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Surrogacy Comes Out of the Closet

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Artificial insemination is 200 years old. Surrogacy is as old as the Mahabharata. And infertility specialists in Mumbai reveal that they have handled several cases of surrogacy, with legal contracts involved. So what's all the fuss about Nirmala? It's just that she's the first to have made public her deisre to rent her womb for Rs. 50,000.

Should we fear the destruction of our culture because a 30-year-old woman from Chandigarh plans to `rent' her womb? Or should we just get down to figuring out the legal ramifications of a surrogate mother refusing to hand the child over, or the contracting parents deciding that they don't want the child after all? Or we just missing the point?

Reports that Nirmala intends to bear a child for an infertile couple - in exchange for Rs. 50,000 - have been received with dismay. Nirmala's unconventional plans to raise money for her invalid husband's medical bills seem to have woken everyone up to all the possible social, ethical and legal complications of the new reproductive technologies in India.

But the current debate may indeed have missed the point. "The infertility industry is only one part of an unregulated private health care system which is based on profitability rather than need.", says Dr. Amar Jesani, co-ordinator of the Centre for Enquiry into Health and Allied Themes and editor of the journal Medical Ethics. "As in other situations, these health services are capitalising on cultural demands, and on people's poverty."

Since the birth of the first `test-tube' baby in 1978, ethicists in the West have warned that such technologies will create scope for many disputes, and called for laws which set down procedures for all aspects of the process. This point was driven home through some highly publicised legal battles: between surrogate mothers and contracting couples for the child: between divorcing couples for frozen embryos: between a widow and her stepchildren who wanted to prevent her from carrying on with IVF after her husband died: between anti-abortion groups and IVF clinics about the disposal of discarded embryos, and so on.

Partly as a result, there is some form of regulation of IVF and related technologies in the US, the UK and much of Europe. However, the proliferation

of these technologies has not raised much discussion in India, though all the same techniques have been available here for almost a decade.

IVF has refined surrogacy, though such arrangements - through which infertile couples can acquire a child by involving another woman, or couple - are as old as the Mahabharata and the Bible. Traditionally, the gestational or surrogate mother is a close relative who agrees to carry a pregnancy to term and hand the baby over to the childless couple. At one time, such arrangements required the surrogate mother to get pregnant through sexual intercourse.

These days surrogacy need not involve sex, though Nirmala expects to conceive through sex with her employer. Artificial insemination (AI), using the husband's or donor's sperm, is some 200 years old, and since the late 1970s, in-vitro fertilisation (IVF) has been used to achieve pregnancy in a petri dish. Ova from the wife, the surrogate mother, or a donor, are fertilised with sperm from the husband or a donor. The resulting embryos are implanted in the surrogate mother's womb. Surrogate motherhood can then simply be a variation on regular IVF.

IVF techniques allow a number of previously unimaginable scenarios: child born after both its genetic parents are dead: twin embryos to be gestated five years apart: women giving birth to their grandchildren, and so on. Though some of the best-known surrogacy controversies do not involve such medical acrobatics, the increasing role of IVF in surrogacy is one of the reasons why surrogacy has become a topic of debate in the West.

And IVF surrogacy is not new in India. "We have used IVF on seven surrogate mothers in the last three years," says Dr. Firuza Parikh, director of the Infertility clinic at Bombay's Jaslok Hospital. Each instance was preceded by a legal agreement: the couple agreed to look after the surrogate mother during the pregnancy and pay her medical expenses, and the mother agreed to look after herself during the pregnancy and not harm the foetus. "There was no extra charge that I was aware of," says Dr. Parikh. As far as she knows, the surrogate mothers were always related to the couple in some way. "Two children were born as a result". At least one other baby was born to a surrogate mother in Bombay.

Such arrangements are assumed to be altruistic, though money or property could have changed hands. One of the reasons why Nirmala's plans have been so widely discussed and debated is that she freely admits that she's doing it for money.

Following the publicity given to Nirmala's case, openly commercial surrogacy, with or without IVF, is not that far away. "A couple approached me before they got married," says Dr. Nitin Narvekar, a Bombay-based infertility specialist, "She has no uterus, so surrogacy was the only option. I told them I could help them only in medical aspects, but they would have to organise the surrogate mother. They have advertised in the Gujarati papers and I assume they will get back to me when something comes up."

Dr. Narvekar has no reservations about commercial surrogacy, and feels that though some people may be opposed to it right now, once the first commercial surrogate mother goes public, it will become accepted as just another IVF-related technique," Dr. Parikh concurs: "The woman is using her resources - in this case, her womb - to earn money for an honourable cause".

Others argue that surrogacy contracts will not work in India. "I am against the practice. It will exploit women," says Bombay-based gynaecologist Dr. Usha Suraiya. "In any case, our culture will not allow it to become common." Dr. Aniruddha Malpani, whose infertility clinic in Bombay also buys ova to be used in IVF - for a reported Rs. 5000 - hesitates to do commercial surrogacy: "The contracts have not been enforceable in other countries, so if the surrogate mother changes her mind there is nothing we can do."

While the medical community may be divided about the ethics of surrogacy, they generally agree that surrogacy will remain a rare practice. Community surveys conducted by the World Health Organisation some years ago found that between two and six per cent of Indian couples were technically infertile - they had not conceived within two years of unprotected sex. The problem can be identified only in proportion to the rest. "Surrogacy is considered in rare situations, when the woman has uterine problems which prevent her from carrying the foetus," says Dr. Narvekar. Even in the US, which has one of the largest infertility industries in the world, and where surrogacy is widely advertised on the Internet, there are just 10-15 surrogacy contracts each year, according to an Australian report on this phenomenon.

And few women will put up with all the discomforts of treatment and pregnancy for someone else. "Though only two of the seven potential surrogate mothers I treated became pregnant, the others didn't come back for a second attempt," says Dr. Parikh. And many couples don't even get that far. "We get a couple of requests each year but they eventually back out when told what is involved," says Dr. Malpani.

Others feel the uproar about surrogacy misses more important questions. "We have so many social problems that we have not addressed. I don't understand

why people are so concerned by commercial surrogacy," says family lawyer Anasuya Dutt. "For example, a comprehensive bill on adoption which would make a much bigger difference to infertile couples, has been lying in Parliament for some 20 years."

While surrogacy may never become a significant phenomenon in India, it highlights the booming infertility industry here. In a society which places such a premium on fertility, treatments offered by IVF clinics, general practitioners, and unlicenced `specialists' flourish in cities and small towns. Assisted reproductive technologies represent just a fraction of infertility treatment, but in the decade since they were established in India, IVF clinics have sprouted up all over the country, from Bombay to Guwahati. The recently constituted Indian Society for Assisted Reproduction lists 186 members.

The government does nothing to monitor the quality of treatment provided by infertility clinics - or any other health service. "A few states have passed laws requiring nursing homes to register themselves," says Dr. Jesani. "But that does not mean they are monitored." As for the medical profession, "At present we have a committee to monitor press reporting, and another cell to provide doctors with legal advice," says Dr. Adi Dastur, president of the Bombay Obstetrics and Gynecology Society.

Still, infertility services should be welcome given the stigma it involves for women, and the economic insecurity it entails for abandoned wives. But, as Dr. Jesani points out, "The infertility industry is set within a larger commercial medical market which is capitalising on social, cultural and economic pressures."

The economic pressures that influence people to sell their bodies cannot be ignored. The organ transplant racket depends on the desparation of poor people for whom selling a kidney seems like a logical choice. While we may worry about the legal consequences of surrogacy, we should also ask why Nirmala should have to `rent' her womb in order to pay her husband's medical bills. "If the state has a duty, it is to ensure that she should not have to do such a thing," says Dutt. In fact, with monthly earnings of Rs. 700, Nirmala's plans almost make sense.