Review of the Mss “Ending Commercial Surrogacy in India: Significance of the Surrogacy ( Regulation) Bill 2016.”

1. India is now integrating with the global reproductive tourism industry estimated to be worth three billion in the US alone. 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 Institute for Research in Reproduction in Mumbai in 1982. This initiative was soon taken over by the booming private sector in health, especially the corporate sector now emerging with state assistance. According to the Indian Council of Medical Research, there were an estimated 250 IVF clinics in 2005. The Indian Society for Assisted Reproduction has a membership of more than 600. What is interesting is that these clinics have now moved to smaller cities and towns to exploit the market in these areas, and indeed to create them. India has emerged as a centre for destination for people wishing both to have assisted reproduction and for surrogacy. Indeed the surrogacy business alone is said to be worth 445 million dollars. 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. What is also important to bear in mind is that the ART industry also offers a regular supply of spare ova to another industry, namely the stem cell therapy industry, also unregulated in India. India has announced a public private partnership with three European pharmaceutical companies and the British government for stem cell research.
2. The growth of reproductive tourism is justified as a win-win situation: women from abroad, desperate to bear biological babies, can now do so while Indian women surrogates earn money. The government has now reluctantly come up with a bill to regulate this booming market. But the bill, as we noted earlier, was drafted at the behest of the very industry it seeks to regulate, and is meant not so much to offer protection to the women surrogates as to the industry. The irony of course is that by the same logic, the government need not ban sale of body organs that it does. Although the framework to justify reproductive tourism is also “reproductive choice”, there is no attention paid to the idea of reproductive justice. Studies indicate that women hiring themselves out as surrogates almost invariably do so out of economic necessity; and indeed, are exploited by a range of middle men and women. There are NGOs involved in soliciting women for surrogacy; some doctors and Third Party Administrators run hostels for surrogates where their nutrition and medication can be monitored, even as their bonding with commissioning couples is encouraged. Successful parents have turned middle-men and women sourcing new couples abroad, stimulating demand.
3. As India integrates with the global economy, striving to assert herself on the global stage, boasting of an impressive economic growth rate and the ability to withstand the global meltdown, one way to do so appears to be the foreign exchange it earns through reproductive tourism. As the French have it, *plus ça change, plus c'est la même chose*. India rushes into globalisation, by turning sexual and reproductive slavery into globalised commodities.
4. It is in this context that the Government of India introduced the Surrogacy regulation Bill 2016 that seeks to ban commercial surrogacy. The essay under review makes the argument that the Bill is long over due because of the ethical concerns that unregulated commercial surrogacy was bringing to the fore, in addition to issues pertaining to the exploitation of women and the sale of babies.

The essay is extremely timely and I would suggest it be published with some revisions.

1. A Parliamentary Standing Committee has examined the Bill and suggested several modifications, including making commercial surrogacy more widely available. The author may be asked to revise the manuscript to include comments on the Standing Committee Report. Otherwise, this piece will be outdated.
2. Some textual infelicities need to be reworked.

a.”as doctors focused selectively on providing skill-based solutions rather than social implications or consequences”.

b. “It was important for the issues to be appropriately labeled and not clouded by diminution”

c.”The emotional quest for parenthood must not be allowed to cloud out”

d. ‘The Indian Council for Medical Research (ICMR) was first off the blocks”

1. There are extremely powerful forces of the reproductive tourism industry, the medical professional bodies, institutions such as the FICCI and CII that lobbied against the Bill. Yet that the government chose to ignore these powerful lobbies while drafting the Bill calls for comment. Could it be the same hypernationalism, the need to “protect our women” that drove the ban in Thailand that drove the proposed Bill? The author may or may not speculate on this matter. Clearly, the proposed legislation as it stands will not have a smooth way in parliament in view of the Standing Committee report.
2. I have no objection to my name being displayed along with the article. I am prepared to review the revised Mss.

Mohan Rao

12th December 2017