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The Downfall of Commercial Surrogacy in Mumbai: Disparities in Wealth and Education, and  
the Persistence of Traditional Gender Roles

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## **Abstract**

The main objective of this research is to identify the public perceptions and attitudes toward commercial surrogacy in Mumbai, India, as well as the public sentiment regarding the Indian government's decision to institute a ban on the practice. In identifying these perceptions and attitudes, this thesis seeks to achieve a greater understanding of the actual lived experiences of surrogate mothers in Mumbai, who may face severe stigmatization from their families and communities at large in consequence to their involvement in commercial surrogacy arrangements. Through a close examination of the existing literature on commercial surrogacy in India, and a thorough analysis of interviews conducted with doctors, other professionals working closely with surrogate mothers, legal experts, and members from the general public in Mumbai, this thesis presents a multitude of both positive and negative perceptions and attitudes toward the practice in Mumbai, which resonate to a degree with views found across India more generally. Based on the study's findings, this thesis argues that the public perceptions and attitudes toward commercial surrogacy in Mumbai reveal large disparities in terms of education and wealth among the population, as well as the persistence of a patriarchal culture and traditional gender roles.

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## Chapter 1: Introduction

Despite a sharp increase in the prevalence of the practice on an international scale, surrogacy, in its traditional form whereby the surrogate mother is genetically related to the resulting child, is an ancient practice, which has existed for centuries in myriad cultures as an alternative method of childbearing.<sup>1</sup> However, with the development of assisted reproductive technologies (ART), such as those utilized in gestational surrogacy, came the introduction of more possibilities for people, more specifically infertile couples, same-sex couples and single women, to have children of genetic relation to them.

As defined in a report written by the *Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, surrogacy is a reproductive practice that involves a third party, in which the intending parent or parents and the surrogate mother form an agreement that the surrogate mother will become pregnant, gestate, and give birth to a child for the intending parent or parents.<sup>2</sup> Surrogacy, in this general sense, has long existed in the form of traditional surrogacy, in which the surrogate mother is genetically related to the offspring.<sup>3</sup> Advancements in technology, specifically assisted reproductive technologies, however, have made an alternative option possible—gestational surrogacy—in which the surrogate mother bears no genetic relation whatsoever to the offspring. This latter form of surrogacy is by far the most common form of surrogacy practiced at present with the aid of assisted reproductive technologies, namely in vitro

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<sup>1</sup> Amrita Pande, “Not an ‘Angel’, not a ‘Whore’: Surrogates as ‘Dirty’ Workers in India,” *Indian Journal of Gender Studies* 16, no. 2 (2009): 144.

<sup>2</sup> United Nations, Human Rights Council, *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 15 January 2018 (A/HRC/37/60), 3.

<sup>3</sup> Seema Mohapatra, “Achieving Reproductive Justice in the International Surrogacy Market,” *Annals of Health Law* 21, no. 1 (2012): 193.

fertilization (IVF) and embryo transfer technologies.<sup>4</sup> In fact, gestational surrogacy accounts for 95 percent of all surrogacy cases.<sup>5</sup> These innovations in assisted reproductive technology have consequently engendered a high demand for surrogate mothers, and have ultimately fostered a multi-million-dollar industry on an international scale.

However, while large numbers of people, namely in developed countries, have benefited from this modern method of childbearing, the international community has grown increasingly concerned about the third party involved, the surrogate mother, and the possibility that her engagement in commercial surrogacy arrangements constitutes a form of exploitation. Commercial surrogacy arrangements have transcended international frontiers, with couples and single individuals from countries like the United States, the United Kingdom and Australia seeking out women, often impoverished women in developing countries such as India, for their gestational services.<sup>6</sup>

As the most popular destination, and the largest provider for international commercial surrogacy services, India had received immense internal pressure to regulate the practice since it was first legalized in 2002. In 2016, the Indian government banned all foreigners from seeking surrogacy in India, and, more recently, in December of 2018, the government succumbed to more pressure and officially set out to outlaw commercial surrogacy in its entirety.<sup>7</sup>

Although some individuals, namely from middle- and high-income countries in the West, have applauded this upcoming ban for signaling an end to an exploitative practice, one that

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<sup>4</sup> United Nations, Human Rights Council, 3.

<sup>5</sup> Carol Sanger, "Developing Markets in Baby-Making: In the Matter of Baby M," *Harvard Journal of Law and Gender* 30, no. 1 (2007): 79.

<sup>6</sup> Vida Panitch, "Surrogate Tourism and Reproductive Rights," *Hypatia* 28, no. 2 (2013): 274.

<sup>7</sup> Philip Sherwell, "India to Ban Foreign Couples Paying Local Surrogates to Have Their Babies," *The Telegraph*, October 28, 2015; *British Medical Journal*, "Doctors and campaigners oppose India's proposed surrogacy law," *British Medical Journal* 364 (2019): 168.

defies the human dignity of women, many women in India had previously engaged in commercial surrogacy arrangements as a means of lifting themselves and their families out of extreme poverty, even on a temporary basis. As such, by banning the practice, some have expressed concern that working-class women in India will experience greater hardship in providing even the most basic of goods, and meeting the most basic of needs, for both themselves and their families. Furthermore, myriad scholars worry that the practice will continue to operate, but on an underground basis, making matters worse and even dangerous for Indian women.<sup>8</sup>

Therefore, commercial surrogacy remains a highly controversial issue, and its regulation has been subjected to much contestation in the international arena. In attempting to adequately regulate commercial surrogacy, the international community has largely prioritized Western notions, namely the idea that the practice equates the exploitation of vulnerable women, and has consequently failed to account for the actual lived experiences of women affected by the practice.<sup>9</sup>

This thesis thus seeks to answer the following question: What are the public perceptions and attitudes toward commercial surrogacy in Mumbai, and how does the population feel about the recent commercial surrogacy ban from a human rights perspective? As such, it seeks to understand the public perceptions and attitudes toward commercial surrogacy in specifically Mumbai—which has over time become home to a significant portion of India’s fertility clinics—as well as the public sentiment in regard to the country’s recently proposed nationwide commercial surrogacy ban. In doing so, this thesis will provide a contribution to the existing

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<sup>8</sup> Sharmila Rudrappa, “Why is India’s Ban on Commercial Surrogacy Bad for Women?”, *North Carolina Journal of International Law and Commercial Regulation* 43, no. 4 (2018): 75-76.

<sup>9</sup> Anna Arvidsson et al., “Surrogate Mother – Praiseworthy or Stigmatized: A Qualitative Study on Perceptions of Surrogacy in Assam, India,” *Global Health Action* 10, no. 1 (2017): 9.



scholarship on commercial surrogacy in India, and ultimately, along with other similar studies, will potentially help influence the institution of adequate regulation in relation to the practice—legislation that honors the best interests of the nation’s female population, especially those women directly involved in the practice.

## Chapter 2: Background

Along with the distinction between gestational surrogacy and traditional surrogacy, surrogacy arrangements are further categorized as either commercial or altruistic. Commercial surrogacy pertains to surrogacy arrangements in which the surrogate mother receives monetary compensation for her gestational services, aside from reimbursement of medical expenses acquired throughout the arrangements.<sup>10</sup> In contrast, altruistic surrogacy refers to surrogacy arrangements in which the surrogate mother carries a child for another individual or couple “purely out of love,” therefore without acquiring monetary compensation other than reimbursement for associated medical expenses.<sup>11</sup>

Over the last decade, commercial surrogacy has evolved into a hot topic, garnering widespread attention, including the attention of the media, as well as the international community. Simultaneously, the demand for surrogate mothers has skyrocketed, leading people in developed countries, such as the United States, the United Kingdom, Sweden and Australia, to seek surrogacy services in developing countries, such as India, Thailand and Nepal, all of which were considered ‘surrogacy hubs’ at one point in time.<sup>12</sup>

India, “the first country in the global south with a flourishing industry in national and transnational commercial surrogacy,” proved an attractive choice for foreigners, especially individuals coming from the United States, as well as from different parts of Western Europe.<sup>13</sup> For one, surrogacy services in India were significantly less expensive in comparison to their

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<sup>10</sup> Karen Smith Rotabi et al., “Regulating Commercial Global Surrogacy: The Best Interests of the Child,” *Journal of Human Rights and Social Work* 2, no. 3 (2017): 64.

<sup>11</sup> Sanger, 75.

<sup>12</sup> Sharmila Rudrappa and Cailtyn Collins, “Altruistic Agencies and Compassionate Consumers: Moral Framing of Transnational Surrogacy,” *Gender & Society* 29, no. 6 (2015): 938.

<sup>13</sup> Amrita Pande, *Wombs in Labor: Transnational Commercial Surrogacy in India* (New York: Columbia University Press), 12; France Winddance Twine, *Outsourcing the Womb: Race, Class, and Gestational Surrogacy in a Global Market* (New York: Routledge, 2011), 1.

Western counterparts.<sup>14</sup> In fact, surrogacy services in India cost approximately one third of what these services typically cost in, for instance, the United States.<sup>15</sup> In the United States, the surrogacy process can cost anywhere between \$40,000 and \$150,000, and surrogate mothers are paid a fee between \$20,000 and \$30,000.<sup>16</sup> In stark contrast to the United States and other developed countries, the same procedure in India, along with the fee paid to the surrogate mother, and airfare and hotel stays, costs between \$12,000 and \$25,000, of which surrogate mother receive between \$2,000 and \$10,000.<sup>17</sup> In some parts of India, such as the city of Anand, a major ‘hot spot’ for surrogacy in the country, surrogacy services are even cheaper: “the whole process can be accomplished for one-tenth the cost” of the process in the United States.<sup>18</sup> This immense difference in price continuously drew vast numbers of foreigners to India for surrogacy services. In 2012 alone, commercial surrogacy in India had amassed almost 10,000 foreign clients.<sup>19</sup> Around that same time, India had become home to an estimated 3,000 fertility clinics, and had ultimately given rise to a flourishing commercial surrogacy industry generating roughly \$400 million on an annual basis.<sup>20</sup>

Secondly, along with the favorable costs associated with the surrogacy process in India, India was also a desirable destination for surrogacy services, as it clearly bore the necessary medical infrastructure, as well as skilled medical expertise to support this budding industry.<sup>21</sup>

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<sup>14</sup> Pande, *Wombs in Labor*, 1.

<sup>15</sup> *Ibid.*, 5.

<sup>16</sup> Alison Bailey, “Reconceiving Surrogacy: Toward a Reproductive Justice Account of Indian Surrogacy,” *Hypatia* 26, no. 4 (2011): 718; Rudrappa and Collins, 940.

<sup>17</sup> Bailey, 718.

<sup>18</sup> Pande, “Not an ‘Angel,’” 149.

<sup>19</sup> Sharmila Rudrappa, “Reproducing Dystopia: The Politics of Transnational Surrogacy in India, 2002-2015,” *Critical Sociology* 44, no. 7-8 (2017): 1091.

<sup>20</sup> Rudrappa, “Why is India’s Ban,” 76; Imrana Qadeer, “Social and Ethical Basis of Legislation on Surrogacy: Need for Debate,” *Indian Journal of Medical Ethics* 6, no. 1 (2009): 29; Rudrappa and Collins, 940.

<sup>21</sup> Nadimpally Sarojini, Vrinda Marwah and Anjali Sheno, “Globalisation of Birth Markets: A Case Study of Assisted Reproductive Technologies in India,” *Globalization and Health* 7, no. 1 (2011): 3; Rudrappa, “Reproducing Dystopia,” 1090.

Specifically, the skilled medical expertise in India consists of “large numbers of well-qualified and English-speaking doctors with degrees and training from prestigious medical schools in India and abroad.”<sup>22</sup> With doctors fluent in English, foreigners were less likely to face, and relieved to avoid, language barriers in India, as opposed to elsewhere.<sup>23</sup> Additionally, the lack of any regulatory apparatus for commercial surrogacy, and the informality of contracts involved in surrogacy arrangements in India further appealed to and encouraged both foreigners and Indian residents to pursue the practice as an alternative to the traditional mode of childbearing.<sup>24</sup>

Finally, foreigners were drawn to the blossoming surrogacy industry in India, as surrogate mothers often reside in surrogacy houses or ‘women’s hostels’ during the nine months of the pregnancy. These temporary residences keep surrogate mothers under strict control and constant surveillance, and therefore offer the intending parents reassurance that the surrogate mother will not drink alcohol, smoke, or do anything else that may jeopardize the wellbeing of their future child, or run away prior to handing over the child to the intending parents.<sup>25</sup>

Though demand had reached new heights, applicant pools for commercial surrogacy remained wide. India was able to constantly meet the high demand for surrogate mothers without any difficulty.<sup>26</sup> More specifically, demand was constantly being met by large numbers of working-class women willing to “rent their wombs” in exchange for monetary compensation.<sup>27</sup> These large pools of willing women can be explained by the extremely poor socioeconomic

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<sup>22</sup> Pande, *Wombs in Labor*, 13.

<sup>23</sup> Sreeja Jaiswal, “Commercial Surrogacy in India: An Ethical Assessment of Existing Legal Scenario from the Perspective of Women’s Autonomy and Reproductive Rights,” *Gender, Technology and Development* 16, no. 1 (2012): 4.

<sup>24</sup> Pande, *Wombs in Labor*, 1, 13; Rudrappa, “Reproducing Dystopia,” 1091.

<sup>25</sup> Pande, “Not an ‘Angel,’” 149.

<sup>26</sup> Virginie Rozée and Sayeed Unisa, “Surrogacy as a Growing Practice and a Controversial Reality in India: Exploring New Issues for Further Researches,” *Journal of Women’s Health, Issues & Care* 4, no. 6 (2015): 2.

<sup>27</sup> Holly Donahue Singh, “‘The World’s Back Womb?’: Commercial Surrogacy and Infertility Inequalities in India,” *American Anthropologist* 116, no. 4 (2014): 826.

conditions with which the population in India is constantly faced. In India, 22 percent of the population, 267 million people, live in extreme poverty; 56 percent of the population, a whopping 680 million people, are unable to meet the most basic of needs; and 70 percent of the female population is living below the poverty line.<sup>28</sup> Although the money surrogate mothers have made in India is not comparable to that made by surrogate mothers in the United States and in other developed countries, commercial surrogacy arrangements provide a substantially greater source of income in comparison to other lines of work in India. More specifically, the monetary compensation offered to surrogate mothers is equivalent to an average family income earned over a period of five years or more.<sup>29</sup> For example, the median family income in the Indian city of Anand is equivalent to approximately \$52 per month, or \$624 per year.<sup>30</sup> Therefore, over a period of five years, families in Anand generate, on average, earnings totaling \$3,120; while a surrogate mother can make up to \$10,000 over a period of nine months.

As a direct extension of poverty, the vast majority of women in India lack access to vital health care services, including postnatal care. In fact, a mere 36.4 percent of women in India receive postnatal care in the days following the birth of their own child.<sup>31</sup> Such a lack of health care access has consequently contributed to India's high rates of both maternal mortality and pregnancy-related morbidity, which are some of the highest rates worldwide.<sup>32</sup> Although surrogate mothers receive medical care over the course of the pregnancy, the long-term risks associated with pregnancy-related complications, surgical procedures, and fertility drugs are

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<sup>28</sup> Sheela Saravanan, "Global Justice, Capabilities Approach and Commercial Surrogacy in India," *Medicine, Health Care and Philosophy* 18, no. 3 (2015): 296.

<sup>29</sup> David Frankford, Linda Bennington, and Jane Ryan, "Womb Outsourcing: Commercial Surrogacy in India," *The American Journal of Maternal/Child Nursing* 40, no. 5 (2015): 284.

<sup>30</sup> Bailey, 718.

<sup>31</sup> *Ibid.*, 731.

<sup>32</sup> *Ibid.*, 729.

heightened for the medically vulnerable who do not otherwise have access to health care services.<sup>33</sup>

Considering the poor socioeconomic conditions and the medical vulnerability of surrogate mothers in India, the Indian government had received pressure from within the country to ban commercial surrogacy, and thereby halt the exploitation of working-class women in a country that had rapidly gained prominence as, arguably, a “baby factory.”<sup>34</sup> At first, the government, by enacting the Surrogacy Bill 2016, banned all foreigners from pursuing surrogacy services in its country in 2016, but still allowed Indian citizens to pursue commercial surrogacy in the country.<sup>35</sup> However, banning merely foreigners seemed insufficient in protecting the women of India. Succumbing to ongoing internal pressure to ban commercial surrogacy entirely, in December 2018, the government deemed a commercial surrogacy ban necessary in bringing the exploitation of working-class Indian women to an absolute end—once and for all.<sup>36</sup>

The rationale of the Indian government in instituting a nationwide commercial surrogacy ban runs parallel to that of many Western countries who have put forth prohibitionist legislation in their respective jurisdictions, on the grounds that commercial surrogacy arrangements constitute exploitation.<sup>37</sup> However, to this day, no international consensus has prevailed in regard to the manner by which to regulate commercial surrogacy; rather, large disagreement over the regulation of the practice persists. Whereas commercial surrogacy is now prohibited in a number of nations, such as France, Germany and other predominantly Western countries, the practice

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<sup>33</sup> Ibid., 732.

<sup>34</sup> Rudrappa, “Reproducing Dystopia,” 1087.

<sup>35</sup> Ibid., 1092; Sherwell, “India to Ban Foreign Couples.”

<sup>36</sup> Rudrappa, “Reproducing Dystopia,” 1087.

<sup>37</sup> United Nations, Human Rights Council, 7.

remains legal in several countries, especially in low-income areas, such as Georgia and Ukraine.<sup>38</sup>

In light of India's recent plans for a nationwide ban on commercial surrogacy, and the implications of the practice on the livelihoods of Indian women, scholars have called for more research, especially in regions of the country where no such research has yet taken place, in order to account for the actual lived experiences of affected women, namely surrogate mothers. Exploring the public perceptions and attitudes toward commercial surrogacy in Mumbai will contribute to a greater understanding of the actual lived experiences and specific circumstances of women who were directly affected by commercial surrogacy arrangements prior to the country's proposed ban, and who may be impacted by the ban, as they can no longer engage in a practice that provided them with a significant source of income.

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<sup>38</sup> Jaiswal, 5.

### Chapter 3: Literature Review

Based on the existing literature on the subject of commercial surrogacy in India, public perceptions and attitudes toward the practice in India, made evident in a mere number of studies carried out in few areas of the country, differ significantly from the dominant discourse on commercial surrogacy, which stems from very westernized perspectives. The dominant discourse revolves around two central arguments: commercial surrogacy as the exploitation of women, and commercial surrogacy as upholding women's reproductive autonomy. From a Western point of view, commercial surrogacy has been equated to the exploitation of women, a violation of human dignity, and the commodification of women's bodies into market goods and services.<sup>39</sup> This view, however, has come into tension with the counterargument of respect for women's reproductive autonomy, which would allow women to exercise "[their] right to use [their] body as [they choose]," and therefore enable them to freely engage in commercial surrogacy arrangements as they see fit.<sup>40</sup>

The tension between commercial surrogacy as a violation of human dignity through the commodification of women's bodies, and the respect for women's reproductive autonomy in choosing to engage in surrogacy arrangements, is an apparent theme in the literature on commercial surrogacy. Yasmine Ergas, a lawyer and professor at Columbia University, elaborates on this heated debate in her expansive research and publications on the subject. She describes how the idea of human dignity prohibiting the commodification of the body is reflected in a wide array of international agreements, as well as in the jurisprudence of a number of

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<sup>39</sup> Qadeer, 28; Panitch, 278.

<sup>40</sup> Pande, *Wombs in Labor*, 3; Sheela Saravanan, *A Transnational Feminist View of Surrogacy Biomarkets in India* (Singapore: Spring Nature, 2018), 54.



courts.<sup>41</sup> Quoting the European Convention on Human Rights and Biomedicine, “the human body and its parts shall not [...] give rise to financial gain.”<sup>42</sup> Along these lines, scholar Melanie Fellowes equates this “commodification” to exploitation, defined as “treating a person as a means to an end”; the surrogate mother is used as “a commodity to benefit others,” including her own family, the intending parent or parents, the medical profession, and the state.<sup>43</sup> On the basis of this argument, many Western European countries, such as France, Germany, Spain, Italy and Portugal, strongly oppose commercial surrogacy, and have enacted prohibitionist legislation, thereby prohibiting surrogacy in both commercial and altruistic forms.<sup>44</sup> The highest court of France, for instance, declared in 1991, “the human body is not lent out, is not rented out, and is not sold.”<sup>45</sup> Meanwhile, other countries, such as Canada, the United Kingdom, Ireland, Denmark and Belgium, have only taken issue with surrogacy in the commercial form, thereby permitting the practice insofar as it is altruistic.<sup>46</sup>

Conversely, author Sheela Saravanan challenges claims made against commercial surrogacy on the grounds of human dignity, by presenting the counterargument that “the state should not have the right to interfere into a woman’s will to participate in surrogacy.”<sup>47</sup> In this respect, the prohibition of commercial surrogacy, in a similar fashion to restrictions placed on the right to abortion, acts against the agency of surrogate mothers, and can be taken as an attempt at the domination over women’s bodies and their decisions in that regard.<sup>48</sup> The debate between

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<sup>41</sup> Yasmine Ergas, “Babies Without Borders: Human Rights, Human Dignity, and the Regulation of International Commercial Surrogacy,” *Emory International Law Review* 27, no. 1 (2013): 154.

<sup>42</sup> *Ibid.*, 155.

<sup>43</sup> Melanie G. Fellowes, “Commercial Surrogacy in India: The Presumption of Adaptive Preference Formation, the Possibility of Autonomy and the Persistence of Exploitation,” *Medical Law International* 17, no. 4 (2017): 268.

<sup>44</sup> United Nations, Human Rights Council, 5; Rudrappa, “Reproducing Dystopia,” 1092; Jaiswal, 4-5.

<sup>45</sup> Jaiswal, 5.

<sup>46</sup> Rudrappa, “Reproducing Dystopia,” 1092; Jaiswal, 5.

<sup>47</sup> Saravanan, *A Transnational Feminist View*, 54.

<sup>48</sup> *Ibid.*, 55.

protecting the human dignity of women and respecting their reproductive autonomy has significantly influenced legislation on commercial surrogacy in myriad nations, and demonstrates the highly controversial nature of the practice.

Moreover, along with the preservation of women's reproductive choice, many academics have stressed the importance, and failure on behalf of the international community, to account for the specific circumstances of impoverished Indian women who had seen and engaged in commercial surrogacy as a "survival strategy" for both themselves and their families.<sup>49</sup> Alison Bailey, as well as Anna Arvidsson, Polly Vauqueline, Sara Johnsdotter and Birgitta Essén, in their respective scholarly journal articles, have called for a local, culturally-specific analysis of the experiences of surrogate mothers and the "local moral worlds" in which they live, and for greater attention to the structural injustices they are forced to endure.<sup>50</sup>

In addition to the view of commercial surrogacy as a means of survival in circumstances of extreme poverty, some communities in India also perceive the practice as favorable, but for reasons separate from financial gain. In a qualitative study by Anna Arvidsson et al., the authors examine public perceptions of surrogacy in the northeastern Indian state of Assam, and reveal a common view among women and their communities. As surrogate mothers, women in Assam are often seen as doing a "noble deed" by helping a childless family realize their 'dream' of having a child of their own, despite the emotional suffering they risk enduring as a consequence of bearing another woman's child.<sup>51</sup>

Commercial surrogacy, however, is not viewed so favorably across India, and, in fact, has been heavily stigmatized in some Indian communities for various reasons. For instance, a

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<sup>49</sup> Pande, "Not an 'Angel,'" 144.

<sup>50</sup> Bailey, 716, 726.

<sup>51</sup> Arvidsson et al., 6.

breakthrough study, conducted by the widely referenced Amrita Pande, found that people in the Indian city of Anand perceive commercial surrogacy as involving sexual intercourse between the surrogate mother and the intending father. She explains how this false presumption is, in part, due to a lack of information among the population in Anand; people in Anand are not well versed on the reproductive technologies, which are used for gestational surrogacy and which specifically make the separation of sexual intercourse from pregnancy possible.<sup>52</sup> Similarly, Anna Arvidsson et al. observed a significant lack of knowledge regarding surrogacy in a more general sense among the people in Assam, especially individuals from lower socioeconomic groups.<sup>53</sup>

According to Amrita Pande, and included in Anna Arvidsson et al.'s discussion of their findings, another source of stigma toward commercial surrogacy is the perception that such arrangements are commercializing motherhood. In many communities, motherhood is considered a sacred and emotional bond that is attached to the act of giving birth. Thus, based on societal norms, women become mothers through the act of giving birth, regardless of to whom the child is related. While surrogate mothers in Assam are widely seen as selflessly committing a "noble deed" amidst enduring emotional suffering, surrogate mothers in other milieus have been disgraced for giving away their "own child" after birth.<sup>54</sup> When the aspect of monetary compensation takes effect, surrogacy is further stigmatized for reducing the sanctity of birth to a meaningless economic transaction, thereby contradicting integral societal values by commercializing motherhood.<sup>55</sup>

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<sup>52</sup> Pande, "Not an 'Angel,'" 154.

<sup>53</sup> Arvidsson et al., 7.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

The negative perceptions and attitudes toward commercial surrogacy in Anand do not end with the false presumption that the practice entails sexual intercourse, and the view that it commercializes motherhood. Indeed, Amrita Pande documents a third tendency on behalf of community members in Anand; some people in the region deem commercial surrogacy work as akin to the “dirty work” of sex workers and to other degrading work that is typically reserved for poor populations in service of the more financially well-to-do.<sup>56</sup> In consequence, surrogate mothers are also stigmatized for this reason.

Stigma toward commercial surrogacy in the communities of Anand and Assam has resulted in severe consequences for women engaging in the practice as surrogate mothers. Indeed, such strong degrees of stigma have led many surrogate mothers to hide their pregnancies from relatives and members of their community, and to sometimes flee their homes temporarily.<sup>57</sup> On a more drastic level, some women serving as surrogate mothers have even faced ostracism from their respective community.<sup>58</sup>

In conclusion to their study, Anna Arvidsson et al. identify public perceptions toward commercial surrogacy on a national scale as an important gap in the existing literature on commercial surrogacy in India. Due to such variation in terms of perceptions toward commercial surrogacy in the state of Assam and the city of Anand, further research on public opinion would yield a better understanding of the effects of commercial surrogacy arrangements on the livelihoods of women in India. Studies similar to the respective studies of Anna Arvidsson et al. and Amrita Pande, but conducted in different communities in India, such as in Mumbai, will undoubtedly provide a significant contribution to the body of literature on the subject, and could

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<sup>56</sup> Pande, “Not an ‘Angel,’” 154.

<sup>57</sup> *Ibid.*

<sup>58</sup> Arvidsson et al., 6.

ultimately help influence the development of adequate regulation for commercial surrogacy that would account for the wellbeing of women affected by the practice, namely surrogate mothers.

## **Chapter 4: Methodology**

In August of 2019, I traveled to Mumbai, India, where I conducted fieldwork for this thesis over the period of one month. I interviewed 15 individuals from various professional and socioeconomic backgrounds. More specifically, I carried out 15 semi-structured, qualitative interviews with individuals who have dealt with surrogate mothers or with the issue of commercial surrogacy in another capacity, as well as with members of the general public in Mumbai. Among these research participants, five of them have medical backgrounds, one possesses a legal background, and the others practice different professions and come from diverse socioeconomic backgrounds. I had initially hoped to interview former surrogate mothers; however, due to time constraints, the remote location of surrogate mothers from Mumbai, and the reluctance on behalf of many to speak to researchers on the subject, I was unable to do so during my time in Mumbai.

### **Choice of Mumbai as a Research Site**

Despite its strong relevance in regard to commercial surrogacy, Mumbai was not my initial choice for a research site. Rather, I had originally planned to conduct my research in New Delhi, the capital city of India. New Delhi had become a hub for commercial surrogacy in the nation, drawing copious numbers of foreigners prior to 2016, and Indian residents thereafter. However, due to safety concerns, including a sharp rise in violence against women, which were brought to my attention by colleagues and friends, I was strongly urged against conducting my research in New Delhi, and instead switched my research site to Mumbai, which is deemed a far safer choice for researchers, especially young women.

Prior to switching sites, I had intended to work, as a summer intern, with Sama, a Delhi-based resource group for women and health that has campaigned for the regulation of surrogacy services across India for over a decade. Sama would have proved an invaluable resource for information and a great source for finding women, namely surrogate mothers, to interview. However, my change in research site rendered this internship opportunity impossible.

Although New Delhi had attracted more attention from the media, with organizations such as Sama, as well as activists, advocating on the issue of commercial surrogacy; Mumbai had also become home to a significant proportion of fertility clinics, along with surrogacy houses and private hospitals boasting about their state-of-the-art facilities for surrogacy practices. Mumbai is also home to widespread poverty, and therefore, with one of the largest metropolitan populations worldwide, never fell short in terms of women willing to engage in the practice as surrogate mothers.

Furthermore, Mumbai is considered more westernized in comparison to other parts of India. While similar studies have previously taken place in Anand and Assam, these milieus are rural areas. I was therefore interested in conducting a similar study in a more urbanized locale, in order to decipher whether or not the public's perceptions and attitudes toward commercial surrogacy differentiate depending on one's environment. For instance, in Anna Arvidsson et al.'s study on public perceptions toward commercial surrogacy in Assam, the authors took note of the low level of education among some of its rural research participants, and suggested that this may explain the lack of knowledge of surrogacy among this group, and, more specifically, the false presumption that gestational surrogacy arrangements necessitate the involvement of sexual intercourse on behalf of the surrogate mother.<sup>59</sup> Furthermore, the authors also discerned that “the

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<sup>59</sup> Arvidsson et al., 7.

higher the level of education, the less value is placed on the importance of a child of one's 'own' blood."<sup>60</sup> Hence, this study seeks to establish the narrative surrounding commercial surrogacy in a well-known, largely populated and more developed city, and to ultimately determine whether the public perceptions and attitudes toward commercial surrogacy in rural locales are widespread across India. In doing so, this study may entice further interest from future scholars to continue efforts to fill the gap of knowledge regarding public opinions on surrogacy in India.

## **Recruitment**

I recruited my research participants through avid emailing and phone calls made to various organizations, medical professionals, and legal experts. At first, I managed to obtain some replies, but feared that the mere number of replies I received was not substantial enough to constitute a valuable research study, and thereby a significant contribution to the literature on the subject. I, however, was reassured by colleagues who had previously conducted research in Mumbai that such a lack in responses is often the case when trying to communicate with people in Mumbai from abroad. They further reassured me that once I arrived in Mumbai, and communicated with people remotely and especially on an in-person basis, people would be far more willing to help assist me in this endeavor, and surely, this proved to be the case.

During my first week in Mumbai, I took part in somewhat of a 'wild goose chase' in order to find more interviewees to add to my limited pool of research participants. A colleague in Mumbai had introduced me to a doctor working in a public hospital, and this doctor immediately agreed to speak with me and offered to help in any capacity she could. Another friend put me in touch with some doctors in Mumbai, one of whom put me in touch with the director of a

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<sup>60</sup> Ibid., 9.



surrogacy house there, and told me that the director would prove an invaluable resource for my research. Upon meeting the director of the surrogacy house, she agreed to an interview, and concluded by offering to arrange for me to speak with some of the surrogate mothers who had previously been in her care. Unfortunately, it was not possible to arrange such meetings prior to my departure from India.

Since this research study deals with the perceptions and attitudes of the general population toward commercial surrogacy, I also interviewed women and men from the general public. These were mostly women, who I came across during my month in Mumbai, or met through friends. Finally, seeing as many of my interviews were carried out with medical professionals, who I worried may have had a vested interest in making profits from the commercial surrogacy industry, I thought it was crucial to diversify my pool of research participants. As such, I reached out by phone to legal experts, including Siddh Vidya, a human rights lawyer who herself had defended a victim of surrogacy.

I interviewed each participant in a private location in order to ensure their privacy and the confidentiality of the data collected. In order to further maintain their privacy, and upon the request of the majority of research participants, with the exception of Mrs. Vidya, I have refrained from referring to them by their name throughout this thesis.

Despite the rather small number of research participants in this study, the intent of this research is to focus on and analyze the interviews with research participants in depth, in order to detect thematic trends in the narratives on commercial surrogacy, as provided by participants in their interviews.

## **Interviews**

For my interviews, I asked each research participant a series of pre-prepared questions, and asked them to speak at length about their own experiences with commercial surrogacy, and about their own, as well as their society's, perceptions and attitudes toward the practice. More specifically, I asked them about their stance on commercial surrogacy, and about the views of their family and community on the practice, as well as about their involvement, if any, with the issue. Depending on whether or not the research participant had any direct involvement, I asked whether or not he or she has worked directly with former surrogate mothers, and if so, how many. Moving forward, I asked them about their thoughts on the recent ban from a human rights standpoint, if and how the ban will impact women, and whether or not they believe the practice should be regulated (e.g., whether they believe it should remain legal, become illegal, or be regulated otherwise), among a longer list of questions I both prepared in advance, and asked based on the responses I received from research participants.

## Chapter 5: Findings

This chapter will present the findings of a qualitative analysis of the data collected on the public perceptions and attitudes toward commercial surrogacy in Mumbai, as well as on the general public sentiment in relation to Mumbai's recent surrogacy bill which, once enacted into law, will outlaw commercial surrogacy nationwide in its entirety. The intent of this research study is to shed some light on the current commercial surrogacy industry in Mumbai, in order to help inform how best to regulate the practice in order to ensure the best interests of the parties involved, with particular concern for the surrogate mothers.

The chapter will begin by presenting the findings of this research study that are consistent with those gathered in studies conducted in other parts of India, namely in Anand and Assam, and specifically the perception of commercial surrogacy as constituting “dirty work” reserved for poor populations, and the perception of commercial surrogacy as commercializing the sacred act of motherhood. It will then move on to present findings that run in tandem with other perceptions of the practice found throughout the existing literature on commercial surrogacy in India, precisely the view that commercial surrogacy is a form of exploitation, as well as the view that the practice enables poor women to escape poverty by offering itself as a “survival strategy” in impoverished times. Thereafter, the section will present findings of the study that address the fear that the practice is inevitable, and will therefore continue to operate underground despite invoking a ban. Finally, the section will put forth findings that are unique to this particular study—precisely the perception that commercial surrogacy arrangements are damaging to the family structure of surrogate mothers—before concluding by offering data pertaining to the repercussions faced by surrogate mothers in consequence to their involvement in commercial surrogacy arrangements.

## **Commercial Surrogacy as “Dirty Work”: Surrogate Mothers as Servicing the Rich**

In the acclaimed work of Amrita Pande, the author describes the tendency on behalf of community members in Anand to characterize the practice of commercial surrogacy as “dirty work,” more specifically, as work that is similar to that of sex workers and to other degrading work that is commonly reserved for poor populations in service of the wealthy.<sup>61</sup>

Like in Anand, some people in Mumbai share this perception of surrogate mothers as servicing the rich segment of the population. In an interview with a woman who has worked closely with approximately 1,000 surrogate mothers over the last 12 years in both an ART bank and a surrogacy house, she explained, “people who get surrogate mothers are the very wealthy, rich segment of the population.”<sup>62</sup> An interviewee from the general public elaborated on the fact that commissioning parents are from a higher social strata and the reason for such, stating, “surrogacy in India is very expensive for people to seek. Only very wealthy people are able to afford this option. Even the middle class is unable to afford it.”<sup>63</sup>

In fact, many Bollywood actors and actresses have opted for surrogacy, making up part of this segment of wealthy members of the population. Another interviewee from the general public immediately brought up Bollywood stars upon being interviewed, and the fact that many have sought surrogacy services for themselves.<sup>64</sup>

As for those on the other end of surrogacy arrangements—the surrogate mothers—with widespread poverty in India, the surrogacy industry flourished due to the abundance of working-class women available at a low cost for surrogacy.<sup>65</sup> According to an infertility specialist in

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<sup>61</sup> Pande, “Not an ‘Angel,’” 154.

<sup>62</sup> Interview with research participant, August 22, 2019.

<sup>63</sup> Interview with research participant, August 23, 2019.

<sup>64</sup> Interview with research participant, August 12, 2019.

<sup>65</sup> Interview with Siddh Vidya, August 27, 2019.

Mumbai who I interviewed, these poor women, if able to find employment at all, have typically “work[ed] in homes, doing somebody’s cleaning, somebody’s washing, or other work that does not constitute formal wages.”<sup>66</sup>

Based on the reality that the wealthy constitute the commissioning parents, and the poor constitute the surrogate mothers, coupled with confusion in terms of whether or not sexual intercourse is involved in the arrangement, “some view surrogate mothers as prostitutes,” according to the woman previously mentioned who has closely worked with surrogate mothers over the last decade.<sup>67</sup> This perception of surrogate mothers as prostitutes closely resonates with Amrita Pande’s findings in Anand, as well as Anna Arvidsson et al.’s findings in Assam. According to Amrita Pande, “contractual pregnancy reduces women to a new breeder class, one structurally akin to prostitution, or to another form of babyselling.”<sup>68</sup> Such resonance suggests that the perception of surrogate mothers as prostitutes or sex workers is not unique to the communities in Anand and Assam, and, in reality, is more widespread across different communities in India.

### **Commercial Surrogacy as the Commercialization of Motherhood**

Along with the perception of commercial surrogacy as “dirty work,” another perception documented in the existing literature by Anna Arvidsson et al.—that the practice commercializes the sacredness of motherhood—is also prevalent in Mumbai.<sup>69</sup> Based on their findings in Assam, Anna Arvidsson et al. describe, in their work, how “with the involvement of money, surrogacy is understood as more of an economic transaction than a motherly act. Motherhood becomes

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<sup>66</sup> Interview with an infertility specialist, August 20, 2019

<sup>67</sup> Interview with research participant, August 22, 2019.

<sup>68</sup> Pande, “Not an ‘Angel,’” 144.

<sup>69</sup> Arvidsson et al., 7.

commercialized, which is contrary to the values of society.”<sup>70</sup> Indeed, the director of a surrogacy house in Mumbai revealed in her interview that this perception is also applicable to the society in Mumbai: “there is a strong cultural attachment of the act of giving birth to motherhood.”

Because of the strong significance attributed to the act of giving birth in the Indian culture, the director explained that she often has had to provide counseling for the surrogate mothers under her care, as many have a hard time accepting that the baby they are carrying is not, in reality, their own baby.<sup>71</sup>

### **Commercial Surrogacy as a Form of Exploitation**

The perception of commercial surrogacy as constituting a form of exploitation is widely characterized as a Western notion, shared among many predominantly Western European countries, such as France and Germany, for instance. As such, Alison Bailey warns that “extending Western moral frameworks to Indian surrogacy work raises the specter of discursive colonialism along with concerns about how Western intellectual traditions distort, erase, and misread non-Western subjects’ lived experiences.”<sup>72</sup> Despite such a warning, and the importance of not imposing Western ideas on non-Western societies, the issue of exploitation arose in the majority of the interviews conducted in this study with members of the population in Mumbai.

While interviewing a member from the general public, the research participant asserted that personally, he does not think favorably of the practice. At first, he told the tale of his friend who found a woman that agreed to bear his child by acting as a surrogate mother. While the woman agreed to bear a child for him at first, she ended up backing out of the surrogacy

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<sup>70</sup> Ibid.

<sup>71</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>72</sup> Bailey, 716.

arrangement once she was already impregnated due to family reasons, aborting the fetus, and running away with his money.<sup>73</sup> This particular research participant's distaste for the commercial surrogacy industry is based partially on the fact that he sees surrogacy as a complicated issue.<sup>74</sup> Yet, another reason for his unfavorable attitude toward the practice is that he also views surrogacy as a form of exploitation, a perception which he asserted after having recalled his own friend's misfortune.<sup>75</sup>

Further interviews also point to the reality of the exploitation of surrogate mothers in Mumbai. When speaking about the surrogacy legislation underway in India, an infertility specialist stated that the new law addresses surrogacy and not all IVF practices because "women were being exploited [...] and everybody is sensitive to that and nobody wants women to be exploited."<sup>76</sup> This statement therefore right away suggests that the exploitation of surrogate mothers is more than simply a notion exclusive to the Western world or a perception espoused by some members of the community in Mumbai, and that indeed, surrogate mothers have been exploited in India.

A large reason for the exploitation of women serving as surrogate mothers in India, including in Mumbai, is that there is no existing law governing surrogacy in India at present, but only guidelines set forth by the Indian Council of Medical Research (ICMR), the main medical body in India.<sup>77</sup> These guidelines are not mandatory, but merely constitute recommendations for people to follow if they choose to do so. In consequence to this lack of formal legislation

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<sup>73</sup> Interview with research participant, August 23, 2019.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> Interview with an infertility specialist, August 20, 2019.

<sup>77</sup> Ibid.

regarding surrogacy practices across the country, an infertility specialist admitted, “there are [...] in India many units which are [...] maybe not doing fantastic ethical practice.”<sup>78</sup>

The lack of surrogacy laws in India has consequently made the exploitation of surrogate mothers far too feasible. Human rights lawyer Siddh Vidya explained in her interview, “looking from the point of view of surrogate mothers, if you don’t have any law, now it’s just a contract: ‘I will pay you this much money if you offer me this service.’ And suppose tomorrow I don’t pay [the surrogate mother], then what are her legal rights? Where to assert? What to do? Who to catch hold of?”<sup>79</sup> I proceeded by asking Mrs. Vidya about the weight of the informed consent form, which surrogate mothers are to sign prior to their participation in a surrogacy arrangement, and which “talks about their rights in the surrogacy [arrangement].”<sup>80</sup> Mrs. Vidya answered, “A consent form does not guarantee anything!”<sup>81</sup> In the absence of a law, there is no punishment for someone who violates the rights of surrogate mothers, or who disregards the guidelines proposed by the ICMR.

Mrs. Vidya elaborated on the consequences of the lacking surrogacy legislation throughout India, and the common disregard for the guidelines of the ICMR. As per the guidelines, she explained:

The doctors are not supposed to be involved in any kind of monetary compensation between the surrogate mother and the commissioning parents. However, what is actually happening is this has become a very good area to make money. [...] the doctors will take huge money, and only peanuts are being transferred to these women. And they are

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<sup>78</sup> Ibid.

<sup>79</sup> Interview with Siddh Vidya, August 27, 2019.

<sup>80</sup> Pande, “Not an ‘Angel,’” 147.

<sup>81</sup> Interview with Siddh Vidya, August 27, 2019.



promised, and if whatever is promised is not paid, what is the recourse for these women?

There is no forum [...] or [anything for them] to do now.<sup>82</sup>

Thus, without any legal recourse, surrogate mothers cannot argue or fight against any violations of their rights.

Even some individuals profiting directly from the commercial surrogacy industry perceive commercial surrogacy as an exploitative practice. For instance, the director of a surrogacy house in Mumbai, to much dismay, told me during her interview that she believes commercial surrogacy should be banned because not everyone follows the guidelines, and therefore, there is no way to avoid human exploitation.<sup>83</sup> More surprisingly, not only does she believe commercial surrogacy should be banned, but she also believes altruistic surrogacy should be banned because, as surrogate mothers, “women are used as vessels,” regardless of the presence of monetary compensation.<sup>84</sup> Commercially or altruistically, the director believes that using human beings in such a capacity constitutes nothing less than human exploitation, and such use suggests that “humans [are] made for that only.”<sup>85</sup>

As was the case in some Western European countries which set forth prohibitionist legislation in regard to surrogacy, the infertility specialist explained that exploitation is likely the principal reason behind the Indian government’s decision to institute a ban on commercial surrogacy. Precisely, she stated, “the government is very scared of the exploitation of the surrogate mothers, and that is probably the main reason behind this.”<sup>86</sup> She further stipulates that the government’s fear of the exploitation of surrogate mothers is due to the widespread poverty

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<sup>82</sup> Ibid.

<sup>83</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Interview with an infertility specialist, August 20, 2019.

in the country: “I think the government is also worried about [the exploitation of surrogate mothers] because we are a poor country [and therefore] we are scared that the surrogate mothers will get exploited because there is so much poverty.”<sup>87</sup>

However, the infertility specialist thereafter stated, “But there are always two sides to a coin. So sometimes the poor might actually be benefited rather than exploited by this particular thing.”<sup>88</sup> This statement leads us to the next section; although until now, the public perceptions and attitudes toward commercial surrogacy in Mumbai, as described above, have been rather negative, the next section will demonstrate perceptions and attitudes that are more positive, and therefore signals the complexity of the issue at hand.

### **Commercial Surrogacy as a Way out of Poverty**

In her work, Amrita Pande firmly states how “(Eurocentric) portrayals of surrogacy cannot incorporate the reality of a developing-country setting—where commercial surrogacy has become a survival strategy and a temporary occupation for some poor rural women, where women are recruited systematically by a fertility clinic and matched with clients from India and abroad.”<sup>89</sup> As such, she continues by asserting that “surrogacy cannot merely be seen through the lenses of ethics or morality but is a structural reality, with real actors and real consequences.”<sup>90</sup> Similarly, Alison Bailey and Anna Arvidsson et al. both argue that, in order to truly grasp the commercial surrogacy situation in India and its impact on the women recruited as surrogate

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Pande, “Not an ‘Angel,’” 144.

<sup>90</sup> Ibid.

mothers, a close examination of both their “local moral worlds” and the structural injustices they are forced to grapple with on a daily basis is crucial.<sup>91</sup>

In tandem with Amrita Pande’s findings in Anand, as well as Anna Arvidsson et al.’s findings in Assam, impoverished women in Mumbai have also turned to commercial surrogacy as a way out of poverty, at least on a temporary basis. “Women who are becoming surrogate mothers are below the poverty line,” a fact reiterated by the director of the surrogacy house.<sup>92</sup> In fact, the director claimed that 90 percent of surrogate mothers are engaging in the practice for the sole purpose of obtaining monetary compensation.<sup>93</sup>

Echoing Alison Bailey’s statement that “many women do earn enough to pull their families out of poverty or debt—at least temporarily,” thousands of women and their families in Mumbai have, in fact, benefitted from commercial surrogacy, even to a small degree.<sup>94</sup> With commercial surrogacy as a contemporary means to earning a living, an infertility specialist explained in her interview how a number of surrogate mothers have advocated against the institution of a ban on the practice for such reason:

There is also a large group of surrogate mothers who have been very vocal about their right to be surrogate mothers. There are many of them who have come on television, who have said that “we could save our families. My husband is a drunkard—he does not bring in any money. My children are on the streets. I don’t have a house.” And so with that little money they got from surrogacy, they could buy a little roof over their head, they could educate their children, they could marry their daughter off, or get life-saving medicines for their mother—whatever their priority might be. So they were able to do

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<sup>91</sup> Bailey, 716, 726.

<sup>92</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>93</sup> Ibid.

<sup>94</sup> Bailey, 718.

that, and many of them have been quite vocal about it—that unfortunately, they do not have any other means.<sup>95</sup>

The above argument further resonates with Sheela Saravanan’s claim that “the state should not have the right to interfere into a woman’s will to participate in surrogacy.”<sup>96</sup> Putting forth a ban on commercial surrogacy in its entirety could therefore compromise the agency of surrogate mothers who would like to engage in commercial surrogacy arrangements, and feel empowered in their ability to do so and to provide for themselves and their families. The infertility specialist, speaking on behalf of the surrogate mothers who have spoken up against the commercial surrogacy ban, elaborated with the following:

We want to do this because we are empowered to do it. We want to choose. We have the right to choose. My husband is an alcoholic; he doesn’t do anything; he’s lying on the side of the road drunk. If he works, on the first of every month, he burns up his salary. My husband is an alcoholic, but that doesn’t mean that I should and my children should starve. So I have taken this in my hand. I am in control. I will earn the money. I will keep the money and I will use it for me and my children.<sup>97</sup>

The infertility specialist explained that such situations arise frequently in many parts of India, and present a huge problem for women whose families are fully reliant on the husband to provide for them.<sup>98</sup> Therefore, commercial surrogacy “empowered them [...] because [it gave them] the ability to earn a little bit of money and spend it on their children and on themselves and not on the drunken husband.”<sup>99</sup> Moreover, some people had also made arrangements so that the money

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<sup>95</sup> Interview with an infertility specialist, August 20, 2019.

<sup>96</sup> Saravanan, *A Transnational Feminist View*, 54.

<sup>97</sup> Interview with an infertility specialist, August 20, 2019.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

was transferred directly into the account of the woman, rather than into that of the husband, ensuring the woman control over the manner by which the monetary compensation was used.<sup>100</sup>

Based on this finding, clearly, not all perceptions and attitudes toward commercial surrogacy in Mumbai are negative. In fact, this one is rather positive, and points to the reality that commercial surrogacy arrangements have, to some extent, benefitted some women by presenting them with a remedy for battling their extreme poverty.

### **Commercial Surrogacy as Inevitable?**

In her work on the subject of commercial surrogacy in India, Sharmila Rudrappa iterates how bans on surrogacy practices could very well present dangers for women in India. In this respect, the industry of commercial surrogacy risks becoming analogous with other underground industries like that of sex work, which has long relied on the trafficking of women.<sup>101</sup> During my fieldwork in Mumbai, the perception of commercial surrogacy as inevitable came up in a few interviews with mixed responses.

Siddh Vidya stated, in her interview, the following in regard to the possible inevitability of commercial surrogacy despite the enactment of a ban on the practice: “yes, it will operate underground. It will take time but recently what is happening is big, big hospitals and doctors won’t be able to operate this thing openly. So it is bound to go underground. And once it is illegal, it will take time, but it will stop at one point of time.”<sup>102</sup> She continued by explaining how “It will go underground first, and thereafter if the government is strict, and the

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<sup>100</sup> Ibid.

<sup>101</sup> Rudrappa, “Why is India’s Ban,” 91.

<sup>102</sup> Interview with Siddh Vidya, August 27, 2019.

implementation is done properly, it will end also. But it will take time because surrogacy is a big racket.”<sup>103</sup>

The director of the surrogacy house similarly stated, “no, commercial surrogacy will not continue to operate underground once it is banned because people will get caught and punished.”<sup>104</sup> An infertility specialist who I interviewed also added, “I see no reason why the majority of doctors would want to do this [following the ban] because a ten year jail term is not something we are looking to enjoy, so obviously it is going to be something which is really going to be not something most or the majority of doctors will want to do.”<sup>105</sup> Hence, based on the data collected from these interviews, further dangers imposed on women are, for the most part, avoidable insofar as the Indian government ensures the proper implementation of its new law banning commercial surrogacy.

### **Commercial Surrogacy as “Bad for the Family”**

The majority of public perceptions and attitudes toward commercial surrogacy in Mumbai, as found in this research study, resonate with public perceptions and attitudes detected in similar studies conducted in other parts of India, or found in other existing literature on the subject. However, this research study conducted in Mumbai generated a major finding that was either not the case or missing in similar studies done elsewhere in India. In a significant proportion of interviews conducted in this study, research participants spoke about the common perception of commercial surrogacy as damaging to the family structure.

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<sup>103</sup> Ibid.

<sup>104</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>105</sup> Interview with an infertility specialist, August 20, 2019.

For one, the director of the surrogacy house informed me that the husbands of surrogate mothers struggle in accepting their wife's absence from their home during their nine-month-long stay in the surrogacy house.<sup>106</sup> Over the course of the surrogacy arrangement, the surrogacy house does not allow family members to visit, and sexual intercourse is strictly prohibited to surrogate mothers. Such prohibition is due to the misconception that if the surrogate mother were to engage in sexual relations with her husband, the resulting child may bear their genes, rather than those of the commissioning parents. Mrs. Vidya elaborates, “[the commissioning parents] want to make sure that ‘this is my child’ and want to remove the chance that [the surrogate mother] has gotten into sexual relations with her husband and actually this is [the] child of [the surrogate mother and her husband], and because of the sexual relations, [the commissioning parents] are not going to get their child.”<sup>107</sup> In consequence to this widespread misconception, which lacks any medical evidence to support its validity, and the resulting prohibition of sexual intercourse during the surrogacy arrangement, the director of the surrogacy house explained how husbands of surrogate mothers grow increasingly frustrated over time: “for the first two or three months, the husbands are alright with the wife not being with them at home. But after that, they start to get more upset.”<sup>108</sup> In illustrating such frustration on behalf of the husbands, she proceeded by telling me about one specific case where the husband of the surrogate mother was an abusive man and a drunkard: “the husband was not allowed in the house [as is the case with all family members of surrogate mothers], so he would stand outside the house shouting abusive things at his wife.”<sup>109</sup> In result to such abusive behavior, the director said she had to counsel both the husband and the surrogate mother, and had to tell them that “marriage is not defined by

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<sup>106</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>107</sup> Interview with Siddh Vidya, August 27, 2019.

<sup>108</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>109</sup> Ibid.

sexual intercourse—that is not all there is to marriage.”<sup>110</sup> Furthermore, she explained how, in turn, “women also worry that their husband will go to other women while they are gone.”<sup>111</sup> A research participant from the general public confirmed this concern shared by many women in regard to their husbands: “men have left their wives in the event that the wife cannot carry out her duties as a wife and mother.”<sup>112</sup> Thus, the absence of surrogate mothers from their homes and from their families can consequently lead to the dissolution of their marriage, or, at the very least, infidelity on the part of the husband.

### **Repercussions for Surrogate Mothers in Mumbai**

Based on the data collected in this research study, the public perceptions and attitudes toward commercial surrogacy in Mumbai comprise a mixture of positive and negative perceptions and attitudes. Although some research participants spoke about the positive perception of commercial surrogacy as a way to escape one’s impoverished misfortunes, the perceptions of commercial surrogacy as constituting “dirty work,” whereby poor women are servicing the wealthy members of the population, and of the practice as commercializing the sacred act of motherhood, bear severe consequences for surrogate mothers.

A research participant from the general public stated, in his interview, that despite some gains rendered from the practice, “In India, surrogacy is shamed.”<sup>113</sup> Mrs. Vidya further stated in this regard, “people do not want to discuss this. People from lower socioeconomic groups especially do not want to discuss it because to them, the practice is not socially acceptable.”<sup>114</sup>

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<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

<sup>112</sup> Interview with research participant, August 23, 2019.

<sup>113</sup> Ibid.

<sup>114</sup> Interview with Siddh Vidya, August 27, 2019.



More specifically, the director of the surrogacy house explained how women who decide to partake in commercial surrogacy arrangements are stigmatized to such an extent that they risk getting ostracized from their respective community, or religious community, especially if they are from a Muslim community.<sup>115</sup> The fear of ostracism has consequently led many surrogate mothers to hide their pregnancy from their community. Amrita Pande also writes about this need to shield one's pregnancy from community members in her work based on her findings in Anand: "They usually hid in the clinic or took temporary accommodation away from their communities during the last months of pregnancy. Some decided to tell their neighbours that the babies were their own and later say that they had miscarried."<sup>116</sup> Regarding surrogate mothers in Mumbai, Mrs. Vidya stated, in her interview, that one of the reasons surrogate mothers agree to stay in a surrogacy house or a 'women's hostel' over the course of the entire surrogacy arrangement is to hide their pregnancy from their neighbors. She elaborated, "they do not want to tell their neighbors because anyway they are going to ask them this question: 'you were supposed to deliver a baby, what happened?'" This question they have to face, so basically, it is always safer to be [in the surrogacy house].<sup>117</sup>

Along with surrogate mothers facing extreme stigma and the possibility of ostracism from their community, the director of the surrogacy house also informed me that surrogate mothers also often bear the risk of their own family members disowning them.<sup>118</sup> Referring back to the research participant whose friend obtained surrogacy services from a woman only to have her terminate the pregnancy and take off with his money, the woman's reason for backing out of

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<sup>115</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>116</sup> Pande, "Not an 'Angel,'" 154.

<sup>117</sup> Interview with Siddh Vidya, August 27, 2019.

<sup>118</sup> Interview with the director of a surrogacy house, August 22, 2019.

the arrangement was, specifically, that her family strongly disapproved and upon finding out about her engagement in the practice, threatened to end all familial ties with her.<sup>119</sup>

Indeed, the director of the surrogacy house explained that “typically only the husband and the mother of the surrogate mother know that they are a surrogate mother” for this exact reason.<sup>120</sup> An infertility specialist further spoke about the need to involve the husband, and how there is no way to bypass his involvement in the matter:

We do not take single women, only married women because, as per the guidelines, it is always a married lady who has a child of her own that can become a surrogate mother, and [surrogate mothers] cannot volunteer secretly without involving the husband. So the husband is obviously part of the understanding because the husband has to be in tune with the wife to allow her to be a surrogate mother.<sup>121</sup>

Therefore, in the majority of cases, the only individuals in the entourage of the surrogate mother that possess any knowledge about her involvement in the surrogacy arrangement are those closest to the surrogate mother, and whose involvement in the matter is virtually out of sheer necessity.

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<sup>119</sup> Interview with research participant, August 23, 2019.

<sup>120</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>121</sup> Interview with an infertility specialist, August 20, 2019.

## Chapter 6: Discussion and Conclusion

### Summary of Key Findings

Based on the interviews carried out in this research study, the perceptions and attitudes toward commercial surrogacy in Mumbai are, for the most part, negative, often bearing severe and even life-changing consequences for the surrogate mother. Apart from the perception of commercial surrogacy as a means out of poverty, the views of the practice as “dirty work,” as commercializing motherhood, as a form of exploitation, and as damaging to the family structure, carry serious and unpleasant repercussions for surrogate mothers in Mumbai, as well as in other areas of India.

It is important to note that the practice of commercial surrogacy is more socially acceptable among the more educated members of the population in Mumbai. As Mrs. Vidya explained in her interview, “those who are quite educated and all that, they are more willing to discuss it because for them, it is alright, it is accepted [as a practice].”<sup>122</sup> However, surrogate mothers tend to come from poor socioeconomic backgrounds, and in fact, the vast majority of surrogate mothers are illiterate and lack any sort of formal education.<sup>123</sup> Therefore, among the communities in which surrogate mothers live, commercial surrogacy has yet to garner much, if any, acceptance among its community members, many of whom are unaware of the assisted reproductive technologies involved in the practice.

Furthermore, the findings in this study reveal that a patriarchal culture and traditional gender norms remain at play in Mumbai. For instance, the case of the abusive husband yelling profane things at his wife outside of the surrogacy house, as recalled by the director of the

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<sup>122</sup> Interview with Siddh Vidya, August 27, 2019.

<sup>123</sup> Frankford et al., 284.

surrogacy house, demonstrates that by being away from her home for an extended period of time—nine months to be exact—the woman is not fulfilling her husband’s and, perhaps more broadly, society’s expectations of her. In this respect, the woman, by serving as a surrogate mother, cannot temporarily maintain her role and presence in her household, nor can she engage in any sexual relations whatsoever with her husband, which is considered an integral part of marriage in their culture.<sup>124</sup>

Another revelation pointing to the perpetuation of traditional gender norms in Mumbai comes from an analysis of my interview with an infertility specialist, in which, she shared with me that women face high levels of stigma and hostility from family members in the event that they are discovered as infertile. She explained, “if you label a woman and put a stamp of infertility on her [...] then that is the end of her life [...] because her husband is going to really not be very nice to her and her mother-in-law [who plays a very important role in the decision-making of the family] and her sister-in-law [...] are going to be extremely unkind and it might be really not nice for [her].”<sup>125</sup> She continued by stating the consequences that a woman risks facing if she is infertile and therefore cannot herself bear a child: “if she does not have a child, she will be either sent out of her home or ill-treated or divorced—one of those things will happen to her in India in almost all cases, except for a few.”<sup>126</sup>

In such cases, obtaining a surrogate mother to bear her child may be her only resort. While adoption is always an option, several research participants have expressed the strong desire to have a child of genetic relation as rampant among the society in Mumbai, as well as throughout India. In this respect, the director of the surrogacy house elaborated, “if the child does

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<sup>124</sup> Interview with research participant, August 22, 2019.

<sup>125</sup> Interview with research participant, August 20, 2019.

<sup>126</sup> Ibid.

not have the same genes as the parents, it is hard in India for people to accept the child as their own.”<sup>127</sup> The desire to have a genetically-related child is so pronounced in Mumbai that the infertility specialist informed me that if commercial surrogacy is banned, women will seek altruistic surrogacy, which means turning to a close relative to bear the child for them. In cases where a woman does not have a close relative that is married, between the ages of 25 and 35, and who has a child of her own, she further explained how she may then pursue a uterine transplant surgery, an extremely invasive and experimental procedure that has only been successful in one case in India so far.<sup>128</sup> A uterine transplant involves major surgeries for two patients. She described the procedure in greater detail:

The mother will be probably forced to donate her uterus, so the mother, who is 50 or 60 years old, will have to undergo a major surgery to remove her uterus. Then her daughter will have to undergo even more major surgery to take that uterus and transplant it back into her. Then she will do immunosuppressive therapy for two years like a cancer therapy to suppress [all her systems]. [Then] she will do IVF, and if she becomes pregnant, then she will have her baby, which will have to be delivered by cesarean section, and after the cesarean section, the uterus will be removed again. So that girl will have to have a transplant, then immunosuppressive therapy, then IVF, then a cesarean section, and then a hysterectomy because that transplant just cannot stay inside her for long because there are too many drugs to be given to the lady to suppress all her systems so that the uterus does not get rejected. So, it will be a huge thing.<sup>129</sup>

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<sup>127</sup> Interview with research participant, August 22, 2019.

<sup>128</sup> Interview with an infertility specialist, August 20, 2019.

<sup>129</sup> Ibid.

Evidently, having a child who possesses the same genes as the parents is extremely important in the Indian culture—so important that women are willing to go to such invasive lengths to make this happen. The infertility specialist emphasized, “it involves a life-threatening surgery and procedure. Either you live or you die, but at least you might have a child.”<sup>130</sup> With strong cultural significance attributed to the act of motherhood, women are expected to carry out their role as mothers by bearing children. If unable to fulfill such expectation, they are consequently banished from their homes and from their families.

To an even greater extreme, women are often expected to deliver a male child, which demonstrates that a traditional preference for sons ensues in the culture. Mrs. Vidya shared with me the experience of one of her clients, a victim of surrogacy:

From the day of the marriage, she was under tremendous pressure to deliver a male child by the husband and the husband’s side of the family. She conceived many times, and, on every occasion, she was subjected to a kind of sonography to determine the sex of the child. On each and every occasion, she was not fortunate and she did not conceive a male child, so on many occasions, she was subjected to abortion. When she became too physically weak to conceive, she was thrown out of the house by the husband, saying that you are not required here. The husband then opted for surrogacy, and was assured by the doctor that “you will get a male child through surrogacy.” Otherwise he would not have gone for surrogacy.<sup>131</sup>

Hence, the strong cultural significance placed on the act of motherhood is also coupled with the persisting traditional preference for sons in the Indian culture. Women who cannot bear a child, yet alone a male child, are therefore, in many cases, seen as useless and as not achieving their

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<sup>130</sup> Ibid.

<sup>131</sup> Interview with Siddh Vidya, August 27, 2019.

role in the family. For this reason, when a woman engages as a surrogate mother and thereafter gives birth to a child out of a surrogacy arrangement, she is often viewed as abandoning or “giving away” her own child, and is therefore disgraced and highly shamed.<sup>132</sup>

## **Implications of the Study**

Based on the complexity of the issue of commercial surrogacy in Mumbai, the mixture of public perceptions and attitudes toward the practice, and the repercussions faced by both surrogate mothers and women who cannot bear children on their own; banning commercial surrogacy entirely does not avail as an effective solution.

For one, banning commercial surrogacy does not mean that women will no longer face pressure or coercion to become surrogate mothers. In fact, they may face pressure from their family to become a surrogate mother for an infertile relative. “Family members may get pressured or forced to carry a baby for their sibling. Otherwise the infertile girl may be thrown out of the house because she cannot have a baby.”<sup>133</sup> Thus a ban on commercial surrogacy does not remove the possibility that relatives will get exploited if only altruistic surrogacy is permissible in India. An infertility specialist expressed concern regarding this possibility, “we are just thinking that completely altruistic surrogacy might be rather difficult and we are worried about the relatives getting exploited, being arm-twisted into compulsorily becoming surrogate mothers for their family members by their other relatives, which is also not nice.”<sup>134</sup> Mrs. Vidya also explained how permitting only altruistic surrogacy would also discriminate against women who do not have relatives to serve as a surrogate mother for them.<sup>135</sup> These women may be

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<sup>132</sup> Arvidsson et al., 7.

<sup>133</sup> Interview with an infertility specialist, August 20, 2019.

<sup>134</sup> Ibid.

<sup>135</sup> Interview with Siddh Vidya, August 27, 2019.

orphaned, or they may come from single-children households or from families lacking women that are eligible to participate in surrogacy arrangements.<sup>136</sup>

Secondly, the problem at hand seems more deeply rooted. The perception that commercial surrogacy constitutes a form of exploitation is well-founded; the exploitation of surrogate mothers is rooted in the lack of any sort of legislation whatsoever governing the practice, and is facilitated by the fact that widespread poverty in Mumbai, and in India more generally, has put women and their families in a vulnerable position. Unable to provide for themselves and their families, impoverished working-class women have turned to commercial surrogacy arrangements regardless of the conditions to which they are subjected. With so many women desperate enough to participate in such arrangements, and without any laws guaranteeing surrogate mothers their rights or their compensation, the commercial surrogacy industry flourished in the country. Holly Donahue Singh, in research, describes, “clinics and clients [in India] rely on the perpetuation of inequalities within India to facilitate surrogacy arrangements by making relatively marginal women ‘bioavailable’ as gestational laborers to relatively wealthy people from India and abroad.”<sup>137</sup> Considering the exorbitant profits generated by the industry, it is no surprise some scholars express worry that the industry may continue to operate underground post-ban.

Widespread poverty in Mumbai, and across India, has also resulted in large disparities in terms of education. The perception of surrogate mothers as prostitutes is largely attributed to a lack of awareness in regard to the practice. In this respect, Anna Arvidsson et al. discuss how “accurate knowledge of IVF surrogacy is uncommon” and how “when surrogacy is mentioned, it is often associated with sexual intercourse, an understanding that stigmatizes the surrogate

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<sup>136</sup> Ibid.

<sup>137</sup> Singh, 825.



mother.”<sup>138</sup> In contrast, and as is also the case in Mumbai, the higher the level of education in the community, the greater the knowledge is in regard to the surrogacy process, which does not, in fact, involve sexual intercourse on behalf of the surrogate mother.<sup>139</sup>

Along with a lack of legislation governing the practice, and widespread poverty plaguing the lives of countless individuals, the persistence of a patriarchal culture and of traditional gender roles has also proved problematic for surrogate mothers. Motherhood is so integral to societal values that surrogate mothers are shunned for bearing a child for another couple, and women who cannot conceive a child—or, in some cases, a male child—on their own are rendered useless and are maltreated. In consequence to breaking traditional norms, both surrogate mothers and infertile women frequently face expulsion from their homes, as well as extreme stigma and possible ostracism from their communities at large.

Furthermore, the absence of surrogate mothers from the home during the nine months of the surrogacy arrangement, in which they reside in the surrogacy house and must abstain from sexual intercourse with their husbands as per the terms of the arrangement, is considered damaging to the family structure—one that relies on the constant presence of the wife in the home. Specifically, the absence of a surrogate mother from the home often results in much frustration on behalf of the husband, as well as concern on behalf of the surrogate mother that her husband will look elsewhere in order to satisfy his sexual needs, a role that wives are expected to uphold as part of the marriage agreement.

Therefore, the downfall of commercial surrogacy is merely a symptom of far larger problems and cultural expectations that persist in Mumbai, as well as in India more generally. Invoking an outright ban on the practice thus may not be in the best interests of women, but

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<sup>138</sup> Arvidsson et al., 7.

<sup>139</sup> Arvidsson et al., 9; interview with Siddh Vidya, August 27, 2019.

rather may, in fact, eradicate a source of income for impoverished women, lead to the exploitation of women to act as surrogate mothers for relatives, and revoke this alternative method of childbearing for genuine infertile Indian couples.

### **Limitations of the Study**

Due to my last-minute change in research sites from New Delhi to Mumbai, I had to abandon my previously planned internship opportunity with the resource group for women and health, Sama, and consequently had to locate an entirely different partner to work with, and find a legitimate pool of research participants in Mumbai. Unlike New Delhi, nongovernmental organizations working on the issue of commercial surrogacy in India are not based in Mumbai, and therefore, I had to look elsewhere for research participants.

In addition, given the fact that commercial surrogacy is somewhat of a taboo subject in Mumbai, as well as in other parts of India, I struggled in finding research participants, especially at first. As such, while my interviews resulted in significant findings, the number of research participants (n=15) in this study was more limited than I had initially anticipated, and therefore, such findings may not represent the perceptions and attitudes toward commercial surrogacy of the entire population of Mumbai. A larger research study carried out over a more substantial period of time would therefore shed further light onto the issue.

Along with being a taboo subject, the recruitment of research participants, particularly surrogate mothers, was further made difficult by the reality that many women serving as surrogate mothers live in the outskirts of Mumbai, speak limited or no English whatsoever, and are managed through a third party, such as an agency, a surrogacy house or an ART bank. Therefore, a portion of this research study rests on the credibility of individuals working closely

with surrogate mothers. The credibility of infertility specialists interviewed in this study, in particular, is questionable to the extent that they may have some vested interest in keeping the commercial surrogacy industry, which proved very profitable, alive.

Nonetheless, the collection of narrative data collected from diverse individuals offers important insight into the extremely complex and multifaceted experiences of surrogate mothers, which are not readily available through quantitative means. Further research is however, of course, recommended.

### **Recommendations for Further Research**

My fieldwork, and the resulting data collected on the public perceptions and attitudes toward commercial surrogacy in Mumbai, certainly shed significant light on, and help generate a greater understanding of, the actual lived experiences of surrogate mothers in Mumbai, as well as across India. Nevertheless, speaking to surrogate mothers themselves would have proved extremely insightful, and would have added more credibility to this research study. Therefore, further research on the topic should aim to collect data from interviews with specifically surrogate mothers, as the results of this study are largely based on accounts provided by infertility specialists, a director of a Mumbai-based surrogacy house, a human rights lawyer, and members of the general public in Mumbai—none of whom had any prior experience as surrogate mothers, but rather worked closely with such women.

### **Concluding Remarks**

As made evident throughout the data collected in this research study, commercial surrogacy in Mumbai is widely perceived as a shameful practice for diverse reasons. Like in

Anand and Assam, some members of the population in Mumbai also perceive the practice as “dirty work” akin to sex work and prostitution, and as commercializing the culturally significant and sacred act of motherhood.<sup>140</sup> The notion of exploitation often espoused in the main global discourse on surrogacy, and used as the justification for the Indian government’s decision to ban commercial surrogacy, is also present in Mumbai; many research participants do indeed perceive the practice as exploitative of poor, vulnerable women.<sup>141</sup> Furthermore, the study reveals the perception of commercial surrogacy as causing damage to the family structure of the surrogate mother.<sup>142</sup>

However, although negative perceptions and attitudes toward commercial surrogacy in Mumbai are abundant, the positive perception of commercial surrogacy as a means to alleviating poverty, even temporarily, was also detected in Mumbai. As such, many working-class women were able to lift themselves and their families out of poverty by engaging in commercial surrogacy arrangements.<sup>143</sup>

As previously discussed, commercial surrogacy is not the problem *per se* in Mumbai, or in India in general. Rather, it is a symptom of larger disparities in terms of wealth and education, and of an ongoing patriarchal culture and abidance to traditional gender norms on behalf of many members of the population. Therefore, rather than banning commercial surrogacy in its entirety, the Indian government should strive to formulate a surrogacy law that ensures the proper treatment of surrogate mothers, and that contains punitive provisions for violators of their rights. Doing so would aid in bringing the exploitation of surrogate mothers to a halt, while preserving

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<sup>140</sup> Pande, “Not an ‘Angel,’” 154; Arvidsson et al., 7; interview with research participant, August 22, 2019.

<sup>141</sup> Arvidsson et al., 7; interview with the director of a surrogacy house, August 22, 2019; interview with research participant, August 23, 2019.

<sup>142</sup> Interview with the director of a surrogacy house, August 22, 2019.

<sup>143</sup> Interview with an infertility specialist, August 20, 2019.

their right to engage in commercial surrogacy arrangements if they choose to do so, as advocated for by several surrogate mothers.<sup>144</sup>

Furthermore, such legislation should also restrict the use of commercial surrogacy to individuals who have a genuine reason for pursuing the practice. While some individuals are unable to conceive naturally due to, for instance, a medical condition that has consequently made them infertile; others have used surrogacy for unnecessary reasons, such as for cosmetic reasons. In fact, the director of the surrogacy house claimed that 20 to 40 percent of patients do not actually need surrogacy to have a child.<sup>145</sup> The unnecessary use of surrogacy is often the case with Bollywood actors and actresses who opt for surrogacy as a means to preserve their slim figure and chosen lifestyle.<sup>146</sup> As Mrs. Vidya explained in her interview, “All those big actors and actresses are going for surrogacy for no reason. They already have two children and the wife is capable of delivering a child, and if you are capable, then what is the need of having a child through surrogacy? You are actually playing with the nature!”<sup>147</sup> Hence, commercial surrogacy has been utilized unnecessarily in many instances, and such unnecessary use has driven up demand for surrogate mothers. Restricting access to surrogacy services to those in genuine need will therefore reduce demand for surrogate mothers, and bring this new “industry” under control. Rather than an industry, if only those individuals in actual need of surrogacy to have a child of genetic relation to them opt for surrogacy, commercial surrogacy will become less of an “industry” and more of a “medical treatment for a woman who is suffering from a major problem and is requiring it.”<sup>148</sup>

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<sup>144</sup> Ibid.

<sup>145</sup> Interview with research participant, August 22, 2019.

<sup>146</sup> Interview with research participant, August 20, 2019.

<sup>147</sup> Interview with Siddh Vidya, August 27, 2019.

<sup>148</sup> Interview with an infertility specialist, August 20, 2019.

Along with formulating adequate legislation to best meet the interests of surrogate mothers, educating the public on the implications of surrogacy would help women avoid stigmatization and ostracism from their communities. Surrogate mothers in Mumbai are perceived as prostitutes by individuals from lower socioeconomic groups who are unaware of the assisted reproductive technologies used in surrogacy that enable the separation of sexual intercourse from conception.<sup>149</sup> Increasing knowledge of such technologies among the population, especially poor segments of the population, would help erase the misconception that surrogate mothers are engaging in sexual intercourse with a man other than their husband, and the accompanying stigma and disapproval surrogate mothers face as a consequence to this false perception.

As for the perceptions that commercial surrogacy commercializes motherhood, and that it is bad for the family structure, the patriarchal culture and persistence of traditional gender roles may gradually fade away in Mumbai and across India, as seen in other parts of the world. In fact, infertility in India has risen, and continues to rise as a result of more women joining the workforce, and thereby choosing to delay pregnancy in order to focus on their careers.<sup>150</sup> Amrita Pande also presents the solution of characterizing commercial surrogacy work as a form of labor. Recognizing the practice as a form of labor may help in separating the act of giving birth from motherhood, and thereby diminish the perception that surrogate mothers are giving away their own child.<sup>151</sup>

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<sup>149</sup> Interview with the director of a surrogacy house, August 22, 2019; Pande, “Not an ‘Angel,’” 143; Arvidsson et al., 7.

<sup>150</sup> Interview with research participant, August 20, 2019.

<sup>151</sup> Pande, “Not an ‘Angel,’” 142; Arvidsson et al., 7.

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