

Reproductive Tourism in India: Issues and Challenges

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Context

- ❁ **Infertility:** An expanding definition?

Reducing time frame over the years – has resulted in more and more ‘infertile’ people seeking assistance in reproduction.

- ❁ **Inadequacies of Public Health System:** Absence of and/ or poor basic preventive infertility care in the public sector, even at the tertiary level

- ❁ **Intersection of Patriarchy & Market:** Exploits rather than questions the pressure on women to be mothers, glorifies motherhood as the natural destiny of all women

- ❁ **Globalisation** of services, including medical services, and the rise of reproductive tourism

Infertility is not a recognized as a public health issue

- ❁ Many public health care set-ups lack very basic services and equipment required for regular gynecological and obstetric care. Many hospital/centers do not have diagnostic facilities for semen analysis, ultrasound and other tests. Hence they are not able to make much headway in infertility ‘management’ /’ treatment’ and the couples automatically turn to private providers.

Genesis of Origin

- ❁ Within six years of the birth the world's first test tube baby in 1978, the Government of India sponsored work on IVF at the National Institute for Research in Reproduction (NIRR) in Mumbai in 1982 and the first 'published' Indian IVF baby was in born in 1986, from.
- ❁ This initiative was soon taken over by the booming private sector in health, especially the corporate sector.

Medical Tourism and Fertility Tourism

- ❁ With the globalisation of trade in services, and the rise in medical tourism, India has emerged as an attractive destination for medical services, and more recently, reproductive services. As corporatised health care pushes medical tourism, the Indian state is also extending its support to this burgeoning sector.
- ❁ For the last few years, India's 'fertility industry' has experienced rapid expansion, with the country emerging as one of the leading global destinations for 'fertility tourism' or 'reproductive tourism' today. Assisted Reproductive Technologies (ARTs) in India, including for surrogacy, have achieved the proportions of an industry.

Fertility Tourism

- ✿ Initially, a large proportion of those seeking commercial surrogates in India were well-off Indians residing both in and outside of India, but in the last few years, a sharp increase in demand from non-Indian patients has shifted this balance.
- ✿ Fertility tourists now come to India in search of surrogates from a wide range of countries, including Britain, France, the United States, Canada, Korea, Singapore, Japan, Australia, the Middle East, Nigeria, Kenya, Nepal and Israel etc

Multiple factors drive this demand

- ❁ Over the last quarter century, legislation of fertility treatments in the industrialized North has grown increasingly strict.
- ❁ Laws in many countries prohibit specific procedures like surrogacy particularly commercial surrogacy and egg donation, and produce serious administrative delays

The niche marketing of fertility tourism, gaining traction particularly in India, where the combination of

- ❁ Substantially lower costs
- ❁ Advanced privatized tertiary healthcare,
- ❁ English-speaking providers,
- ❁ An apparently ample supply of Indian women interested in serving as surrogates,

- ❁ A business climate that encourages the outsourcing of Indian labor,
- ❁ World-famous tourist destinations,
- ❁ Possibility of closely monitoring surrogates
- ❁ The absence of binding industry regulations provide powerful incentives to foreign consumers of fertility services



...e you wish if your treatment is combined with fun and pleasure. You
...your hunger for travel and at the same time, getting treated at
...asuti Grih offers you unmatched medical tourism package for
...and Hysterectomy.

Surrogacy Industry

- ❁ While no reliable statistics are available for how many surrogacies are arranged in India, anecdotal evidence and media reports point to a sharp rise in the instances of commercial surrogacy.
- ❁ According to one estimate, India's rapidly growing commercial surrogacy industry is worth US \$ 445 million per year (CGS).

Recruitment For Commercial Surrogacy

Fertility
Clinics

Surrogate
Agencies

Advertisements in
Newspapers,
Magazines,
Websites

By women
looking to be
surrogates

By individuals
and couples who
seek surrogates



Actors and Institutions

- ❁ In Mumbai alone there are 44 institutions providing ART & IVF services
- ❁ 14 institutions providing Surrogacy services
- ❁ 16 facilities ---
Stem Cell/Cord blood Banks
- ❁ 8 Medical tourism companies
- ❁ 3 Surrogacy Lawyers



Contd..

- ❁ Private healthcare consultants
- ❁ Travel agencies and the hospitality industry
- ❁ Government tourism departments
- ❁ Surrogacy hostels
- ❁ Surrogacy law firms
- ❁ Collaborations between foreign hospitals and companies, and Indian ART clinics (Planet Hospital, Proactive Solutions)

Costs

- ❁ The cost of hiring a surrogate in India ranges from 6000 to 8000 US dollars, as against about 80,000 dollars in the USA. Although there are wide variations, the cost of IVF in India is about 500 US dollars for each cycle, compared to 5000 dollars in the USA.
- ❁ ART industry also offers a regular supply of spare ova to another industry, namely the stem cell therapy industry. India has announced a public private partnership with three European pharmaceutical companies and the British government for stem cell research (*Hindu* 2007)

Selection Criteria

- ❁ 'Fitness' to carry the pregnancy- medical tests
- ❁ Looks "healthy"
- ❁ Demands for a specific religion/ caste (High caste- fee increased upto 1 Lakh in punjab)
- ❁ Fair, good looking, tall
- ❁ Hygiene, conditions at home
- ❁ "Respectable"

Recruitment Patterns

- ❁ Multiple actors: Providers, Commissioning Parents, Medical Tourism Agency, Surrogacy agents, Surrogates.
- ❁ Spread of information regarding IVF techniques and centers that offer these services: local cable TV programs, news coverage, word of mouth.
- ❁ Agents recruited for their good social skills and network in the community: otherwise employed as lab technicians, nurse, marketing for clinics.

- ❁ Agents contact and convince women in neighborhoods, extended family, friends .
- ❁ Egg donors considered potential surrogates by hospital staff.
- ❁ Commission offered to surrogates/ egg donors for bringing other potential surrogates to agents.
- ❁ Trend becoming popular in areas with surrogate hostels or accommodations.
- ❁ Medical Tourism agencies also approach independent agents or smaller agencies for the needs of their clients.

Motivations in becoming a Surrogate

- ❁ Conditions of unemployment and struggle to run a household.
- ❁ No other work option enables earning such a large sum of money.
- ❁ Responsibility of paying off debts, buying a house, creating savings for children.
- ❁ Better option than domestic work or factory work.
- ❁ Not immoral.
- ❁ Creating a life for children that they couldn't have.
- ❁ Persistence of couples and agents

Information Provided

- ❁ No details given about the medical tests they are expected to clear.
- ❁ Explained as conceiving the child through “machines” and “injections”.
- ❁ Emphasis on no sexual relations required.
- ❁ Surrogates often ensured that there are no risks, like any other pregnancy.

Taking Medical Decisions - Rationale and Consent

Overriding concern for the birth of a healthy child and satisfaction of the commissioning parents over risks and implications on surrogates' health

No Process of Informed Consent – told it is necessary for the health of the child; no discussion at the time of entering the arrangement

- ❁ Choosing IVF over traditional surrogacy
- ❁ Embryo selection- against disability, sex-selection
- ❁ Multiple embryo transfer- for high success rate
- ❁ Foetal reduction
- ❁ Controlling labour/ time of delivery- in the presence of CPs
- ❁ Caesarean delivery
- ❁ Denying breast feeding
- ❁ Post-delivery care : whose responsibility?

Remuneration

- ❁ Surrogates mostly accept the amount decided by agent or the commissioning couple.
- ❁ They may also quote an amount from what they have heard from another surrogate.
- ❁ Some surrogates were not aware of the exact amount promised by the couple, with the agent paying on their behalf.
- ❁ The range between 1.5 to 4 lakhs- average higher in Delhi.
- ❁ Agents have a fixed commission rate for couples -Delhi agent deducts commission fee from surrogates as well.

- ❁ Payment through instalments-10000 at transfer, 25000 at confirmation of pregnancy, 6000-10000 monthly expenditure, rest of the promised amount after birth.
- ❁ Variation in reimbursement of travel.
- ❁ Extra allowance for hiring help.
- ❁ Raise in amount in case of multiple births-Delhi.
- ❁ Surrogates unaware of fee charged by agents or providers, but observe it to be a higher amount

- ❁ “No, I don’t know about that. They (agents) get a lot, and give us very little. You will have such information. They give us after making their cut. ‘wo tou kaat koot ke dengein’. (Surrogate M)
- ❁ D, a surrogacy agent used to take a percentage of the payment earlier but shifted to a flat amount as payment so as not to be affected by lower payment rates negotiated between the surrogates and commissioning parents. He currently takes a commission of about Rs 1,00,000 from commissioning parents and between Rs 50,000 and Rs 75,000 from surrogates

Regulation

- ✿ Regulations define and enforce roles, rights and responsibilities of all actors, and then hold the government accountable for the enforcement of those roles, rights and responsibilities, making this approach the most likely to actually protect surrogates' health and human rights.

Regulation

- ❁ Civil society pressure in India for national comprehensive regulation has gained considerable momentum.
- ❁ In 2005, the Indian Council of Medical Research (ICMR), part of the Ministry of Health and Family Welfare, published nonbinding National Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India.
- ❁ A draft ART Regulation Bill & rules has been developed in 2008 and revised in 2010. However, the Draft Bill and Rules 2010, falls short of addressing many concerns vis-à-vis women's health and rights.

- ❁ Surrogacy is a transnational practice, often with commercial as well as social, political and economic implications.
- ❁ Banning surrogacy in India may merely drive the demand elsewhere. Although a sovereign government deciding on legislation may not consider such an outcome to be their concern, from the standpoint of NGOs advocating a particular approach,
- ❁ it is worth considering whether a prohibition truly advances the broader cause of women's health and human rights or merely pushes the problem off onto a more vulnerable population of women in other countries, as appears to be the case in both Canada and the United Kingdom, as well as a host of other countries whose governments have opted to ban surrogacy but whose citizens remain free to pursue surrogacy services abroad.

- ✿ Given the significant and increasing cross-border movement for ART treatments and surrogacy, how possible is an international level covenant/ guideline/ resolution towards (recommendations for) regulation?

Actions

- ❁ Civil society pressure in India for national comprehensive regulation has gained considerable momentum.
- ❁ In response, Sama organized consultations in 2006, 2008, 2010 both national and international level on the implications of ARTs including on women's lives and the wide-ranging issues that arise from emerging biotechnologie, transnational fertility tourism and regulation.

Conclusion

- ❁ The surrogacy industry in India has reached the stage at which the government is obliged to take concrete, comprehensive action.
- ❁ Surrogacy is a complex practice that requires rigorous ethical, legal, economic and social analysis. Whatever approach is ultimately taken should be evaluated thoroughly, which will require thoughtful collection of appropriate data.

- ❁ In sum, this is what I recommend:
- ❁ Enact national legislation covering a wide range of assisted reproductive and genetic technologies that permits and regulates both commercial and noncommercial surrogacy under the law. This legislation should be explicitly grounded in a human rights framework that safeguards the health, human rights and autonomy of women who act as surrogates, as well as other individual stakeholders.
- ❁ Surrogacy, along with the other technologies, should be governed by a clear, comprehensive regulatory scheme that defines and enforces the roles, rights, responsibilities and remedies of all institutional and individual stakeholders.

❁ Surrogacy, along with the other technologies, should be governed by a clear, comprehensive regulatory scheme that defines and enforces the roles, rights, responsibilities and remedies of all institutional and individual stakeholders. This structure should be developed and enforced by an independent regulatory agency that is accountable to the Ministry of Health as well as to stakeholder groups outside the government and fertility industry.

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- ❁ At a minimum, regulations should establish a rigorous industry licensing and monitoring procedure; set standards for reproductive health and safety, advertising, fees and expense reimbursement that protect surrogates; require provision of independent counseling and legal advice for surrogates; guarantee the bodily autonomy of surrogates; make properly executed contracts legally binding; protect the rights of people conceived through surrogacy; devise mechanisms for monitoring and evaluating legislative effectiveness

Thank You