

# The Birthing Precariat: Altruism in the Service of Capital

■ Anindita Majumdar

In circulating imagery of babies born in ‘isolation’ away from their desiring parents-to-be, in IVF clinics, through the labour of a commercial surrogate during Covid 19, there is only one missing person. The commercial surrogate finds absolutely no mention in the birth of the child: all credit and pain is lavished on the IVF specialist, the clinician and the suffering intended parents, under lockdown in a faraway place. And why should she be mentioned? The commercial surrogate is not an ‘essential service’, the new term of labour that has replaced the ‘essential goods’ category in times of national and global crisis. Furthermore, recent legislation aims to position her in frames that threaten to appropriate her labour and identity from her as well. The Surrogacy Bill 2019 seeks to ban commercial surrogacy in favour of seeking the services of a surrogate from amongst close kin, who will undertake the gestation-birth without compensation – as an altruistic act.

In August 2017, the Parliamentary Committee had extensive discussions on the suggested Surrogacy Bill of 2016 – recommending important amendments. The current Bill is a ‘breakaway’ from the ARTs Bill of 2015, signalling the state’s desire to ban commercial surrogacy altogether. The Bill was on the way to becoming an Act with the Lok Sabha endorsing it in December 2018, but soon after, in 2019 the Rajya Sabha sought more discussions and public debate on the Bill before endorsing it. This led to a parliamentary committee traveling to gather public opinion in select meetings regarding banning commercial surrogacy in favour of altruistic surrogacy.

Altruistic surrogacy, as per the Bill, involves kin seeking support from the female members to help fulfil the role of a surrogate. In this paper, I suggest that altruism has led to the complete devaluation of reproductive labour that surrogates undertake in commercial surrogacy arrangements in India. Commercial surrogacy as it is practiced has always been exploitative: creating ‘mother workers’ (Pande 2014); invisible labour work (Sama 2012); and caught in traditional patriarchal norms of shame, propriety and honour (Majumdar 2018). In reality, the nature of surrogacy work: temporary-contractual; without any institutional safeguards protecting the surrogate’s health during the heavily medicalised IVF process; and dehumanizing – is akin to the form of precarity that globalised labour regimes are subject to (Standing 2011). The forms of precarity that Standing identifies in linking lack of job and employment security to temporary contractual labour is most acute in situations such as gestational surrogacy arrangements in India, wherein economically impoverished women are hired through elaborate framings around birthing and pregnancy. Within such a model, I suggest, the current legal injunction that aims to ban commerce around gestational labour in favour of altruism, resurrects precarity in terms that hark back to a form of paternalistic patron-client relationship. The Surrogacy Bill 2019 seeks to prevent exploitation of poor Indian women, specifically by foreign intended parents seeking to hire them for surrogacy – but instead transposes it upon Indian couples through the exploitative frames of kinship and familial obligation. Thus, altruism promises

not only the euphemisation of commerce, compensation and renting but retains the womb that births the kin within the familial. But that is not all, in consonance with the above Bill is the now almost invisible Assisted Reproductive Technology (ART) (Regulation) Bill 2017 that was once the home for legislative injunction on commercial surrogacy. The separation of surrogacy from the Bill has meant that there is a sense of purported delineation of commerce and the familial. The Surrogacy Bill of 2019 in many ways is a legislation regarding the acceptable contours of the Indian family; and the ART Bill has to do with the ‘management of infertility’ (ICMR, pg 3). Commercial surrogacy under the ART Bills of 2008 and 2010 was a repository of the industry that provided the technology facilitating gestational surrogacy: namely, in-vitro fertilization. In that sense, surrogacy was subservient to the technology, and followed the dictates of the technology, including its control over the surrogate. The infertility industry, with its projections of a multibillion dollars transnational clientele, reportedly earned massive revenues through commercial surrogacy, until foreigners were banned from contracting surrogacy arrangements in India. Nonetheless, the industry remains embedded within big business through the provision of technology, and of oocytes and sperms from paid providers to couples desperately seeking to change their narrative of childlessness. In such a scenario, is altruism embedded primarily in the body of the commercial gestational surrogate? What does it mean to be altruistic when dealing with big capital?

## **Altruism and Precarious Labour in the IVF Industry**

In the ART Bill of 2017, financial involvement in the IVF industry is marked in some very distinct ways. First, through the outlining of a government fund that will support the setting up of the National and State Advisory Boards, that will monitor the registration and functioning of assisted reproductive technology centres and gamete banks (used to source ‘donated’ eggs and sperms); and second, through the provision of ‘insurance’ against malpractice at the clinic. Capital is part of the underlying logic of the management of fertility, one that few speak of (Reddy and Qadeer 2010) – but one that benefits from the separation of surrogacy from IVF, and from the transition of commerce to altruism. In

interviews with IVF specialists recently, I was told that many of them submitted representations to the government regarding the ban against commercial surrogacy. There was resistance and reservations from clinicians, surrogacy agents, and surrogates (in the form of protests). However, in the face of the state's 'stoicism' in banning commercial surrogates, many IVF specialists began to ask for minor 'adjustments', including the removal of the clause for 'kinship' with the surrogate.

Kinship and interpersonal relationships play a big role in how altruism is imagined in surrogacy. Altruism in surrogacy works through two particular paradigms: one, that of the selfless giving mother who gives a gift of a child to infertile couples; and second, the invocation of religion to normalise and routinize the role of surrogacy as altruistic, even in its commercial form.

The ideology of the gift relationship is the bedrock of the commercial surrogacy arrangement. It creates a façade of altruism when there is none. This is what forms a large part of the euphemization of the contractual surrogacy relationship as a "gift relationship" (Bourdieu 1977). The preponderance of such an ideology is meant to mark commercial gestational surrogacy with some level of sanctity and legitimacy considering its "negative" positioning in relation to the commoditization of intimate relationships (Cannell 1990; Levine 2003; Teman 2008).

However, in the transnational context, the ideology of the gift relationship cannot be appropriated. Anthropological analysis of commercial gestational surrogacy in India points towards the ways in which agencies and doctors actively promote a "gift rhetoric" to not only distance the surrogate from the fetus, but also to draw the surrogate into an obligatory relationship (Pande 2011; Ragone 1996; Vora 2010). The "gift of life" comes to be positioned as an exchange of "life for life" (Vora 2013) wherein the Indian surrogate is willing to gestate a child in exchange for monetary compensation that would help her and her family survive. For them the "gift" is positioned in terms of a cycle of debt and obligation (Vora 2013) – by "giving" away a child they hoped to incur a lifelong obligatory relationship with the intended parents that would ensure their own survival. Many surrogate mothers saw their overseas couples

as "saviors" around whom they built fantasies of being rescued from their lives of drudgery (Pande 2011).

In Amrita Pande's study (2014) of surrogates and surrogacy in India, commercial surrogacy is championed as a form of 'global philanthropy' amongst its foreign client, who were made to believe that they were doing a good deed, and owed little or no obligation to the surrogate. At the same time, surrogates were made to believe that they were 'blessed' to have been chosen for the task, and should be thankful for the grace of their foreign, and Indian intended parents. Pande finds that this discourse is propagated effectively through the myth of the birth of Krsna: to justify commercial surrogate work, to train and indoctrinate surrogates into believing that they are carrying out god's work, and to justify one's role as god's messenger. Interestingly, at some point the Krsna myth morphs into the idea of 'surro-dev' a mythic conception of surrogacy as god himself – represented often through the imagery of the clinician. Materiality in this sense operates through a construction of divinity that is utilitarian and yet removed from worldly desires.

Elsewhere (Majumdar 2015), I have suggested that the invocation of the Krsna birth myth and the particular use of the above imagery by ICMR representatives multiple times at public lectures harks back to a form of resurrection of the mythic womb/ *garbha* that is uniquely Indian and thus counter to the Western technology. This is particularly provocative because the use of the myth and the imagery does not counter the Western technology or imagery, but aims to provide a foil to it by suggesting that the Indian womb has already been conceptualized in the form of a carrier since mythic times. Initially such an imagery was meant to seek out Western clientele for the growing commercial surrogacy industry, but is now effectively and conveniently being used to channelize the ideas circulating as part of a state rhetoric that deems Indian wombs as 'National'.

In the Surrogacy Bill that was passed in Parliament in 2018, the state has restricted access to altruistic surrogacy in India to Indian married couples excluding OCIs, PIOs and others, including foreign couples (who made up a bulk of those coming in to access

surrogacy in India). When justifying these exclusions, the Chairperson, National Commission for Women mentioned that Indian women's wombs were not for hiring. They were not available for use by foreigners. The rhetoric centred on and invoked the idea of a national womb that cannot be outsourced to westerners.

Thus, altruism can only be enacted within the family, or within the mandate of the nation state. In my research the 'national womb' within policy discourse morphs into suitable and unsuitable kin in the practice of altruistic surrogacy. In conversation with clinicians and IVF specialists, I found them performing the role of 'matchmakers' in creating viable progeny for the couples who came to them seeking surrogacy.

While matchmaking followed certain ideas of suitability, such as phenotypical similarity, the largely social criteria of education, family background, etc were overwhelming in the choice of surrogates and egg donors. However, in case of altruistic surrogacy arrangements enacted amongst kin, many of the IVF specialists invoked a form of 'gene sutra' wherein suitable female kin were identified as surrogates based on what protects the patriarchal practice of gift giving in North Indian marriage systems (Majumdar 2017). However, intrafamilial surrogacy may not always work. Female kin may not volunteer to be surrogates, and the dynamics of give and take may fail. As one IVF specialist told me regarding his petition to the Indian Council of Medical Research on the surrogacy bill, 'Look, we are supporting altruism...we just don't want the government to restrict surrogacy to "kin". Let couples bring a suitable candidate, and we can work towards making it an altruistic arrangement'. Such a 'changed' stance meant two things: IVF clinics can continue to recruit surrogates covertly, under the guise of providing IVF services; and manufacture 'altruism'. The surrogate ends up getting paid even less than what she was being paid earlier. Capital remains amongst the same people, as does precarity.

Altruism at the end of the day feeds into the kind of exploitation that commercial surrogacy engenders, as in essence the euphemization of commerce and intimacy is merely that: a myth. To think seriously regarding reproductive justice and

reproductive rights, the language of banning a practice has to be seen in consonance with that which is not being banned: here altruism. After all they seem to be two sides of the same coin.

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