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Surrogacy, Motherhood and ARTs-- Some Fundamental Issues

The phenomenon of surrogate motherhood in India has acquired disturbing dimensions with the easy availability and proliferation of Assisted Reproductive Technologies (ARTs) in recent years. There are many aspects to this development that are of concern to women's organizations like AIDWA which have been fighting to safeguard women's health as part of women's rights to an equitable life.

Today, the practice of wombs being rented out for a price has become a thriving and lucrative business, not the least because neo-liberal policies and globalization have transformed everything, including body parts, into marketable commodities.

At a time when multinational corporations find it profitable to outsource their production to developing countries such as ours, to draw super profits from cheap labour by-passing laws of social protection, so also the reproductive market is finding its resource base in countries like ours. Reproductive body parts such as sperms, eggs, embryos..... etc. are being turned into commodities that are being donated and traded in a totally unregulated environment. Surrogacy and the renting of wombs, thus have to be seen in the context of growing poverty and distress, where large sections of women have no means or options of livelihood except being pushed into selling or renting out their body parts.

The first and most serious concern that women's organizations have is with regard to the growing commercialisation of ARTs and the lack of regulation or monitoring by the medical profession and the Government to ensure the interests of women. In fact government policy and the private medical sector is promoting medical tourism which in turn has led to a huge expansion of, and a thriving business in 'fertility tourism' of which ARTs are a component. The extent to which this business is thriving can be fathomed from the fact that ICMR estimates that reproductive tourism could earn 6 billion dollars in a few years.

The market for surrogacy in India is no longer a hidden or disguised one. Clinics have been advertising their services openly. Though the sale of kidneys as a source of income has excited outrage, the 'rent a womb' enterprise has not been subject to the same degree of public scrutiny and debate. Doctors/clinics in Gujarat have openly celebrated the income earning opportunities for surrogate mothers.

The message being sent seems to be that such avenues for income generation come as golden opportunities, especially for the poorer and marginalized sections of women. This leaves women open to a much greater degree of exploitation, both economically, and socially, especially if the private sector is allowed to remain in complete charge with no regulatory mechanisms. The appalling mindset that since the women are making gains, the terms on which transactions are taking place do not matter drives underground some of the major problems that should have been addressed by policy making bodies.

Many countries have developed legislation and guidelines to check unethical, commercial practices and unsafe techniques. However, the ICMR guidelines of 1992, 'Ethical Guidelines for the Biomedical Research on Human Subjects' barely address all the relevant issues. Some attempts have been made to look at the issue of monitoring and regulating the ART industry in ICMR's 2002 draft guidelines on Accreditation, Supervision & Regulation of ART Clinics in India, but these are still inadequate.

Some of the issues that need to be considered to develop comprehensive guidelines are:

- **Health and Safety of Women providing surrogacy services** - The health and nutritional status of poor women in our country is already highly compromised. Morbidity and mortality associated with childbirth are high, and the response of the health system to such phenomena has been totally inadequate. It is this very group from which the potential surrogate mothers are sought to be drawn. What impact repeated pregnancies, for providing surrogacy services, are likely to have does not seem to have merited any consideration. Nor have attempts been made to officially study / monitor the impact of medical processes/ interventions on women's bodies in order to achieve a high 'success rate' with regard to surrogacy and ART.
- **Sex selection:** Technological advances in pre conception sex selection procedures, and the possibility of choosing the sex while opting for IVF increases the chances of further gender imbalances in a society with an already skewed sex ratio. What safeguards have been put in place on this count?
- **Legal Issues:** Apart from health issues there are a number of legal issues involved. What are the rights of (a) patients in these processes and procedures, (b) rights of genetic/ adoptive parents, and of (c) the children involved.
- **Ethical Issues:** Further, the emotional trauma that the mother may undergo has come in for very little attention. Child bearing is not a 'job,' where, once the child is produced, the producer can be de-linked from the end- product, which can then be sold. The mother develops strong feelings for the growing baby, which cannot be quantified. In some countries like UK, there have been instances where giving away the child proved so difficult that custody fights were generated. These aspects have hardly figured in discussions on the official plane.

NOTE ON SURROGACY SERVICES

There is a need for a much more widespread and in- depth discussions around the multidimensional factors that would impact on surrogate mothers. Unfortunately, government has so far displayed a tendency to look the other way and allow venture and private capital to flourish. On such a critical issue, limited closed door discussions will not serve the purpose of ensuring that the Government responds to this issue with the seriousness and understanding that it deserves to keep the business interests in check.

We, from women's organizations, and the AIDWA in particular, demand that:

- there should be a regulation of surrogacy, ARTs and those involved in the provision of these services;
- data and information on the state of the industry and services provided including registered clinics be made available;
- A Draft Bill or Policy for the same is an urgent need, which should be formulated on the basis of discussions with the women's organizations and groups that have been working on these issues for a long time.

(The preliminary draft of this note was submitted to the Ministry of DWCD at the consultation organized on 25.7.08.)

Sd/-

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