

Babies on Demand: Indian Surrogacy Industry and the Female

Remya Krishnan A.V

Research Scholar, Department of English, University of Calicut, Kerala, India

Abstract

From Amazon to Flipkart, people rely a lot on the Cash on Delivery facility. In relation to the booming surrogacy industry in India, an entirely different type of cash on 'delivery' is in vogue. The easy availability of surrogates, cheaper rates, and flexible legal framework make India one of the top countries involved in this baby making business. A number of Indian celebrities including Bollywood actors made news recently by opting surrogacy in order to enjoy parenthood. In most cases, the identity of the surrogate mother is not disclosed due to 'privacy concerns'. Hence these surrogate mothers with bleeding vaginas, leaking breasts and sutures fight postpartum depression in a state of oblivion. The whole process of surrogacy problematises the traditional concept of the 'ideal' family, bringing in a third party, making reproduction a team work. A woman's body is often viewed as a marker of caste, sexuality, honour and pride not of herself but of the men around her. Elizabeth Grosz in her *Volatile Bodies: Toward a Corporeal Feminism* (1994) observes that women's bodies are conceived by patriarchy as the receptacles of men's body fluids and as the nesting place of their product, the fetus. Women has always been glorified and stigmatized at the same time for her capacity to reproduce; often equating woman to 'womb'. When the process of reproduction is fragmented, a complex corpus of questions with regard to a woman's freedom, identity and her rights over her own body also comes into discussion. A complete ban on Commercial Surrogacy only serves to inflict more harm as it puts an end to a woman's will and right to rent her womb as a profession and live a better life with dignity. On the other hand Nevertheless, the physical, mental and financial exploitation of illiterate and poor surrogate mothers need to be scrutinized and probed. Kishwar Desai's *Origins of Love* (2012) is a critique of Indian surrogacy industry and the medical exploitation of the female body. This paper attempts to discuss the pros and cons of surrogacy industry in India, its effects on the female body and the underlying politics of nationality, caste and gender involved in the process of surrogacy, keeping the text *Origins of Love* as a tool to discuss the topic in a larger canvas.

KEYWORDS: commercial surrogacy, female body, exploitation, rented womb

Kishwar Desai's first novel, *Witness the Night* (2010) won the Costa Book Award in 2010 for Best First Novel and was translated into 25 languages. Her much critically acclaimed second novel, *Origins of Love* (2012) informs about the terrible, utterly inhuman way Indian women are being exploited by the multi-million dollar surrogacy industry that has been burgeoning in various parts of India. In the novel, there is a wide spectrum of social commentary seen through the lens of reproductive issues.

The very title has it; the word origin. With a transition from promiscuity to monogamy, paternity of the offspring gained significance. Engels in his work *Private Property, and the State* (1884) points out that the position of man in the family

became more important with an increase in wealth. Thus gradually the traditional order of inheritance, the mother right was overthrown. Engles observes that, “The overthrow of mother-right was the world historical defeat of the female sex. The man took command in the home also; the woman was degraded and reduced to servitude, she became the slave of his lust and a mere instrument for the production of children (30-31)”.

G. Ushakumari in her work *Udal oru Neythu: Samskaarathinte Streevayana* (2013) points out that for the smooth transfer of private property to the next generation, it was very important to bring up children without any doubts with regard to their paternal identity. And hence, from the very beginning, the pressure of monogamy rested on the woman and not on man. This resulted in family being a man-centered institution that has to be maintained in such a way that woman has a secondary space within this structure. This inherent desire to have an heir from one’s own blood is one major reason why couples opt for surrogacy and not adoption (which is a noble act). Both surrogacy and adoption has its share of legal hassles almost of the same intensity. But the nobility of adoption is often over ruled by the aspiration to have a biological heir, owing to various reasons including the religious beliefs, and prejudices.

There is the seemingly inescapable gravity that reproduction holds over women. Being a woman is often equated with being a wife and a mother, thereby neglecting all other identities of a woman as an unmarried and independent woman (spinster), a single mother, a woman who has no children by choice or due to infertility. The word mother is often used synonymous with a woman. (How negative it is!). Nivedita Menon in her *Seeing Like a Feminist* talks about how new reproductive technology fragments the biological experience of motherhood which was previously fused in one woman. She terms them as ‘mother functions’- providing genetic material (egg donor); gestating the foetus for nine months (the surrogate or ‘gestational mother’); and rearing and bringing up the child (the ‘social mother’)” (47). So there is literally a division of labour (pun intended). Feminists have had a huge difference of opinion over this fragmentation of mother functions. Nivedita observes that Assisted Reproductive Technology (ART) reinforces the patriarchal assumption that only biologically related children are one’s own. On the other hand these technological developments fracture the patriarchal/conventional constructions of motherhood.

Elizabeth Grosz observes that female sexuality and women’s powers of reproduction are the defining (cultural) characteristics of women, which render them vulnerable, in need of protection or social treatment, as prescribed by patriarchy (14). Grosz points out that the feminist theoreticians have always had contradictory views over the conception of female body outside the patriarchal framework. For a group of feminists maternity is the ultimate goal of femininity while for the other group, maternity is what women must overcome so as to attain equality of sexes. According to her, one category of writers like Mary Wollstonecraft Simone de Beauvoir, Shulamith Firestone, regarded that the specific, peculiar nature of the female body and bodily cycles like menstruation, pregnancy, maternity, lactation etc limits a woman’s access to the rights and privileges patriarchal culture accords to men. These theoreticians see the role of a mother and the role of a political being as always in conflicting positions.

Beauvoir and Firestone relish the development of new technological means of regulating reproduction and eliminating the effects of women's specific biologies on women's roles as social, economic, cultural and sexual beings. Such a position remains ambiguously and paradoxically connected to the in-vitro fertilization programs so strongly advocated by some feminists (and so strongly criticized by others, e.g., Rowland) in so far as it sees the reproductive imperative as a major or defining feature of femininity as we know it, while at the same time, regarding female bodies as inadequate, in need of (this time surgical) supplementation or supersession. (15-16)

Emily Martin in her *The Woman in the Body: A Cultural Analysis of Reproduction* is seen critiquing modern medical science for its fragmenting of the unity of the person.

When science treats the person as a machine and assumes the body can be fixed by mechanical manipulations, it ignores, and it encourages us to ignore, other aspects of our selves, such as our emotions or our relations with other people. Recent technological developments have allowed this tendency to progress very far. Parts of our bodies can now be moved from person to person; their purchase and sale can even be contemplated. (19-20)

Emily Martin anticipates this development to adversely affect the whole course of human reproduction. She speaks, "Similar processes, of course, affect the whole course of reproduction. "Human eggs, sperm, and embryos can now be moved from body to body or out of and back into the same female body. The organic unity of fetus and mother can no longer be assumed, and all these newly fragmented parts can now be subjected to market forces, ordered, produced, bought, and sold (20)". This is exactly the state of the unregulated surrogacy industry in India as discussed by Kishwar Desai in the novel *Origins of Love*. The book discusses the plight of the many marginalized women trapped by circumstances, forced or convinced into having repeated unhealthy pregnancies for which they are poorly compensated.

The fictional clinic, Madonna and Child situated in Gurgaon is only one among many such clinics in India which carry out the amazing money-making business of made-to-order babies—highly intelligent, fair, male babies.¹ For surrogates like Preeti, Sonia and Radhika the whole process of surrogacy was filled with shame and the weight of being a woman. Their fertile bodies are subjected to a series of examinations by doctors like Subash Pandey and Ashok Ganguly to confirm whether they had clean wombs, fine breasts and 'good, child-bearing hips' (29). They even had to hear racial abuses from the clients: "What a joke, the mother of my child, a bloody Dalit (293)".

In 2002, India became the first country to legalize Commercial Surrogacy. Since then surrogacy industry has boomed in India, the surrogacy capital of the world, leading to transnational surrogacy, reproductive tourism etc. Anand in Gujarat, unofficially known as the surrogacy capital of India has a major share in India's surrogacy services. In an article by Vidhi Doshi "We pray that this clinic stays open": India's surrogates fear hardship from embryo ban" that appeared in *theguardian*, surrogate mothers at *Akanksha Fertility Clinic* share their anxieties over the ban of commercial surrogacy. Asima, a 26 year old woman whose father was burnt alive in

¹ Sharma, Bulbul "custom-made babies in rented wombs" *The Asian Age* 8 July 2012, New Delhi.

the Godhra riot 2002 finds being a surrogate a dignified way to earn money to support her family: “What are we going to do if they stop this? It’s better to do this than immoral things... So I can eat my bread with dignity”. Sonia, a surrogate in the novel decides to be a surrogate mother to earn money for the education of her children and also to pay off Rohit and break-free from her relationship with him from whom she had to suffer both physical and mental torture. We see Sonia silently suffering all the abuses and feel lucky that her womb is safe. She has a ray of hope, that she has something left to sell.

In *Origins of Love*, the story is woven around the HIV infected New-born Amelia, born to Mike and Susan Oldam by a surrogate Preeti via in-vitro fertilization. The plight of this abandoned, ill child compels Simran Singh, the protagonist who is a social worker by profession to intervene and investigate the matter. This is how she comes face to face with the seedy underbelly of the burgeoning baby business. Surrogacy industry while providing hope and joy to some; exploits and threatens others, mainly the unsuspecting, uneducated, and underprivileged Indian women whose wombs make these miracles happen.² At one point in the novel, the protagonist Simran bursts out in anger: “Why can’t a woman be anything more than a vagina or a womb? And since men don’t have either, they get scot free!” (*Origins of Love*, 110).

In 2003, Indian council of Medical Research issued guidelines regulating Assisted Reproductive Technology procedures. According to the 228 th report submitted by the Law Commission of India the usual fee for the surrogate under Commercial Surrogacy is around \$25000 to \$30000, which is only one third of the fee in a developed country. *Medicover Fertility*, one among hundreds of infertility and surrogacy clinics in India has their policies listed in the homepage of their website. Welcoming international patients, the site reads like this, “The Joy of parenthood knows no boundaries”.

One among major incidents that sparked the need to legally regulate Indian surrogacy industry is the Baby Manji Yamada case in 2008³. Baby Manji Yamada was born to Japanese biological parents and a surrogate mother in Anand, Gujarat in 2008. Due to marital discord, the parents got divorced and left for Japan while Manji was left to the care of her grandmother Mrs. Yamada in Rajasthan. A writ petition was filed by M/s Satya, an NGO, challenging the legality and stressing the need for the enactment of a law. This invited attention to the unregulated commercial surrogacy industry in India and the exploitation of Indian surrogates.

According to the Surrogacy Regulation Bill 2016 passed by the Lok Sabha, commercial surrogacy will be banned in India and altruistic Surrogacy will be legalised. Altruistic surrogacy does not involve monetary transfer and the surrogate mother should be a close relative of one of the commissioning parents. Complete ban on commercial surrogacy in a way rejects to identify reproductive labour as a labour and agrees to the traditional assumption of motherhood as a natural activity. This is in complete contradiction to the technological intervention in the whole process of surrogacy which is the perfect example for man-machine collaboration.

² See Kaur, Balwinder “Cash on Delivery” *The Tribune* July 8, 2012, New Delhi.

3. Baby Manji Yamada vs Union Of India & Anr on 29 September, 2008

Amrita Pande discusses how reproduction is considered only as a natural responsibility and the woes of labour is neglected conveniently.

While it's not surprising that markets in reproductive labor are more troubling than other labor markets, I am disturbed by the implicit reification of gender-based dichotomies—private/public, nature/social, reproduction/production, and non-market/market—in many arguments against surrogacy. These rigid and gendered distinctions have been long identified as the basis of the asymmetrical and patriarchal division of labor where the concept of labor is reserved for men's productive work while women's share in production and reproduction becomes a function of their biology and nature. Ironically, in such a conceptualization, the act of giving birth, or "labor," is implicitly assumed to be not labour or work but rather an activity of nature. (28)

Another possible danger of this IVF as Desai hints is the illegal and unethical use of embryos. Desai mentions about the close connection found between fertility treatments and embryonic stem-cell surgery. But here also there are chances that under the cover of IVF, many hospitals made big business by using embryonic stem cells in the treatment of spinal damage and blindness. Stem cell research using the human embryo is illegal in Germany, Austria, Ireland, Italy, and Portugal while it is permitted in countries like Sweden, Spain, Finland, Belgium, Greece, Britain, Denmark and the Netherlands. Countries like, India, Iran, Israel, Japan, South Korea, China, and Australia are supportive. However, New Zealand, most of Africa (except South Africa), and most of South America (except Brazil) are restrictive⁴.

The reproductive body of the surrogate mother is identified for its power, to carry the foetus and at the same time is exploited and commercialised by the medical industry. Amrita Pande proposes that

At various stages of the surrogacy process, the surrogates negotiate with their family and the clinic to gain control over their own bodies and reproductive futures. Although these negotiations are ostensibly at the micro-political level, often a response to the disciplinary tactics used by the clinic and a response to the medical construction of surrogates as dirty workers and disposable mothers, they are affected by and have repercussions at the macro level, namely at the level of the state. Simultaneously, they often speak to the unequal power relationships between the buyers and sellers of surrogacy, inequalities based on race, class, and citizenship. (307)

The process of surrogacy is not just a baby making business. It creates a web of complex power relations that has its consequences on the cultural and socio-political ambience of the state. As long as the understanding of the female body is entangled in the chains of culture, morality, religion and tradition, it is very difficult for a woman to claim her body and her rights over her own body. The typical Indian woman, representing about 75% of the female children and women in India, lives in the village. Such a woman who normally has no control over her own fertility, despite the Indian government's family-planning programmes gets an opportunity to rent her body for a monetary reward. This opportunity is shut down by a ban on commercial surrogacy. In India, reproductive technology has become a fast growing industry

⁴ See stem Cell Laws Wikipedia

which postulates the urgency of regulating it legally. More than a year after introducing in Lok Sabha, Surrogacy Regulation Bill has not yet come out. Many of the observations in the bill are disputable, including the complete ban on commercial surrogacy. A ban on something will only make it more desirable and wanting, leading to immoral ways of meeting the need. What is needed is a legal framework to allow women to use their reproductive bodies with certain amount of control and freedom over it and at the same time any sort of exploitation of these surrogate mothers and their body needs to be scrutinised and made punishable by law.

Works Cited

- Desai, Kishwar. *Origins of Love*. London: Simon & Schuster U.K. Ltd, 2012. Print.
- Doshi, Vidhi. “We pray that this clinic stays open’: India’s surrogates fear hardship from embryo ban” *theguardian*. 2 Jan 2016. Web.
- Grosz, Elizabeth. *Volatile Bodies: Toward a Corporeal Feminism*. Bloomington: Indiana University Press, 1994. Print.
- Kaur, Balwinder “Cash on Delivery” *The Tribune* July 8, 2012, New Delhi.
- Madge,Varada. “Infertility, Women and Assisted Reproductive Technologies: An Exploratory Study in Pune, India”. *Indian Journal of Gender Studies* 18.1 (2011): 1-13.
- Menon, Nivedita. *Seeing Like a Feminist*. New Delhi: Zubaan and Penguin Books India, 2012. Print.
- Pande, Amrita. *Wombs in Labour: Transnational Commercial Surrogacy in India*. NewYork: Columbia University Press, 2014. Web.
- Ushakumari, G. *Udal oru Neythu: Samskaarathinte Streevayana*. Kottayam:Sahitya Pravarthaka Co-operative Society Ltd, 2013. Print.
- Martin Emily. *The Woman in the Body: A Cultural Analysis of Reproduction*.Boston:Beacon Press, 1987. Web.