Title - ***Sanskari* Surrogacy? Commentary on the Surrogacy Bill 2019**

Author- Vasudha Mohanka, Doctoral Scholar, University of Wollongong, Australia

Email address- [Vasudha.mohanka@gmail.com](mailto:Vasudha.mohanka@gmail.com)

Postal address- Dlx- 83, Carnation, Ashiana Gardens, Sonari, Jamshedpur- 831011, Jharkhand, India

Telephone number- NA. Can be contacted on email or via post

I do not have any competing research interests

I do not have any similar work published or in the process.

**I thank Dr. Pawan Singh and Ms. Akanksha Prakash for their inputs.**

**Abstract**

*Gestational surrogacy as opposed to traditional surrogacy is an arrangement that employs the use of assisted reproductive technologies. The Surrogacy Bill 2019, The Assisted Reproduction Technology (Regulation) Bill, 2017 and the FRRO notifications released in 2014-15 are not in consonance with each other. The Surrogacy Bill 2019 is a revised version of the Surrogacy Bill 2016 developed by the Lok Sabha to regulate and delineate specific aspects of surrogacy assuming that commercial surrogacy arrangements in the country, thus far have been exploitative and has been misused by the elite and the privileged. The Bill proposes “altruistic” gestational surrogacy involving no financial compensation (except medical expenses and insurance) to be carried by a “close relative” of a heterosexual married couple who have been unable to conceive for five years after marriage. This commentary seeks to critique prominent aspects of the Surrogacy Bill 2019, and argues that if the Surrogacy Bill 2019 aims to become a law, it does not aim towards achieving any ideals of reproductive justice and the constitutional right to personal liberty. The critique corroborates with recent Rajya Sabha recommendations as discussed during the Parliament proceedings.*

Keywords: Surrogacy Bill, altruism, compensatory surrogacy, close relative, reproductive justice

***Sanskari* Surrogacy? Commentary on the Surrogacy Bill 2019**

The still pending Assisted Reproductive Technology (Regulation) Bill 2017 is a revised version of an earlier ART Bill which was first proposed in 2008 and underwent some iterations.The Bill proposed setting up of a National Board for Assisted Reproductive Technology and a National Registry of Assisted Reproductive Technology Clinics and Banks in India. The ART Regulation Bill is silent on gestational surrogacy arrangements. The October 2013 [(1)](file:///D:\Admin\Downloads\(1)%09Srivastava,%20Vikas.%20October%2014,%202013.%20Ministry%20of%20Home%20Affairs%20Letter.%20edited%20by%20India%20Ministry%20of%20Home%20Affairs.%20India) and 2015 [(2)](file:///D:\Admin\2%20Regarding%20Foreigners%20availing%20surrogacy%20servic.pdf) notifications issued bans on restricting any foreigners from availing gestational surrogacy in India and that surrogacy was limited to only Indian nationals. “Supermom of State” ex External Affairs minister, the late Sushma Swaraj [(3)](https://www.washingtonpost.com/world/asia_pacific/indias-foreign-minister-is-cast-as-supermom--to-125-billion-compatriots/2016/08/14/ff9889f9-96aa-4ddc-b1b0-42f8f79fe20f_story.html) was the architect of the contentious *sanskari* Surrogacy Bill 2016 (4) (now Surrogacy Bill 2019). Introduced in the Lok Sabha in November 2016, the Surrogacy (Regulation) Bill 2016 was examined by the Standing Committee on Health and Family Welfare and presented in the Rajya Sabha that submitted a report with recommendations on the Bill in August 2017 (5). The 16th Lok Sabha was dissolved, and the 2016 Surrogacy Bill lapsed. The Rajya Sabha in 2017, provided several recommendations around the nature of surrogacy, the importance of compensation for the reproductive labour of surrogacy, the implications of ambiguity in defining a surrogate being a “close relative” and the rights of the surrogate mother and the child. The recommendations were largely overlooked, with a few minor revisions done to the 2016 Bill and the Surrogacy (Regulation) Bill 2019 was re-introduced in the Lok Sabha in July 2019 and passed in August 2019 (6), [(7)](file:///D:\Admin\Downloads\Ghosh,%20Arijeet,%20and%20Sanyal,%20Diksha.%20November%2016,%202019).

Much like in the past, the conservative, patriarchal ruling Bhartiya Janata Party (BJP) led majority in the Lok Sabha yet again passed the Surrogacy Bill 2019. The 2019 Bill was referred to a Select Committee in November 2019, introduced in the Rajya Sabha by Dr Harsh Vardhan, Minister of Health and Family Welfare and the Committee will present the report on the last day of the first week of the upcoming session in Parliament [(8)](file:///D:\Admin\Downloads\PRS%20Legislative%20Research.%20India.%20The%20Surrogacy%20(Regulation)%20Bill,%202019.%20https:\www.prsindia.org\billtrack\surrogacy-regulation-bill-2019).

Some of the prominent aspects in the Surrogacy Bill 2019 include

* Abortion- The Surrogacy Bill 2019 does not state clearly if the surrogate can on her own will, opt for abortion. While the clause states that in case of abortion, the written consent of the surrogate mother will be sought, it does not consider coercion in case of such abortion. In addition, the Bill does not state if the surrogate can opt for an abortion of her own will [(9)](file:///D:\Admin\Downloads\Ministry%20of%20Health%20and%20Family%20Welfare,%20Government%20of%20India.%202019.%20The%20Surrogacy%20(Regulation)%20Bill,%202019.%20http:\164.100.47.4\BillsTexts\LSBillTexts\PassedLoksabha\156-C_2019_LS_Eng.pdf%20Accessed%20November%2030,%202019) (Chapter II- 3. (vi))
* Ambiguity in defining “close relative” of intending parents for the surrogacy arrangement. The specific relation is not delineated in the Bill nor does the Bill consider or specifically state any aspects of coercion involved in negotiating for a surrogacy arrangement within a family setup [(9)](file:///D:\Users\vasudhamohanka\Desktop\IJME%20Drafts\Ministry%20of%20Health%20and%20Family%20Welfare,%20Government%20of%20India.%202019.%20The%20Surrogacy%20(Regulation)%20Bill,%202019.%20http:\164.100.47.4\BillsTexts\LSBillTexts\PassedLoksabha\156-C_2019_LS_Eng.pdf%20Accessed%20November%2030,%202019) (Chapter III- 4. (iii) (b) (II))
* The window period of five years of marriage and proven infertility is a bit far fetched in that it defines infertility as the inability to conceive after five years of marriage. It does not consider single people, people in cohabiting relationships, and people who are gender non-conforming such as those belonging to the LGBTQIA community [(9)](file:///D:\Users\vasudhamohanka\Desktop\IJME%20Drafts\Ministry%20of%20Health%20and%20Family%20Welfare,%20Government%20of%20India.%202019.%20The%20Surrogacy%20(Regulation)%20Bill,%202019.%20http:\164.100.47.4\BillsTexts\LSBillTexts\PassedLoksabha\156-C_2019_LS_Eng.pdf%20Accessed%20November%2030,%202019) (Chapter III- 4. (iii) (c) (II) )
* The precondition for a couple opting for altruistic surrogacy is that the couple not have any living biological or adopted children or any child born out of a previous surrogacy arrangement [(9)](file:///D:\Users\vasudhamohanka\Desktop\IJME%20Drafts\Ministry%20of%20Health%20and%20Family%20Welfare,%20Government%20of%20India.%202019.%20The%20Surrogacy%20(Regulation)%20Bill,%202019.%20http:\164.100.47.4\BillsTexts\LSBillTexts\PassedLoksabha\156-C_2019_LS_Eng.pdf%20Accessed%20November%2030,%202019) (Chapter III- 4. (iii) (c) (III)). The procedure of application for a certificate of eligibility too would involve a lot of incovenience and may take long in case of bureaucratic structures.

When the 102nd Report was presented in the Rajya Sabha in the year 2017, a committee comprising diverse stakeholders provided various recommendations on the Surrogacy Bill 2016. This is noteworthy because as mentioned earlier, the earlier version of the Surrogacy Bill (2016) was not greatly amended or revised and presented in the Lok Sabha as The Surrogacy Bill 2019. The committee asserted that “economic opportunities” to surrogates through surrogacy “should not be dismissed in a paternalistic manner” and prevention of payment for “their reproductive labour is grossly unfair and arbitrary” [(10)](file://D:\Admin\Downloads\(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:\164.100.47.5\newcommittee\reports\EnglishCommittees\Committee%20on%20Health%20and%20Family%20Welfare\102.pdf%20Accessed%20November%2030,%202019). Further, that surrogates be treated as skilled labour and not merely wombs (National Commission for Women), that infertility be treated as a medical condition and not be stigmatized and that the Bill be made more fair, just and effective by having provisions around a single window system for recording, registering and reporting surrogacy procedures (Federation Of Obstetric And Gynecological Societies Of India - FOGSI). Objections were raised with regard to ambiguity in defining the surrogate being a “close relative” of the intending parents. The members raised objections on a window period of five years of a couple being married with proven infertility [(10)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:/164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf%20Accessed%20November%2030,%202019). Despite notifications by the FRRO and the Ministry of Health through 2013 to 2015 disallowing foreigners to avail surrogacy in India ([11](file://D:\Admin\Downloads\(11)Government%20of%20India%20Ministry%20of%20Health%20and%20Family%20Welfare.%20November%202015.%20Instructions%20regarding%20commissioning%20of%20surrogacy.%20edited%20by%20Indian%20Council%20of%20Medical%20Research.%20New%20Delhi.%20https:\dhr.gov.in\sites\default\files\latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf%20Accessed%20November%2020,%202019), [12](file://D:\Admin\Downloads\(12)Murthy,%20B.V.R.%20November%203,%202015.%20Notification%20regarding%20Foreign%20nationals%20%5bincluding%20Overseas%20Citizen%20of%20India%20(OCI)%20cardholders%5d%20intending%20to%20visit%20India%20for%20commissioning%20surrogacy.%20edited%20by%20India%20Ministry%20of%20Home%20Affairs.%20India%20https:\mha.gov.in\PDF_Other\surrogacy03112015.pdf%20Accessed%20November%2020,%202019), [13](file://D:\Admin\Downloads\(13)Sarma,%20G.V.V.%20July%209,%202012.%20Notification%20regarding%20Foreign%20Nationals%20intending%20to%20visit%20India%20for%20commissioning%20surrogacy.%20edited%20by%20India%20Ministry%20of%20Home%20Affairs.%20India.%20https:\www.icmr.nic.in\sites\default\files\art\2.pdf.%20Accessed%20November%2020,%202019)) the Rajya Sabha proposed that foreigners, Overseas Citizens of India (OCIs) and People of Indian Origin (PIOs) be allowed to access surrogacy in India [(10)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:/164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf%20Accessed%20November%2030,%202019). This again, is not consistent with earlier notifications issues by the Ministry of Home Affairs and the Indian Council of Medical Research banning surrogacy for all foreigners visiting India [(2)](file:///D:\Users\vasudhamohanka\Desktop\2%20Regarding%20Foreigners%20availing%20surrogacy%20servic.pdf). Supreme Court lawyer, Jayshree Wad stated that the Bill was silent about co-habiting relationships, same sex marriages, single parents (divorcee/widow/unmarried) and suggested that the Court take care of the surrogate’s required expenses for health problems during the pregnancy. Dr. Kamini Rao suggested that surrogacy be considered differently than organ donation due to the nature of labour involved in surrogacy. International Surrogacy Forum member Ms. Sonali Kusum, suggested a compensatory scheme including the minimum and maximum limits be fixed by a government-appointed committee for surrogacy arrangements instead of it being a “matter of bargain.” Ms. Kusum also suggested that a minimum of one year be considered to determine infertility instead of the currently proposed five years. An advocate from Surrogacy Laws India mentioned that the Bill is “silent on the definition of ‘donor’ ” [(10)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:/164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf%20Accessed%20November%2030,%202019) (pages 5-9).

The major critique of the Surrogacy Bill 2016, (that has remained largely unchanged in the latest version) (Surrogacy Bill 2019) was that the Bill “through its altruistic model promotes ‘forced labour’”. It is noteworthy that since the legalisation of gestational surrogacy in India in 2002, surrogacy arrangements have thrived in the unorganised sector with no safeguards for the surrogate mothers [(10)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:/164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf%20Accessed%20November%2030,%202019). The Upper house in 2017 asserted that pure altruism is “unreasonable to expect”. The Rajya Sabha members also argued that there is no guarantee that a ‘close relative’ will not be coerced into surrogacy only by eliding the commercial aspect. She may even be unable to “resist a demand that she be a surrogate for another family member”. Essentially, “within family, surrogacy might become even more exploitative than compensated surrogacy”. The Rajya Sabha recommended that altruistic surrogacy be replaced with compensatory surrogacy because banning compensated surrogacy could potentially lead to the emergence of a “black market in surrogacy services” [(10)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/(10)Rajya%20Sabha%20Secretariat,%20New%20Delhi.%20August%202017.%20Department-related%20Parliamentary%20Standing%20Committee%20on%20Health%20and%20Family%20Welfare:%20One%20Hundred%20Second%20Report-%20The%20Surrogacy%20(Regulation)%20Bill,%202016.%20edited%20by%20Parliament%20of%20India.%20http:/164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf%20Accessed%20November%2030,%202019).

A majority of the members at the Rajya Sabha (most not from the BJP) in the most recent discussion on the Surrogacy Bill 2019, much like the recommendations of the 2017 Report, asserted that the Surrogacy Bill be passed only after the ART Bill 2017 was discussed and passed and included provisions for surrogacy and the rights of those accessing reproductive technologies. This is significant because the ART Bill is the overarching Bill that would include specific provisions and regulations in relation to assisted reproductive technologies, a national registry for listing and regulating ART and fertility clinics and the nature of surrogacy arrangements since they result from the usage of reproductive technologies [(14)](file://D:\Admin\Downloads\Government%20of%20India%20Ministry%20of%20Health%20and%20Family%20Welfare.%20November%202015.%20Instructions%20regarding%20commissioning%20of%20surrogacy.%20edited%20by%20Indian%20Council%20of%20Medical%20Research.%20New%20Delhi.%20https:\dhr.gov.in\sites\default\files\latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf%20Accessed%20November%2020,%202019).

Most members asserted that the Surrogacy Bill 2019 is regressive, archaic and patriarchal reproducing inequalities. The Bill does not consider the complications of having a “close relative” as a surrogate mother in the growing nuclear family structure, was silent on the rights of the surrogate mother and most importantly, the child thereof. The members stated that the specific relation with the “close relative” in the family structure was not clearly defined that may lead to familial conflict or discord later especially if the surrogate mother lives in close proximity with the family, and is possibly emotionally and affectively attached to the child. In addition, issues of property inheritance might surface later within the family [(14)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/Government%20of%20India%20Ministry%20of%20Health%20and%20Family%20Welfare.%20November%202015.%20Instructions%20regarding%20commissioning%20of%20surrogacy.%20edited%20by%20Indian%20Council%20of%20Medical%20Research.%20New%20Delhi.%20https:/dhr.gov.in/sites/default/files/latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf%20Accessed%20November%2020,%202019).

In relation to altruism, one member asserted that the lawyers and doctors involved within a surrogacy arrangement would gain a monetary compensation but assuming a surrogate mother to be altruistic in providing her reproductive labour is unreasonable, since she would undergo a lot of preparation before the pregnancy itself and face physiological, emotional, psychological and other constraints during a pregnancy involving surrogacy [(14)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/Government%20of%20India%20Ministry%20of%20Health%20and%20Family%20Welfare.%20November%202015.%20Instructions%20regarding%20commissioning%20of%20surrogacy.%20edited%20by%20Indian%20Council%20of%20Medical%20Research.%20New%20Delhi.%20https:/dhr.gov.in/sites/default/files/latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf%20Accessed%20November%2020,%202019).

The clause for not making surrogacy available to NRIs, OCIs, PIOs may seem in consonance with the aforementioned notifications by the government between 2013 and 2015, but no access to surrogacy to them as well as non-heterosexual couples, single people and gender non conforming persons was seen as a violation of personal liberty and reproductive rights as laid down by the Constitution of India [(14)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/Government%20of%20India%20Ministry%20of%20Health%20and%20Family%20Welfare.%20November%202015.%20Instructions%20regarding%20commissioning%20of%20surrogacy.%20edited%20by%20Indian%20Council%20of%20Medical%20Research.%20New%20Delhi.%20https:/dhr.gov.in/sites/default/files/latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf%20Accessed%20November%2020,%202019).

The “ontological choreography” ([15](file://D:\Admin\Downloads\Thompson,%20Charis.%202005.%20Making%20Parents:%20The%20Ontological%20Choreography%20of%20Reproductive%20Technologies.%20Cambridge,%20Massachusetts,%20London,%20England:%20MIT%20Press.%20http:\ssu.ac.ir\cms\fileadmin\user_upload\ivfen\ensite\lib\163-Making_Parents__The_Ontological_Choreography_of_Reproductive_Technologies-Charis_Thompson-026.pdf%20Accessed%20November%2020,%202019)) of reproductive technologies in the larger “stratified” globalized industry of reproduction, particularly in India has been looked at in various domains. (Commercial) gestational surrogacy in particular has been analysed in economic ([16](file:///D:\Admin\Downloads\Sama%20Resource%20Group%20for%20Women%20and%20Health.%202008),[17](file:///D:\Admin\Downloads\Sama%20Resource%20Group%20for%20Women%20and%20Health.%202010.%20Constructing%20Conceptions-%20the%20mapping%20of%20Assisted%20Reproductive%20Technologies%20in%20India.%20New%20Delhi,%20India\%20Sama–Resource%20Group%20for%20Women%20and%20Health),[18](file:///D:\Admin\Downloads\Sama%20Team.%202009),[19](file:///D:\Admin\Downloads\Sama%20Team.%202007)), affective ([20](file:///D:\Admin\Downloads\Vora,%20Kalindi.%202012), [21](file:///D:\Admin\Downloads\Vora,%20Kalindi.%202015)), (dis)embodied ([22](file:///D:\Admin\Downloads\Majumdar,%20Anindita.%202014)), racialized ([23](file:///D:\Admin\Downloads\Deomampo,%20Daisy.%202013), [24](file:///D:\Admin\Downloads\Deomampo,%20Daisy.%202016)) and exploitative ([25](file:///D:\Admin\Downloads\(25)Rao,%20Mohan.%20May%2026,%202012)) terms. In the last decade, the role of agency in this reproductive labour (26, 27), this “vital energy” (28, [29](file:///D:\Admin\Downloads\(29)%09Vora,%20Kalindi.%20February%202009)) has been recognized. Gestational surrogacy has more recently been recognized as a form of sexualized agential reproductive labour, especially in India where it was legalized in the early 2000s with burgeoning fertility clinics across the country (30, 31, [32](file:///D:\Admin\Downloads\(32)Pande,%20Amrita%202010)). The language itself has undergone some change for instance, from framing gestational surrogates to surrogate mothers.

The Bill in its current form, is a “first step toward a Gileadean dystopian future” reminiscent of Margaret Atwood’s *The Handmaid’s Tale* ([33](file:///D:\Admin\Downloads\Sister%20Song-%20Women%20of%20Color%20Reproductive%20Justice%20Collective)). In addition to reinforcing “patriarchal, heteronormative and casteist values of the “great Indian family” ” [(7)](file:////Users/vasudhamohanka/Desktop/IJME%20Drafts/Ghosh,%20Arijeet,%20and%20Sanyal,%20Diksha.%20November%2016,%202019.%20), patriarchal, archaic, does not recognize women as agential beings and reproductive labour as a form of labour but reduces it to the “gift” idea in altruism, the Bill is regressive and if it becomes a legislation, does not aim to achieve any ideals of “reproductive justice”. Reproductive justice is a human right, moves beyond liberal notions of choice, aims towards access and adopts a more comprehensive approach ([34](file:///D:\Admin\Downloads\Sister%20Song-%20Women%20of%20Color%20Reproductive%20Justice%20Collective)).

The Bill disallows family and kinship structures through surrogacy arrangements outside heteronormative structures. This violates the Fundamental right of personal liberty as stated in the Constitution of India ([35](file:///D:\Admin\Downloads\Government%20of%20India,%20Ministry%20of%20Law%20and%20Justice%20%5b%20as%20on%2031st%20July,%202018%5d.%20Constitution%20of%20India.%20http:\legislative.gov.in\sites\default\files\COI-updated-as-31072018.pdf%20Accessed%20on%20November%2020,%202019)). The assertion of the Lok Sabha that single people (divorced, unmarried or widowed), people in co-habiting relationships (recognized by the Government of India as legal) as well as gender non binaries such as those belonging to the LGBTQIA community be disallowed surrogacy and if they so wish, can adopt also violates personal liberty as well as access to reproductive justice.

Furthermore, proposing altruism to overcome current malpractices in commercial surrogacy may lead to a black market in surrogacy. Most importantly, with no safeguards for the surrogate, overlooking coercion and violence within the family is a major loophole in the Bill.

**Conclusion**

The recognition of the role of financial compensation for surrogate mothers in the larger reproductive industry that engages with sexualized gendered disembodied labour is of crucial importance. This is especially due to the location of assisted reproductive technologies in India in an unorganized, non-unionised sector with no standardized, uniform procedures, specifically not safeguarding the overall well-being of surrogates. While many look at and lay emphasis on liberal notions of choice and autonomy, the aim of reproductive justice is to work towards achieving reproductive rights at intersections of various social stratifiers such as caste, class, gender, sexuality and social institutions like family, kinship, state and law. If the Surrogacy Bill 2019 adopts a more inclusive approach aiming at reproductive justice through an articulation of financial compensation in a standardized manner mediated and managed by the Surrogacy Boards along with safeguarding the health and well-being of surrogates, the altruistic element will be elided. This elision will help overcome unreported coercion and violence towards “close relatives” to become surrogate mothers.

References

1. Srivastava, Vikas. October 14, 2013. Ministry of Home Affairs Letter. edited by India Ministry of Home Affairs. India. <https://www.icmr.nic.in/sites/default/files/art/Cir_5.pdf>
2. Sharma, R.S. and Indian Council of Medical Research. October 2015. Regarding Foreigners availing surrogacy services in India. New Delhi.
3. Lakshmi, Rama. August 6, 2016. Sushma Swaraj, India’s former foreign minister, was cast as Supermom of State. *Washington Post*. <https://www.washingtonpost.com/world/asia_pacific/indias-foreign-minister-is-cast-as-supermom--to-125-billion-compatriots/2016/08/14/ff9889f9-96aa-4ddc-b1b0-42f8f79fe20f_story.html> Accessed November 20, 2019.
4. “Supermom of State, Sushma Swaraj, gifts India a sanskari Surrogacy Bill.” *Daily O*. August 24, 2016. <https://www.dailyo.in/politics/surrogacy-bill-sushma-swaraj-reproductive-rights-womens-rights-commercial-surrogacy-celebrities-lgbtq-single-parent/story/1/12559.html> Accessed November 20, 2019
5. Rajya Sabha Secretariat, New Delhi. August 2017. Department-related Parliamentary Standing Committee on Health and Family Welfare: One Hundred Second Report- The Surrogacy (Regulation) Bill, 2016. edited by Parliament of India. <http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf> Accessed November 20, 2019
6. Mann, Gayatri. July 16 2019. Issues for Consideration: The Surrogacy (Regulation) Bill, 2019. edited by PRS Legislative Research. India. <https://www.prsindia.org/sites/default/files/bill_files/The%20Surrogacy%20%28Regulation%29%20Bill%202019-Issues%20for%20Consideration%20%282%29.pdf> Accessed November 20, 2019
7. Ghosh, Arijeet, and Sanyal, Diksha. November 16, 2019. “How Can Families be Imagined Beyond Kinship and Marriage?” *Economic and Political Weekly* 54 (45). <https://www.epw.in/engage/article/how-can-families-be-imagined-beyond-kinship-and-marriage> Accessed November 20, 2019
8. PRS Legislative Research. India. The Surrogacy (Regulation) Bill, 2019. <https://www.prsindia.org/billtrack/surrogacy-regulation-bill-2019> Accessed November 30, 2019
9. Ministry of Health and Family Welfare, Government of India. 2019. The Surrogacy (Regulation) Bill, 2019. <http://164.100.47.4/BillsTexts/LSBillTexts/PassedLoksabha/156-C_2019_LS_Eng.pdf> Accessed November 30, 2019
10. Rajya Sabha Secretariat, New Delhi. August 2017. Department-related Parliamentary Standing Committee on Health and Family Welfare: One Hundred Second Report- The Surrogacy (Regulation) Bill, 2016. edited by Parliament of India. <http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Health%20and%20Family%20Welfare/102.pdf> Accessed November 30, 2019
11. Government of India Ministry of Health and Family Welfare. November 2015. Instructions regarding commissioning of surrogacy. edited by Indian Council of Medical Research. New Delhi. <https://dhr.gov.in/sites/default/files/latest%20Govt.%20instructions%20on%20ART%20Surrogacy%20Bill.pdf> Accessed November 20, 2019
12. Murthy, B.V.R. November 3, 2015. Notification regarding Foreign nationals [including Overseas Citizen of India (OCI) cardholders] intending to visit India for commissioning surrogacy. edited by India Ministry of Home Affairs. India <https://mha.gov.in/PDF_Other/surrogacy03112015.pdf> Accessed November 20, 2019
13. Sarma, G.V.V. July 9, 2012. Notification regarding Foreign Nationals intending to visit India for commissioning surrogacy. edited by India Ministry of Home Affairs. India. <https://www.icmr.nic.in/sites/default/files/art/2.pdf>. Accessed November 20, 2019
14. Rajya Sabha Discussion and Proceedings on the Surrogacy Bill 2019. <https://www.youtube.com/results?search_query=surrogacy+bill+2019+rajya+sabha+full>. Accessed on November 20, 2019
15. Thompson, Charis. 2005. *Making Parents: The Ontological Choreography of Reproductive Technologies*. Cambridge, Massachusetts, London, England: MIT Press. <http://ssu.ac.ir/cms/fileadmin/user_upload/ivfen/ensite/lib/163-Making_Parents__The_Ontological_Choreography_of_Reproductive_Technologies-Charis_Thompson-026.pdf> Accessed November 20, 2019
16. Sama Resource Group for Women and Health. 2008. “Assisted reproductive technologies: Autonomy or subjugation? A case study from India.” *Women's Studies International Forum* 31 (4):319–325. doi: 10.1016/j.wsif.2008.05.004. <https://www.sciencedirect.com/science/article/abs/pii/S0277539508000708> Accessed November 20, 2019
17. Sama Resource Group for Women and Health. 2010. *Constructing Conceptions- the mapping of Assisted Reproductive Technologies in India*. New Delhi, India: Sama–Resource Group for Women and Health.
18. Sama Team. 2009. “Assisted Reproductive Technologies: For Whose Benefit?” *Economic and Political Weekly* XLIV (18):25–31.
19. Sama Team. 2007. “Assisted Reproductive Technologies in India: Implications for Women.” *Economic and Political Weekly*:2184–2189.
20. Vora, Kalindi. 2012. “Limits of "Labor": Accounting for Affect and the Biological in Transnational Surrogacy and Service Work.” *South Atlantic Quarterly* 111 (4):681-700. doi: 10.1215/00382876-1724138.
21. Vora, Kalindi. 2015. “Re-imagining Reproduction: Unsettling Metaphors in the History of Imperial Science and Commercial Surrogacy in India.” *Somatechnics* 5 (1):88-103. doi: 10.3366/soma.2015.0149.
22. Majumdar, Anindita. 2014. “Nurturing an Alien Pregnancy: Surrogate Mothers, Intended Parents and Disembodied Relationships.” *Indian Journal of Gender Studies* 21 (2):199-224. doi: 10.1177/0971521514525087.
23. Deomampo, Daisy. 2013. “Gendered Geographies of Reproductive Tourism.” *Gender and Society* XX (X). doi: 10.1177/0891243213486832.
24. Deomampo, Daisy. 2016. “Race, Nation, and the Production of Intimacy: Transnational Ova Donation in India.” *positions:positions: east asia cultures critique* 24 (1):303-332. doi: 10.1215/10679847-3320161.
25. Rao, Mohan. May 26, 2012. “Why All Non-Altruistic Surrogacy Should Be Banned.” *Economic and Political Weekly* XLVII (21):15-17. <https://www.jstor.org/stable/pdf/23214862.pdf?refreqid=excelsior%3Acd47761dc2d3cc2bec54610642b31b3d> Accessed on November 20, 2019
26. Rudrappa, Sharmila. 2017. “Reproducing Dystopia: The Politics of Transnational Surrogacy in India, 2002-2015.” *Critical Sociology*.
27. Rudrappa, Sharmila, and Collins, Caitlyn. 2015. “Altruistic Agencies and Compassionate Consumers: Moral Framing of Transnational Surrogacy.” *Gender & Society* 29 (6):937−959. doi: 10.1177/0891243215602922.
28. Vora, Kalindi. 2009. “Indian transnational surrogacy and the commodification of vital energy.” *Subjectivity* 28 (1):266-278. doi: 10.1057/sub.2009.14.
29. Vora, Kalindi. February 2009. “Indian Transnational Surrogacy and the Disaggregation of mothering work.” *Anthropology News*.
30. Pande, Amrita. 2014. “This birth and that: surrogacy and stratified motherhood in India.” *philoSOPHIA* 4 (1):50-64.
31. Pande, Amrita. 2015. “Global reproductive inequalities, neo-eugenics and commercial surrogacy in India.” *Current Sociology* 64 (2):244–258. doi: 10.1177/0011392115614786.
32. Pande, Amrita 2010. “Commercial Surrogacy in India: Manufacturing a Perfect Mother-Worker.” *Signs: Journal of Women in Culture and Society* 35 (4):969–992. <https://www.jstor.org/stable/pdf/10.1086/651043.pdf?refreqid=excelsior%3A1b7f009b56e916f5c4c7cd21286472eb> Accessed November 20, 2019
33. Kumar, Shonottra. November 9, 2019. India’s Proposed Commercial Surrogacy Ban Is an Assault on Women’s Rights. *The Wire*. <https://thewire.in/law/surrogacy-ban-assault> Accessed November 20, 2019
34. Sister Song- Women of Color Reproductive Justice Collective. “Reproductive Justice.” <https://www.sistersong.net/reproductive-justice> accessed November 20, 2019.
35. Government of India, Ministry of Law and Justice [ as on 31st July, 2018]. Constitution of India. <http://legislative.gov.in/sites/default/files/COI-updated-as-31072018.pdf> Accessed on November 20, 2019