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Assisted Conception in India: Issues, Conflicts and Controversies

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Assisted reproduction clinics in India opportunistically draw on socio-moral ideas regarding fertility and childlessness.

Assisted reproduction and the technologies associated with it have come to occupy a contested ethical and social terrain in India. Meant to 'assist nature' by 'mimicking' sexual procreation in the laboratory, the technology, in essence, provides a 'cure' for infertility – which is seen to be more of a social condition than a medical one.

In recent times infertility has been fashioned into a medical condition with a purposeful breakdown of the reproductive body, especially that of women, into multiple micro parts. In order to facilitate ART use and intervention, the female reproductive body is now identified through the interplay of the egg (oocyte) and the uterus, along with other parts such as the endometrium lining, fallopian tubes, and others to further diagnose and identify problematic fertility. Each of these technological interventions cater to particular fertility 'absences'.

The promise of genetic links

Assisted reproductive technologies (ART) are a basket of fertility interventions including in-vitro fertilization (IVF), intracystoplasmic sperm injection (ICSI) and intrauterine insemination (IUI), besides others such as prenatal genetic diagnosis (PGD).

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These seemingly complex technological interventions have one thing in common: the promise of genetic links to progeny especially where men and women are unable to bear and birth children through sexual procreation.

Intrauterine insemination is the closest to mimicking sexual procreation with minimal technological intervention. The medical practitioner often inserts the sperm – provided by the to-be father or an anonymous sperm provider – via a pipette directly into the woman's ovary. The woman has already been through a rigorous hormonal protocol that leads to the production of multiple eggs instead of just one in her cycles to better facilitate conception.

However, IUI is not always successful. It depends on factors such as age, ovarian health, and others. Most clinicians and embryologists suggest shifting to the next technology, in-vitro fertilisation, which is truly asexual reproduction: extracting gametes (sperm and egg) and facilitating fertilisation in-vitro or in a petridish. The laboratory becomes the space for the generation of an embryo in suitable 'culture' which is then transferred into the woman's uterus under anaesthesia to incite a pregnancy.

IVF specialists tend to endorse and prescribe IVF whenever there is a fertility issue with the woman. However, in case of male infertility, which is gradually rising with newer diagnostic methods, intracystoplasmic sperm injection is found to be more helpful. Here, the embryologist micromanipulates the extracted or donated sperm and egg in a petridish to facilitate the formation of the embryo which can then be transferred to a woman's uterus.

Terminologies and discourses

Assisted reproductive technologies (ART) are governed by the Assisted Reproductive Technology (Regulation) Act 2021. The act has been through many avatars since 2005. It once included provisions on regulating commercial surrogacy arrangements that include the use of IVF to facilitate a gestational pregnancy in exchange for compensation. In 2016, a separation was initiated, leading to the Surrogacy Act of 2021 that banned commercial surrogacy.

Considering the unregulated nature of ART administration in India with many questionable practices (multiple pregnancies, foetal reduction, non-consensual extractions of gametes), a law was required immediately. The law has taken the first steps in the creation of a registry and database of all clinics and ART banks that will have information regarding participants.

A fertility clinic is identified in the ART act as an "assisted reproductive technology clinic" with a medical practitioner and required facilities and registration with the National Medical Commission. The clinic as it exists and operates also fashions itself as a fertility provider for those "unable to conceive after a year of unprotected coitus" (as defined by the act for "infertility").

> Identification as a consumer also places the technology and its practitioners as providing a service that is not geared towards a 'cure', but a choice.

The clinic is a culture in itself, catering to its clientele depending on locality, mores and norms that govern the local culture. Anthropologists Marcia Inhorn and Daphna Birenbaum-Carmeli call this ART culture as involving 'mutating technologies' that morph and change in keeping with the locales they inhabit. The same goes for India, as we see presently.

As per the law, persons seeking ART should ideally be married and heterosexual. In reality, single men and women, as well as homosexual couples, have sought ART to have biological children through third-party participation. I call this group of persons the consumer-patient as they undertake significant expenses to participate in an IVF cycle/procedure.

The monetary expenses go with the provision of gametes/genetic material such as eggs and sperm. Identification as a consumer also places the technology and its practitioners as providing a service that is not geared towards a 'cure', but a choice. The ART Regulation Act 2021 calls them the 'commissioning couple', clearly identifying the commercial nature of the arrangement.

IVF practitioners includes the embryologist, the clinician, the obstetric-gynaecologist and other personnel. This may be a term used to refer to the primary clinician who often runs the clinic and undertakes major surgical intervention in the ART procedure including ovum pick-up. The IVF practitioner has been identified to have a form of quasi-religious status in studies of ART cultures in India.

Anthropologist Aditya Bharadwaj identifies IVF practitioners as being part of competing media claims, as much as propagating individual myths around their 'success rates', the data provided clinics provide to showcase the number of confirmed pregnancies through the administration of the technology. This data may or may not reflect reality, but is seen as an advertisement for competing clinics to draw in consumer-patients.

Third-party reproduction

Asexual reproduction within ARTs carries with it the aspect of an additional participant. The 'third-party' in assisted conception is usually of two kinds: the gamete (sperm/egg provider) and the gestational surrogate.

> The 'third party' may also be contributing to the ART arrangement in exchange for monetary compensation. This form of exchange has led to much debate and anxiety.

They are identified as third party due to their lack of emotional or legal linkages with the couple or individual seeking the birth of a child via ART. But most importantly, the third party may also be contributing to the ART arrangement in exchange for monetary compensation.

This form of exchange has led to much debate and anxiety, socially and legally. The discomfort attached to the idea of genetic ties being established through the use of egg or sperm or gestation via reimbursement continues to lead to conversations around kinship, altruism and reproductive labour.

Such squeamishness regarding the mixing of kin and money comes from two ideas.

First, that money and love occupy what the sociologist Vivianna Zelizer calls 'hostile worlds' and should never mix. Second, that the human body is sacred, and its components should be 'donated' rather than bought and sold. This is akin to philosopher Richard Titmuss's suggestion that blood donation should be seen as a gift and given as one too.

Yet, ARTs operate largely through anonymous and known third-party participation. In numerous cases, pregnancy and childbirth is achieved through recourse to sperm and egg providers and donors as well as gestational surrogates.

The medical procedure of extracting eggs is more invasive and dangerous than sperm provision, which is simpler and requires no medical intervention. Egg extraction or oocyte pickup may involve ovarian hyper stimulation (OHSS) that may be fatal to the egg

provider's health. A reported case of death due to OHSS of a professional egg provider occurred in 2013 in Delhi, leading to a criminal case being registered against the IVF clinic.

Safety protocols and ethical issues continue to be an important issue in how ARTs are administered. Consent in case of commercial arrangements remains a big grey area. This is what also impacts the arrangement involving gestational commercial surrogacy, banned since 2021 in the Surrogacy Act.

Surrogacy and altruism

The Surrogacy Act came about after anxieties about Indian women being exploited in commercial surrogacy arrangements, wherein they were carrying embryos fertilised for foreign men and women for very low costs and in difficult circumstances. Human rights exploitation was part of conversations when India began to be identified globally as fostering 'baby-making farms' or providing 'wombs for rent'.

> The idea of motherhood being collapsed with monetary exchange was horrifying enough to ban the exchange of compensation.

Despite important arguments being made against a blanket ban by civil society activists and others, the Surrogacy Act prohibits commercial surrogacy on the conditions of morality and the intermingling of hostile worlds. The idea of motherhood being collapsed with monetary exchange was horrifying enough to ban the exchange of compensation and provide for allowing altruistic surrogacy.

The prescription of altruism as the only form of gestational surrogacy entails that women who agree to carry an embryo for a couple or individual shall not be compensated for participating in the arrangement. Such an expectation, as per law makers, can be extended only to the category of 'close kin', which remains largely ambiguous.

But medical processes and the surrogate's consent are still largely unregulated in the altruistic form of the arrangement as well. Conversations regarding the surrogate's health being subject to IVF cycles, hormonal interventions, and compulsory caesarean sections are not part of the purview of the ban. There is also minimal conversation regarding consent in seeking the surrogate's opinion regarding abortions, miscarriages, and other aspects of the medical-IVF process.

Chronic lifestyles

Assisted reproduction remains a problematic quasi-medical intervention as its 'success rates' remain controversial. As a commercial venture, IVF is often sold through inflated success rates that promise a pregnancy, but it may not always promise a child.

In multiple research findings, the idea of the success rate has been seen as a marketing gimmick to draw in more and more couples and individuals who seek fertility intervention. However, the failure to convert pregnancies into successful births continues to hamper the IVF sector.

Thus, the new focus on lifestyles that may lead to chronic infertility provides a more sustained conversation around failed IVF rather than success rates. The nature of chronicity carries with it expected long-term medical intervention.

Recently, through a sustained campaign in English language media, IVF practitioners provided advertorials to suggest that infertility is here to stay – often as a marker of debilitating lifestyles.

The identification of 'problematic lifestyles' helps the proliferation of ARTs in two ways. First, by making sure that the responsibility of the large number of IVF failures can be passed on to the consumer-patient, rather than the IVF practitioner and the technology itself. Second, lifestyle-related chronic means that consumer-patients keep resorting to IVF despite its failures, resigned to the 'endless nature' of their fertility issue.

> Within IVF discourse, the idea of lifestyles also occupies moralistic spaces […]

The identification of 'flawed lifestyle choices' largely focuses on women.

What are these ‘problematic lifestyles’? In the local-moral worlds that we inhabit, fertility specialists and obstetricians and gynaecologists fall back upon contemporary environmental ills and poor individual choices as the primary source of debilitating fertility.

That is not to say that the changing environment has not impacted our health. However, within IVF discourse, the idea of lifestyles also occupies moralistic spaces condemning the adoption of so-called Western lifestyles, such as marrying later or postponing parenthood, especially for women. In addition, any form of hedonism is seen to impact fertility – whether it is smoking or drinking or just socialising.

The identification of ‘flawed lifestyle choices’ largely focuses on women. Recent literature on egg freezing in the US and UK aim to highlight how the ‘choice-based’ paradigm makes women into villains of their own life and destiny.

Anthropologists such as Lucy van de Wiel and Marcia Inhorn focus on the fallacy that careers and motherhood clash in how women seek the latter later in order to pursue fulfilling personal journeys. The ‘selfish woman’ is seen to freeze her eggs in order to complete her life goals of personal fulfilment before embarking on motherhood later in life.

Both van de Wiel and Inhorn suggest that this form of posturing in popular culture is incorrect and is fuelled by fertility companies to draw in clients by pushing them to fear their ‘anticipated infertility’ as they age and defer motherhood. In reality, many working and educated women are unable to find suitable partners to start families due to increasing stress regarding commitment and desirability – pushing them to freeze their eggs and defer motherhood.

In India where marriage is sacrosanct and follows expected life course development, women nonetheless are berated over lifestyle choices of deferring pregnancies after marriage. Single women deferring marriage are also critiqued in pursuing selfish life style goals, which lead them to the fertility clinic eventually due to late marriages and declining fertility.

Finally

The use and administration of ARTs in India has its own protocol, discourse and polemics that have a profound impact on how we think of them. As a largely commercial sector, ARTs continue to use and abuse different forms of social discourse to their advantage – building on socio-moral ideas regarding fertility and childlessness.

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