mother is objectified in the child she bears, she is a producer of ethical value. This value accrues to intended parents through the realisation of kinship that the transaction enables<sup>5</sup>. As evidenced above, the suspension of the surrogates' own maternity is the condition of possibility for the actualisation of intended parents *qua* parents. In other words, the negated maternal subjectivity of poor women becomes the site for the accrual of parental subjectivity of intended parents. The possibility of such a negation, and the concomitant objectification, is an effect of the postulation of an ethical difference authorised by coloniality.

### **Surrogacy work as the disciplining of difference**

Weeks (2011) describes work as a disciplinary apparatus intended towards the manufacture of subjects servile to capital. In the case of poor Indian women, such servility is produced through the containment of their reproductive capacities. As noted

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<sup>5</sup> cf. Donzelot (1979), Foucault (1990) and Jordanova (1995) on the modern family as a space of discipline intended towards the production of the bourgeois subject. As such, participation in the rituals of kinship signifies the ethical value – indeed, the humanness – of the individual, so that failure to create kinship ties signals an ethical failure. (also see Eng (2003) on the significance of queer adoptions.)

above, India was the first country in the world to institute an official population control program. The putative goal of the program was to modernise poor Indians through the cultivation of a ‘rational preference for child “quality” over child “quantity”’ (Chatterjee & Riley, 2001: 820). In its early years, the program focused on the dissemination of information about and means for contraception. However, given the limited effectiveness of these policies, combined with the financial crisis of 1966, the family planning program was transformed from ‘one providing voluntary services into an incentive- and target-driven population reduction program’, including sterilisation practices, and in particular, compulsory sterilisation for men (2001: 824). The political fallout from these policies resulted in an official recommitment to an educational and voluntary family planning policy.

In the past two decades, the program has been directed especially towards adolescent girls ‘so that they grow up as better young women, and are able to make informed decisions in their roles as mothers and individuals’ (2001: 827). It seeks to emphasise ‘the importance of rational thinking, of individual agency, and setting goals’ especially with regards their fertility, posited as ‘a dangerous result of “poverty, ignorance and cultural inhibitions”’ (2001: 832). The benefit of such planning, as advertised in state-produced literature, entails the achievement of an Indian middle-class life-style, represented by access to ‘electricity, piped water, glasses of milk, sewing machines, bicycles, tractors, and televisions’ (2001: 831).

The preceding outline of fertility control practices in India reveals how the state uses moral interventions to discipline the economically dispossessed. As such, sterilisation and surrogacy are two sides of the same coin (see Pande, 2016 for a discussion of commercial surrogacy as “neo-eugenics”). In the context of surrogacy, the problematic fertility – imagined as the cause and consequence of the poverty trap – is harnessed and made productive. Indeed, by becoming subject to surrogacy work, poor women not only become potential middle-class subjects but they also become subjects of scientific rationality through their subjection to technology (ART) and through the self-determined management of fertility. The surrogacy market thus functions as a disciplinary force directed towards poor women. The possibility of such disciplining, however, is contingent upon the positioning of poor Indian women as bioavailable and operable.

Lawrence Cohen (2008) uses ‘bioavailability’ and ‘operability’ as analytics that describe the circumstance of the global market for human organs. They are effects of modern



sensibility wherein the political subjectivity of donors (sellers) is contingent upon market participation, activated here by the exercise of property relations with one's body. Bioavailability, then, is the condition of being 'available for the selective disaggregation of one's cells or tissues and their reincorporation into another body (or machine)' (2008: 83). As such, it represents a voluntary trade of pure biological life. Yet, Cohen views this trade as a 'vampiric transaction' enabled by the condition of operability. Operability signifies 'the degree to which one's belonging to and legitimate demands of the state are mediated through invasive medical commitment' (2008: 86). Using the examples of sterilisation, ungendering surgery and cataract operations, in addition to transplants, Cohen theorises the operable body as that which may be brought under relations of force with the state to amend its functionality in accordance with an imposed morality.

The condition of operability thus signifies ethical degradation. Indeed, this degradation is the condition of possibility for state-sponsored population control programs to install poor Indian women as bioavailable. The surrogacy market preserves this description through the commercialisation of bioavailability whereby the market displaces the state in bringing the operable body in relation to itself. Here, the dangerous, because excessive, fertility of poor women is disciplined by making it subject to capital. Yet, in the first instance, this subjection is an effect of the will of intended parents. That is, the operability of poor women makes them bioavailable to intended parents for the transfer of biological matter objectified in the baby.

### **Discussion: Surrogacy and the coloniality of work**

The institution of surrogacy as a form of work economically recuperates poor Indian women thus far excluded from or marginalised within the sphere of waged activity. In so doing, it promises them recognition as properly modern subjects by enabling the expression of moral agency through self-determined subjection to capital and scientific rationality. Surrogacy work therefore appears as a moment of ethical and economic emancipation. Indeed, commercial surrogacy represents the valorisation of women's procreative activities. On the one hand, this is politically significant, since the devaluation of reproductive work – i.e. its relegation to the sphere of economically unproductive activity – has been central to gender and sexual subjugation under capitalism (Fortunati, 1995; Federici, 2004). On the other hand, however, the valorisation of procreative activity through surrogacy becomes possible only through the utilisation by women of their bodies, its capacities and its affects, as the means of production. In particular,

women must render their bodies as raw material. This circumstance is a contemporary instantiation of the originary creation of ‘free labour’ under capital, wherein it is not the worker who is liberated, per se, but land, as raw material, which is made “free” to function as a means of accumulation and exploitation, rather than as a means of subsistence’ (Federici, 2004: 75). Similarly, what is liberated by the surrogacy market is not the (poor) woman as worker but rather her reproductive matter as a site of accumulation and exploitation rather than autonomous action. As such, the surrogacy market is an instantiation of what David Harvey designates ‘accumulation by dispossession’ (2005).

Accumulation by dispossession, unlike primitive accumulation, proceeds through the manufacture of opportunities for investment in regions of the world that have not yet been totally subsumed by, and thus mark the outside of, capital. This is made possible, in the first instance, by deliberate suppression of capital in particular zones (peoples and places) to render them as the outside, or periphery, of the global economic system. The process culminates when capital, having removed itself from circulation can bring the now dispossessed into a relationship of bondage with it. This theory is applicable to the emergence of the surrogacy market as well.

The surrogacy relation appears as a relation of economic difference. Yet, it is, in fact, the objectification of ethical differentiation, a reiteration of the colonial difference instituted between devalued/devalorised and valued/valorised forms of life. The institution of gender, racial and sexual Others in ontological difference dispossessed them of ethical value. This ethical dispossession is the condition of possibility for the degradation of their activity as *not work*. Indeed, this is fundamental to the operation of colonial and slave labour, as well as women’s labour, especially reproductive work, even outside of colonial and slave relations. This circumstance enables the production of not only economic value but also ethical value. That is, the activity of gender, racial and sexual Others, because unwaged, consolidates their ethically degraded circumstance, instituted, in the first instance, as an effect of ontological difference – thereby enabling the white male subject, because waged or propertied, to consolidate himself as Subject, and his activity as work. To wit, the dispossession of ethical value from gender, sexual and racial difference Others is the condition of possibility for the accumulation of ethical and economic value for idealised subjects. It is this inseparability of ethical and economic appearance and effect that Quijano affirms as fundamental to coloniality

This is evident, no doubt, in surrogacy work. In the first instance, colonial difference rendered the Indian woman as a gender, sexual and racial Other. The emergence of the so-called postcolonial moment then brought forth an attempt to re-inscribe gender, sexual and racial difference through a socio-culture script. Yet, as already noted, the ontological basis of this difference did not merely disappear, instead it became hidden. Moreover, insofar as work requires an exploitable subject, colonial logic now articulated these Others as ‘poor’ (Wynter, 2003). That is, devaluation, or ethical dispossession, is approached in the current global historical context as the appearance of poverty<sup>6</sup>. In the case of commercial surrogacy, this devaluation is the condition of possibility for the accumulation of economic value (for clinics) and ethical value (for intended parents). Commercial surrogacy thus substantiates the inseparability of economic and ethical difference in its unfolding. In particular, it enables us to recognise how the appearance of ontological difference – signified through gender, sexual, and racial difference – authorises relations of domination and of subjugation, and is thus the condition for possibility for the institution of work *qua* work. Commercial surrogacy thereby reveals the coloniality of work. Indeed, it affirms the imperative for critiques of work to comprehend gender, sexual, and racial difference as ontological signification rather than approaching it merely as a sociological object.

### **Conclusion: On coloniality and the possibility of liberation**

The political urgency of comprehending the coloniality of work lies in the need not only to address the persistence of inequality in work and organisation, but also, and more crucially, to confront the relentless expansion of the sphere of work and its continued global organisation along lines of gender, sexual, and racial difference. As noted earlier, in the former case, inequality is approached through structural and relational perspectives. For instance, Acker’s framework of inequality regimes has been appropriated as a useful method to study ‘patterns of inequality maintained by particular policies, rules, conventional practices of organizing work, and ways in which people interact with each other to get the work done’ (2011: 70). Similarly, the analytic of intersectionality is advanced as ‘a perspective that analyses race, gender, ethnicity, class, nationality and sexuality as simultaneous processes of identity, institutional and social practice, [and that

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<sup>6</sup> Of course, this is not the universal condition of Indian women. However, the pervasiveness of poverty amongst Indian women, or amongst ‘women of the global south’ in general, substantiates the inseparability of ethical and economic dispossession. For more, cf. Wynter (2003) on the subsumption of biogenetic, especially racial, difference under economic difference, and Spivak (Spivak, 1999) on ‘poorest woman of the South’ as the idealised object of global finance.

thereby] brings more complete and accurate analyses, as well as better organizational and policy change applications' (Holvino, 2010: 266). These analyses, while necessary, are not sufficient to address the persistence of inequality. Relational and structural changes cannot offer an adequate solution to this problem unless we recognise why such relationships become legitimised in the first place. The analytic of coloniality provides insight here.

Indeed, the description of some forms of existence as degraded is precisely what authorises their activity as devalued. Materialist feminist analyses, especially, have advanced strong critiques of how the social subjugation of women, and the exclusion of reproductive labour from the sphere of productivity, has rendered women's work as de- or under-valued (cf. Fortunati, 1995; Federici, 2004). To be sure, the devaluation of work as an effect on degraded existence is evidenced not merely in the context of reproduction, but also of slavery. Thus, in developing accounts of reproductive activity and slavery, materialist analyses are able to approach difference by addressing its role in the conceptualisation and operation of work. Yet, these accounts are incomplete, not only because of the lack of sustained engagement with race but also because, without such engagement, they cannot explain the emergence of the 'migrant division of labour' (Wills, Datta, Evans, Herbert & McIlwaine, 2009) and the 'new international division of labor' (cf. Federici, 2012) – neither of which is new but in fact an extension of the organisation of work under slavery and colonialism (cf. Nakano Glenn, 1992) – as anything but a manifestation of economic differentiation.

In an attempt to address the persistence of domination and subjugation in and by work, some materialist analyses have turned to a refusal of work, described as 'a potential mode of life that challenges the mode of life now defined by and subordinated to work' (Weeks, 2011: 99). As such, it is a rejection of work as a moral(ising) ideology, and thereby signifies a resistance to, and an eventual liberation from, work as the site of domination and exploitation. This refusal is not a rejection of productive activity, per se, but rather a demand that such activity be self-valorising; that work be intended towards 'the enrichment of subjectivity, the expansion of needs, and the cultivation of an element or quality of desire that exceeds existing modes of satisfaction' (2011: 103). This vision is posited as the condition of possibility for liberation.

The process of producing value for oneself entails using one's mental, physical and emotional capacities for the unfolding of the self rather than for the purpose of

exchange. In the contemporary circumstance produced by global capitalism, this possibility does not exist for those on the other side of the international division of labour for whom all daily activity is intended towards biological survival itself. Moreover, it is precisely this subjugated condition that has created the possibility for self-valorising activity on this side of the international division of labour. Indeed, as Spivak's notes, the possibility of liberation realised through refusal seems to exist only when considering 'word-processors ... as well as independent commodity production (hand-sewn leather sandals), our students' complaint that they read literature for pleasure not interpretation, as well as most of our "creative" colleagues' amused contempt for criticism beyond the review, and mainstream critics' hostility to "theory" (1985: 79). This tongue-in-cheek critique is intended to underscore the proposition that self-valorising activity is possible only when and where productivity has reached highly advanced levels. Furthermore, this is achieved, she notes, only by restricting productivity on the other side of the international division of labour. This situation is reminiscent, once again, of the ethical dimension of accumulation by dispossession.

Spivak's critique thus makes clear the colonial lineage – the distinction between lives that have and can create value versus those that don't and can't – within which (the possibility for) the refusal of work sits. A vision of liberation based on such a refusal, then, seems to have little relevance – or rather, is of invidious consequence – to those yet maintained in an economically subjugated condition. Indeed, such discourses restage coloniality by tacitly maintaining the racial, gender, and sexual Other in an "objectivised" mode' (Quijano, 2007: 173). Given that economic subjugation is inseparable from, indeed sanctioned by, an ethical subjugation, it becomes incumbent upon critiques of work to grasp the production and role of the latter in domination and exploitation as manifest in and foundational to work. The refusal at stake, then, is not that of work but of the Eurocentred ethico-economic project that has come to be called modernity.

What this necessitates is 'epistemic decolonization' (Escobar, 2007: 200; see also Grosfoguel, 2007, 2009; Quijano, 2007) or, at the very least, a reckoning with how our categories of thought and analysis come to be. This project is underway in many elsewhere and it is incumbent upon us to take a cue. It is here, in this scene of difference, that the horizon of liberation, finally, is visible.

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