

**BETWEEN CARE AND VIOLENCE:
THE POLITICS OF SURROGACY IN INDIA**

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by

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Submitted

**in fulfilment of the requirement of the degree of Doctor of Philosophy
to the**



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Certificate

This is to certify that the thesis titled ‘Between Care and Violence: The Politics of Surrogacy in India’, submitted by Aishwarya Chandran, to the Indian Institute of Technology, New Delhi, for the award of the degree of Doctor of Philosophy, is a bonafide record of the research work done by her under my supervision. No portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

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Abstract

Commercial surrogacy has been practised in India amidst uncertain and inconsistent legal regulation since the 2000s. India followed a liberal policy towards transnational commercial surrogacy in the early years, permitting and incentivising medical tourism to the subcontinent. This was followed by a decade of deeply paternalistic regulation where surrogacy was permitted to only Indian heterosexual married couples, and payments to surrogate mothers were tightly monitored. Amidst intense legislative debate, the government banned all commercial surrogacy in 2021, introducing stringent criminal penalties for anyone found guilty of violating the law. Surrogacy is now permitted only if it is altruistic, transacted without financial incentives, and performed by a close relative to the intending parents. This shift from a globalised economic modernity, to a protectionist nationalism, and then to a fiercely carceral agenda reflects changing economic, political, and moral regimes vis-à-vis the governance of sexuality, reproduction, and labour.

Conceptually, the thesis charts these shifts in surrogacy regulation as a historically contingent process that encodes the poetics and politics of reproductive labour with meanings ranging from gift-giving, to medical ‘assistance’, to trafficking. Ethnographically, it examines commercial surrogacy as a regime of labour and as a form of social organisation that regulates, polices, and reconfigures the intimate lives of the urban poor. I examine how surrogacy entangles the lives of the working poor in relations of care, sociality, and intimacy, and violence, inequality, and carcerality, with relation to the state, the law, and with each other. I examine surrogacy as a medical process—or a series of medical processes—and as a regime of labour that transforms women’s embodied habitations, by reconfiguring their social and intimate worlds. Moving beyond neat distinctions between care and violence, commodification and autonomy, I enquire what linkages between paid work, sexuality, intimacy, and the body can be made through a close examination of surrogacy processes.

सार

भारत में 2000 के दशक से अनिश्चित और असंगत कानूनी विनियमन के बीच व्यावसायिक सरोगेसी का प्रचलन रहा है। भारत ने शुरुआती वर्षों में अंतरराष्ट्रीय व्यावसायिक सरोगेसी के प्रति उदार नीति अपनाई, जिससे उपमहाद्वीप में चिकित्सा पर्यटन को अनुमति और प्रोत्साहन मिला। इसके बाद एक दशक तक गहन पितृसत्तात्मक विनियमन चला, जहाँ सरोगेसी की अनुमति केवल भारतीय विषमलैंगिक विवाहित जोड़ों को ही थी, और सरोगेट माताओं को भुगतान पर कड़ा नियंत्रण था। गहन विधायी बहस के बीच, सरकार ने 2021 में सभी व्यावसायिक सरोगेसी पर प्रतिबंध लगा दिया, और कानून का उल्लंघन करने वाले किसी भी व्यक्ति के लिए कठोर आपराधिक दंड का प्रावधान किया। अब सरोगेसी की अनुमति केवल तभी दी जाती है जब यह परोपकारी हो, बिना किसी वित्तीय प्रोत्साहन के की जाए, और इच्छुक माता-पिता के किसी करीबी रिश्तेदार द्वारा की जाए। वैश्वीकृत आर्थिक आधुनिकता से संरक्षणवादी राष्ट्रवाद और फिर एक उग्र कारावास के एजेंडे की ओर यह बदलाव, कामुकता, प्रजनन और श्रम के शासन के संबंध में बदलती आर्थिक, राजनीतिक और नैतिक व्यवस्थाओं को दर्शाता है।

वैचारिक रूप से, यह शोध-प्रबंध सरोगेसी नियमन में आए इन बदलावों को एक ऐतिहासिक रूप से आकस्मिक प्रक्रिया के रूप में प्रस्तुत करता है जो प्रजनन श्रम की काव्यात्मकता और राजनीति को उपहार देने से लेकर चिकित्सीय 'सहायता' और मानव तस्करी तक के अर्थों में समाहित करती है। नृवंशविज्ञान की दृष्टि से, यह व्यावसायिक सरोगेसी को श्रम की एक व्यवस्था और एक ऐसे सामाजिक संगठन के रूप में परखता है जो शहरी गरीबों के अंतरंग जीवन को नियंत्रित, नियंत्रित और पुनर्संयोजित करता है। मैं इस बात की जाँच करता हूँ कि कैसे सरोगेसी कामकाजी गरीबों के जीवन को देखभाल, सामाजिकता और अंतरंगता, तथा हिंसा, असमानता और कारावास के संबंधों में, राज्य, कानून और एक-दूसरे के साथ, उलझा देती है। मैं सरोगेसी को एक चिकित्सीय प्रक्रिया—या चिकित्सीय प्रक्रियाओं की एक श्रृंखला—और एक ऐसे श्रम तंत्र के रूप में परखता हूँ जो महिलाओं के सामाजिक और अंतरंग संसारों को पुनर्संयोजित करके उनके भौतिक आवासों को रूपांतरित करता है। देखभाल और हिंसा, वस्तुकरण और स्वायत्तता के बीच स्पष्ट अंतर से आगे बढ़ते हुए, मैं जानना चाहता हूँ कि सरोगेसी प्रक्रियाओं की गहन जाँच के माध्यम से भुगतान किए गए काम, कामुकता, अंतरंगता और शरीर के बीच क्या संबंध स्थापित किए जा सकते हैं

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Fig. 3.1 A brief legal timeline of surrogacy in India

Fig. 6.1 Surrogacy documents

List of Abbreviations

ART	Assisted Reproductive Technologies
DDA	Delhi Development Authority
DEVAW	Declaration on the Elimination of Violence against Women
ET	Embryo Transfer
ICMR	Indian Council of Medical Research
ICSI	Intracytoplasmic Sperm Injection
IVF	In-vitro Fertilisation
IUI	Intrauterine Insemination
JJ	Jhuggi Jhopri
NCR	National Capital Region
PCPNDT	Pre-Conception and Pre-Natal Diagnostic Techniques Act
SC	Scheduled Castes
SRA	Surrogacy Regulation Act
SRB	Surrogacy Regulation Bill
ST	Scheduled Tribes
UIDAI	Unique Identification Authority of India
USG	Ultrasonography