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## US Media Representations of Transnational Indian Surrogacy: Pre 2016 Surrogacy Conditions and Connections with Global Inequality

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US MEDIA REPRESENTATIONS OF TRANSNATIONAL INDIAN SURROGACY:  
PRE 2016 SURROGACY CONDITIONS AND CONNECTIONS WITH GLOBAL  
INEQUALITY

A thesis submitted in partial fulfillment of the  
requirements for the degree of  
Master of Arts

By

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2020  
Wright State University

WRIGHT STATE UNIVERSITY  
GRADUATE SCHOOL

December 10, 2020

I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION  
BY Stephanie Brooks ENTITLED US Media Representations of Transnational Indian  
Surrogacy: Pre 2016 Surrogacy Conditions and Connections with Global Inequality BE  
ACCEPTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE  
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## ABSTRACT

Brooks, Stephanie. M.A., Applied Behavioral Science Graduate Program, Wright State University, 2020. US Representations of Transnational Indian Commercial Surrogacy: Pre 2016 Surrogacy Conditions and Connections with Global Inequality.

Transnational commercial surrogacy brought billions of dollars from the United States to the Indian economy. During this time, beginning in 2002, this practice was and continues to be scrutinized by scholars from various academic fields. In this study the researcher analyzes how the emergence of transnational commercial surrogacy in India was portrayed in US media through multiple outlets including newswires, magazines, transcripts, and web publications. In this qualitative study, the researcher performed purposive sampling to locate articles within the Nexis Uni database between the dates of January 1, 2006 and January 1, 2015. Using flexible coding, and qualitative content analysis the researcher coded thirty news items. Four themes emerged including: law, money made in a certain period of time (with subthemes of globalization and exploitation), surrogate health, and intended parents desperation for children. Additionally, the researcher contextualizes transnational commercial surrogacy within Postcolonial Feminist critiques—specifically those arguing that the practice retrenches colonial thinking and practices. This study recommends that, should transnational commercial surrogacy become legal again in India, Indian lawmakers ensure surrogates ensure surrogates health and personal freedoms while performing this labor. Also, this study recommends that Indian surrogates are paid fees comparable to their Western counterparts.

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## **Introduction:**

There are multiple forms of surrogacy. According to the American Center Disease Control and Prevention (CDC), some surrogates practice what is called “traditional” or “straight” surrogacy in which the surrogate mother is inseminated with sperm and this gives birth to a child that is intended for other parents using her own egg (CDC, 2018). In this case the surrogate is the child’s biological mother. The other form of surrogacy, gestational surrogacy, occurs when a woman is inseminated with another woman’s fertilized egg (CDC, 2018). Neither of these procedures requires sexual contact. This is true in cases where the child will be genetically related to the surrogate and the child’s biological father or sperm donor and in cases where the surrogate is the gestational carrier of another couple’s fertilized egg (CDC, 2018). Gestation is the time period from when the fertilized embryo is inseminated into a surrogate mother and the time when a child is born. Because of the introduction of assisted reproductive technology (ART), surrogates can choose to be anonymous to the individual or couple they are providing with a child. Once the child is born, they are raised by the intended parent(s) (CDC, 2018). Different guidelines can be used during the time of surrogacy/pregnancy depending on the country or the surrogacy clinic itself.

In the United States, conversations surrounding Baby M serve as a starting point for national discussion of surrogacy ethics (Bailey, 201; Harding, 1991, 203). The case of Baby M stands out because it was the first to be covered widely in the US media. Much of this media coverage stemmed from the controversial events of the case. Baby M was born March 27, 1987 (Sanger, 2007). In this situation, the intended father and surrogate mother engaged in a traditional surrogacy in which the father’s sperm was artificially inseminated and the surrogate mother offered her own egg. This agreement was negotiated by an attorney and stipulated that the

intended father and intended mother (the Sterns) would raise the child and the surrogate (Marybeth Whitehead) would be paid ten thousand dollars. The case began to get national media coverage when Marybeth Whitehead decided that she wanted to keep the child and fled to Florida with her family to avoid turning the child over to the county. The surrogacy contract was found to be void and the child's custody was eventually awarded to the Sterns because it was in the child's best interest (Sanger, 2007). This context serves to highlight the beginning of media representation of surrogacy in the United States. Surrogacy is still a debated topic in the United States, as seven million American couples experience infertility (Frankford, Bennington, & Greene, 2015). Surrogacy has become an international enterprise and for some years people from the United States utilized the surrogacy services offered in Indian surrogacy clinics.

In India, commercial surrogacy was legal from 2002 to 2018, though inadequately regulated. There are documented instances in which subsidies from the Indian government were given to surrogacy clinics to provide funds for potential international parents' lodging (Huber, Karandikar, & Gezinski, 2018). This could have been a way to boost the Indian economy without legalizing the act of surrogacy. For example, India did not provide any federal laws detailing the ways in which procedures should be executed, contracts should be managed, or the surrogates should be treated. However, it would be remiss not to mention that the Indian government did publish a set of unenforced guidelines, a topic to which this paper will return later.

Coupled with misinformation about the nature of surrogacy, the act of becoming pregnant, itself, allowed for the Indian public to create their own narratives concerning surrogates lives. This is key in a culture that ties childbirth to motherhood very closely (Arvidsson et al., 2017). Motherhood, in turn, is strongly associated with the act of marriage and the practice of monogamy (Arvidsson et al., 2017). Therefore, due to a lack of laws and clear education about

how India regulates surrogacy, misinformation about how a surrogate becomes pregnant might encourage negative feedback. Researchers find such misinformation is causing surrogate mothers in India to experience stigma. Importantly, many of the surrogacy clinics in India are located in lower middle class areas (Huber, Karandikar, & Gezinski, 2018). Coupled with India's long history with colonialism, those who participated in India's transnational surrogacy industry might contend with multiple oppressions.

Further, transnational feminists explain how transnational surrogacy is seeped in a history of marginalization, colonialism, sexism and racism (Pande, 2009). Specifically, postcolonial feminist researchers point out that transnational surrogacy arrangements in India today follow the same power dynamics as those that were in place during colonization—those from the global North commodifying the bodies of those in the global South along the lines of gender and race to achieve an economic goal. In this case, the goal is the production of a child by an Indian surrogate for lower cost than the production of a child in the United States. The purpose of this research is to understand how the practice of Indian Transnational Surrogacy was portrayed in the US media from 2006 to 2015. This span of time includes when transnational gestational surrogacy was legal for all, then restricted based on marriage status, length of marriage and sexuality.

India's surrogacy industry began in 2004 when Rhadha Patel gave birth to her daughter's twins in Anand, Gujarat (Ruparelia, 2007). Rhadha Patel gave birth at Dr. Nayna Patel's Akanshka Fertility Clinic while her daughter lived in the United Kingdom (Ruparelia, 2007). After this, the industry grew exponentially, with over 3,000 fertility clinics in operation in 2008 (Smerdon, 2008). During this time the Indian government promoted the idea of medical tourism – and there was a thirty percent increase in this industry (Bailey, 2011). By 2006, surrogate

pregnancies had produced 445 million dollars (Ghosh, 2006). During the time Indian transnational surrogacy was legal, the industry did not enforce legal parameters surrounding the actual practice (Bailey, 2011). Although the Ministry of Health and Family Welfare created suggested guidelines, many clinics did not adhere to them (Bailey, 2011).

Because Indian transnational surrogacy was an international hub of commercial surrogacy, there have been Indian and international responses to this decision. Importantly, there still does not seem to be internal (within India) or global consensus on which decision would be the most beneficial/ethical concerning those Indian women who participate in transnational commercial surrogacy for work. The Indian government was one of the first to allow commercial surrogacy in general and commercial transnational surrogacy specifically. When it was introduced November 21, 2016, India's Surrogacy (Regulation) Bill exploded conversations about surrogacy globally. This is a key development in light of India's postcolonial history. The goal of the research is to learn about the US media representation of Indian Transnational Surrogacy during the time that this industry was flourishing, from 2006 to 2015. Objectives of this research include showcasing the framing of Indian transnational surrogacy in US media through the use of content analysis of newspaper articles and adding knowledge to the growing global conversation on India's surrogacy market and history as it relates to western capitalist outsourcing techniques and definitions of (re)productive work in a postcolonial feminist context. This research does not include articles written after India banned commercial surrogacy.

### **Surrogacy, Sexuality, and Stigma**

The issue of sexuality creates emotional drain for women working as transnational surrogates in India because they might be associated with prostitution (Pande, 2009). Thus, defining the nature of Indian gestational surrogate mothers' work is complex. Surrogate mothers

in India contend with making decisions in the midst of global inequities remaining after colonization, including living in a young independent economy and facing imperial remnants of British occupation now sealed into such social institutions as government, family, work and caste. Indian surrogate mothers are subject to the social norms in Indian context while the context itself is multilayered. For example, previous research has shown themes surrounding Indian surrogate mothers include: “surrogate mother seen as prostitute, one’s own child through IVF and surrogacy, commercializing motherhood, and surrogate mothers do a good deed” (Arvidsson et al. 2017, pp. 3-4). Additionally, researchers found that many Indian citizens interviewed believed that surrogate mothers gave birth to their own biological child through IVF and surrogacy—and then sold the child. This idea was particularly problematic for those participants (Arvidsson et al. 2017).

The stigma surrounding surrogacy, the idea of commercialized motherhood being separate from marriage, and the possible dubious connotations of sex work and low morality associated with this industry trouble the idea of paid care work in India and a better understanding of “women’s work” globally. The care industry can include many actions and emotions. There are also various names by which this labor can be called including “unpaid care work,” “non-market work,” and “social reproduction” (Folbre, 2000, p. 186). While some scholars define care work through list of activities, others define it through processes. Scholars who define care work through a process approach concentrate on “activities that involve close personal or emotional interaction” (Folbre, 2000, p.186). Through their contributions to the Indian economy, surrogate mothers engaged in care work—and a possible profession. However, since the practice was banned, surrogacy in general, and transnational surrogacy specifically, is no longer a viable occupation in India.

Additionally, the idea of altruistic surrogacy, as shaped in the 2016 Surrogacy Bill that restricted legal surrogacy to that deemed altruistic, has come into question (Majumdar, 2018). In the 102<sup>nd</sup> Report of the Parliamentary Standing Committee, some concerns about the altruistic nature of surrogacy in India state that the committee “is convinced that the altruistic surrogacy model as proposed [2016 Surrogacy] Bill is based more on moralistic assumptions than on any scientific criteria and all kinds of value judgments have been injected into it in a paternalistic manner” (Parliament of India, Rajya Sabha, 2017, p. 27). Further this document states, “[g]iven the patriarchal familial structure and power equations within families, not every member of a family has the ability to resist a demand that she be a surrogate for another family member” (Parliament of India, Rajya Sabha, 2017, p. 28). Last, “[t]he Committee, therefore, firmly believes that altruistic surrogacy only by close relatives will always be because of compulsion and coercion and not because of altruism” (Parliament of India, Rajya Sabha, 2017, p. 28). For these reasons, this researcher is advocating that the Indian Parliament reevaluate its decision to ban transnational surrogacy. Instead, this researcher advocates that the Indian government provide education on methods of surrogacy to the Indian public, create a set of operating and enforceable laws concerning the industry, and that those laws include procedures to ensure that coercion is minimized.

### **Globalization and Coloniality: Less Than Human**

Surrogacy has primarily surrounded white heterosexual couples with enough wealth to pay another woman to carry their child for the gestational time period (Pande, 2009). Common countries from which couples seeking a surrogate include: North America, the Middle East, Europe, New Zealand and Australia; whereas transnational gestation surrogacy frequently occurs in India, Malaysia, Thailand, South Africa, Guatemala, Russia, and the Ukraine (Bailey, 2011).

Operating in conjunction with racism and other structural ills, colonialism also defined geographical areas in which the people were thought of as less than human. In colonial India, Indian citizens were subjected to the rule of British people who believed that those they conquered were more primitive or more aligned with natural elements, less so with rational humans (Pande, 2018). This belief allows those who conquer to imagine those conquered as a resource or commodity. With that in mind, women's bodies can be imagined to be similar to land or other resources understood to be natural and therefore perhaps common (Mignolo, 2011; Quijano, 2000). This problem highlights the ways in which the postcolonial history of India begins to mirror global power structures still in place today under the neo-liberal global economy (Pande, 2018).

Colonization creates a lasting rupture in a country's identity as a whole and affects the citizens in different and lasting ways. Because Europe has been the central focus of what globally is determined to be "rational thought," those outside European margins are imagined as more primitive or possibly "irrational" and this kind of thinking changes the ways in which those people and nation relate with the global economy (Quijano, 2000). Because those outside European margins are imagined to be incapable of "human" (European) rationality and are considered similar to a natural resource, their bodies can more easily be commodified (Bailey, 2011; Majumdar, 2014; Pande, 2011, 2016).

Such ethnocentrism and commodification are problematic, especially in previously colonized countries as it sustains the power and control mechanisms set in place during colonial rule. Some argue that transnational surrogacy in India is exploitative while others argue that the practice is empowering. However, surrogates who participate in or rely on this occupation for survival are impacted by parameters set by lawmakers. Huber, Karandikar & Gezinski (2018)

conducted 25 interviews with individual surrogate mothers at a fertility clinic in Gujarat to determine how they felt about the international surrogacy ban, how they felt that they would be impacted by the ban and ways that surrogacy might affect the possible futures. Ultimately, those surrogate mothers who participated in the study felt that their incomes were being restricted and that childless couples would be impacted due to their lack of access to surrogate mothers willing to help them conceive children (Huber, Karandikar and Gezinski, 2018).

Surrogate mothers might exercise their reproductive freedom by using their bodies as a means of production knowingly; yet there is still a chance that gender and other oppressions play a part in their decision-making. Significantly, Silliman (2004) writes about the parameters in which reproductive justice operates, and these include the long history of women's bodies being policed through societal expectations and stigma associated with sexuality and childbirth. Further, Silliman writes that these power structures are complicated and weighted through additional oppressions occurring from racism, classism, and nationality (2004). This is particularly interesting when looking at the common understandings of surrogacy in rural India, where discussions and definitions of surrogacy are not always transparent. Western women looking for transnational gestational surrogates are part of this dialogue and promote this idea in a different way than Indian women (Fixmer-Oraiz, 2013).

Discourse in the United States surrounding surrogacy suggests US surrogates are believed to performing a "patriotic" and "altruistic" act (Fixmer-Oraiz, 2013). Furthermore, gestational surrogacy in the United States is believed to be an act of "global sisterhood" (Fixmer-Oraiz, 2013). However, discussions in the US concerning transnational gestational surrogacy are stilted in that this view does not account for structural oppressions that shade the decisions that Indian women performing transnational gestation surrogacy experience (Fixmer-Oraiz, 2013).

For example, the idea of “choice” regarding surrogacy labor is imagined differently in the United States compared to the same in India (Fixmer-Oraiz, 2013). Importantly, Lau explains that transnational surrogacy should be viewed through a postcolonial framework (2018). This author shows how transnational surrogacy follows a “systemically Orientalistic set up and structure” (Lau, 2018). Through highlighting the implications of a postcolonial history, Lau points to power structures and inequalities that exist between the West and the non-West. Specifically, she details how British colonization created an uneven power dynamic between India and the West. Additionally, she traces how those inequities are still in place today through the silencing of Indian surrogates’ experiences with choice and the rhetoric around “women helping women.”

### **Motherhood, Reproduction, Care Work, and Paid Work**

Reproduction is closely associated with motherhood—and not paid work (Majumdar, 2018). The current global economy normalizes and moralizes paid work (Limki, 2017, Bataille, 1993; Weber, 2005). This normalization occurs in two ways. On one hand, the need manifests through the desire for shelter, food, or other necessities that require trade or financial exchange (Limki, 2017). Also, this need to can be expressed through a person desire for subjectivity—for identity within their society (Limki, 2017). Humans participating in the institution of work, specifically work for pay, “establish and maintain relations of domination and subjugation” through selling their labor to those who hold the means of production (Limki, 2017). These hierarchies also allow differences in sexuality, race, and gender to impact the level of a human’s subjugation (Limki, 2017, Ehrenreich & Hochschild, 2003, Moghadam, 2005, Sassen, 2002, Spivak, 1985). Further, the subjugation of those with marginalized identities exists on a global scale (Dyer, McDowell, & Batnitzky, 2010). This situation makes it possible for oppressions associated with gender to flourish on a global scale. Importantly, reproductive work can be

associated with sex work, especially if the medical aspects of surrogacy are not fully transparent—and the idea of sexualized care work has been debated (Pande, 2010, 2014).

India is not the only country that has outlawed commercial surrogacy due to the perception that it commodifies the body or disrupts current definitions of motherhood (Majumdar, 2018, Boada, Veiga, & Barri, 2003; Shore et al., 1992). Surrogacy itself might conjure an image of a woman experiencing a stilted motherhood or the commodification of her body. Because of these parameters surrounding the surrogacy agreement, surrogacy clinics assuage both intended parents and surrogates unease through the promotion of gift giving (Majumdar, 2018, Pande 2011). Reproductive labor takes many forms aside from that of childbearing. Reproductive labor also encompasses actions and work associated with doing laundry to ensure family members' success, finding and purchasing or growing the necessary food stuffs to prepare meals as they are needed, doing care work for family and others, and the long term commitment to raising and teaching children to be productive (Glenn, 1992). One argument is that surrogacy should be aligned with “work” and that all such work can be paid (Pande, 2009). If one imagines reproductive justice to be the recognition and the resistance of these actions, the ban on commercial surrogacy could be seen as a way to, again, “regulate” women’s bodies and sexuality.

This is particularly interesting when looking at the common understandings of surrogacy in rural India where discussions and definitions of surrogacy are not always transparent. For example, surrogates in Gujarat, India, on the most popular destinations in the world for reproductive tourism, are not always made to understand fully what is being done to their bodies (Pande, 2009). Research on surrogates’ oral histories highlights their decision making process as they enter into this kind of work—and many detail material needs as an impetus. Further, if

surrogacy is imagined as a means to achieve material items or comfort, then this action can be seen as a profession (Pande, 2009). The intersection between sex work and care work allowed for discussions of stigma in new ways (Pande, 2009).

Reproductive tourism and transnational surrogacy industries carry a history in India as a result of sterilization campaigns. Reproduction in the Indian context also carries a stigma that began during the period after colonization (Pande, 2018). India was one of the nations to institute reproductive controls (Pande, 2018). Indian women were encouraged to think of poverty when considering sterilization (Pande, 2018). One of the ways in which the Indian state (after colonization) thought to control costs was through suggesting sterilization—especially to poor women (Pande, 2018). It is key to point out that before reproduction became a business in India, women in poverty had no access to or experience with the medicalization of childbirth unless it was in relation to the Indian state's desire for their sterilization—until the time that surrogacy/medicalization of reproduction became helpful as (re)production (Pande, 2018). Additionally, there is a scarcity of information concerning Indians who experience infertility. This obscures the struggles of those in India without access to surrogacy and centers the community of transnational gestational surrogate seekers in global conversation (Singh, 2014).

Due to the physical, emotional, and mental intimacy involved in surrogacy, the practice has drawn attention from many (Singh, 2014). Because transnational surrogacy is a form of “labor outsourcing,” the intimacy involved creates a form of cognitive dissonance that complicates this process (Singh, 2014). The US public, specifically, is exposed to surrogacy through national conversations regarding ethical ramifications and feminist critiques of the practice (Singh, 2014, Dolgin, 1997). Importantly, the idea of surrogacy has a history tied to Western beliefs. The idea that the American family would dissolve if surrogacy were to become

widespread is one such belief (Ragone, 1994). Another notion was that women would become reduced to breeders (Rothman, 1988). Yet another view imagines that surrogacy is the equivalent of prostitution using the uterus (Dworkin, 1978). Additionally, other thoughts imagined surrogacy as baby selling (Neuhaus, 1988). There are additional concerns with the sociality surrounding transnational surrogacy as well.

Surrogacy clinics play a key role in creating the social relationship between surrogates and intended parents (Majumdar, 2014). For example, surrogacy clinics link intended parents to the surrogates displaying the physical attributes the intended parents desire. Additionally, clinics might translate conversations between surrogates and intended parents. Before these facilitated conversations occur, intended parents identify their requirements of prospective surrogates. Some of the requirements clinics impose include that the prospective surrogate, “must be between the ages of 21 and 35, be married and have children of their own, demonstrate that their previous pregnancies were without complication, and not have a recent history of substance use” (Limki, 2017, p. 329). Additionally, clinics might translate conversations between surrogates and intended parents. These conversations are key in the decision making process on both sides.

Surrogacy-seekers also need to reinforce social boundaries so that they can, emotionally and ethically, separate themselves from the process of hiring a woman from a historically colonized country to carry their baby to term for less than they would pay in a more developed country. This is in part because surrogates in India are often underprivileged (Vora, 2009). One of the reasons why surrogacy is popular in India is because of the substantial financial gain. Women performing transnational gestational surrogacy will earn nine years worth of wages for one successful pregnancy (Vora, 2009). However, the coloniality of the practice and the current global economic structure shapes the context in which the surrogate makes decisions.

In addition to the more symbolic conditions of care work Indian surrogates perform, there are also material conditions of care work built into this system that do not immediately come to mind. Some women have to live away from their families in order to be properly monitored during their pregnancy. Living away from their families and under the supervision of the surrogacy clinics is a kind of work called “stratified reproduction” (Vora, 2013, Colon, 1995). Traveling to live in another place (or country) in order to care for some one else’s child to turn around and use that wage to care for one’s own children at home reflects the ways in which parents, in order to provide for their children, become caretakers to the children of others in wealthier counties (Parrenas, 2000). This kind of work is similar to that of nannies or maids that migrate to affluent countries in order to send home money for their children’s upbringing. When Indian surrogates cannot afford to travel back and forth from the clinic daily or live close to the clinic, then the surrogate is taking on more caring duties in relation to the child by living at the clinic (Vora, 2013). This can also invite questions about the surrogate’s whereabouts. Families must then figure out ways to explain the surrogate’s absence without inciting the stigma that can be associated with surrogacy work. Further, stratified reproduction highlights the coloniality of transnational surrogacy as it exploits global inequalities (Colen, 1995). This can be seen by the way that reproductive labor was redistributed away from wealthier women with racial privilege in the United States and other places during the time that transnational surrogacy was legal in India (Singh, 2014; Boris & Parrenas, 2010; Ehrenreich & Hochschild, 2002).

### **Surrogate Recourse and the Material Conditions of Indian Surrogacy**

Due to the lack of organization surrounding surrogacy laws in India before the ban many surrogate mothers had little recourse if something happened where they experienced medical problems or did not get paid (Limki, 2017). Additionally, many surrogates who lost their

pregnancies were not compensated for the time that they had spent being pregnant and the physical and emotional toll they experienced (Limki, 2017). While work can provide a space in which people can experience their economic and symbolic power, there are other reasons why people work (Limki, 2017). This includes necessity. Further, sexual and racial difference can widen the gap between those in positions of power and those key resources (Spivak, 1985). Because many of the women who choose to become surrogates are not financially privileged, this intersection of sex and socio-economic status separates them from those with the most power in the Indian government (wealthier males). It is this wealthier, male population who create the formal laws the surrogates must follow. This is problematic, as the transnational surrogacy market in India functioned without federal laws or regulations to guide infertility clinics. Before the 2018 ban of commercial surrogacy, this industry did not have a set of enforced operating procedures and laws. Instead, the industry functioned under optional recommendations set forth by the Indian Council for Medical Research in 2005 in a document called, “Guidelines for Accreditation, Supervision and Regulation of Assisted Reproductive Technology (ART)” (Limki, 2017). The Indian government did not subdue Indian surrogates’ commodification and, instead offered monies to clinics and hospitals catering to international intending parents and other patients in order to try to grow domestic economic stability (Deckha, 2015). Furthermore, knowing that their country had high levels of medical expertise and lower costs for surrogacy than other (western) nations, this government ignored the practice seemingly due to the country’s need for a more stable economy as newly independent state (Deckha 2015). Financial gain was prized ahead of surrogates’ safety and possible experience with stigma (Huber, Karandikar and Gezinski, 2018). Additionally, some surrogate mothers were housed on compounds or hostels as

their medical wellness is documented throughout the duration of their pregnancy (Shetty, 2012). These conditions were also unregulated by the Indian government.

### **Disparities in Surrogacy Pay**

On average an Indian woman working as a surrogate gets 3-4 lakhs per pregnancy, although this price is not uniform (Dey, 2016). While these women are acquiring sums comparable to this, the total fees for a typical transnational gestational surrogacy procedure are 20-25 lakhs. Further, surrogacy allows those women who participate in it an opportunity to enrich their own lives, and research specifically notes that women often report that they use the money to provide education and material homes for their children (Rudruppa and Collins, (2015). These facts are not only a testament to the affordable price of surrogacy in India compared with other countries but also showcase the desire for surrogacy and paid care work in India.

There are differences in prices for surrogacy in India compared to the United States (Bailey, 2009). Indian surrogate mothers are paid between 3,000 dollars and 5,000 dollars to perform commercial surrogacy in India (Bailey, 2009). In the United States, surrogate mothers are paid between 20,000 and 30,000 dollars for the same task (Bailey, 2009). These differences are problematic for intersectional feminists who believe that Indian women are being exploited due to their economic situation and location in a post-colonial country and as women of color who are experiencing poverty. With the world market moving towards a global neoliberalism with patriarchal capitalism in the center of decision-making, it is difficult to take these very different payment amounts out of that context. However, Indian women who decide to become surrogate mothers should have the ability to exercise their own agency. When imagining this from a western perspective, Western feminists might not understand why Indian women would

choose to undertake a task for which they appear to be grossly underpaid. However, for each pregnancy a surrogate mother in India completes, she is earning approximately what she would have earned in ten years time (Bailey, 2009).

In contrast, another view is that work places more emphasis on the neoliberal aspects of capitalist accumulation when discussing race and economy (Gabriel and Todorova, 2003). That is to say that an Indian woman's race impacts her experience of stratification. If this logic is applied to transnational gestational surrogacy trade, then individual experiences of surrogacy could be combined to highlight the racial division of work under a global, Western, patriarchal, neoliberal, capitalist economy, and might have a larger impact on global politics than just an individual's single choice (Gabriel and Todorova, 2003). Humans live in groups and as socialization occurs the multiplication of choices can determine more macro-level decisions or operations. To live in a social world is to experience economic decisions as part of political or cultural struggles (Gabriel and Todorova, 2003). Because humans exist and live together in societies, humans interact regarding the material goods needed for survival and this can be understood as economics. Surrogacy allows those who work in that industry to have the money to participate in the Indian economic system. Those women who become surrogates do so within the context of Indian politics or power-relations. There the Indian women experiencing the need for economic security are also experiencing a social position as shaped by experience of sexism, racism and post-colonial life. In this way structural oppression is a part of an individual's decision-making and agency. Gabriel and Todorova (2003) explain that the racialized nature of work might have an impact on whether an Indian woman participating in transnational gestational surrogacy feels that she is being exploited or not. Because of the negative experiences of racism and the developing of a racial consciousness, Indian women might consider themselves

lucky to receive a smaller amount of payment than a white surrogate in the United States might receive for their labor in surrogacy. At the same time, the value of Indian women's labor is considered less if those who are paying for it, the intended child's parent(s), pay Indian women less than they would pay a white woman. Therefore, the Indian surrogate mother's experience is racialized and her labor is outsourced.

Further, globalization has changed the ways in which people from across the world work together and researchers are studying how this global workforce creates and manages marginalized peoples (Dyer, McDowell, & Batnitzky, 2010). Those whose identities place them on the margins of the global western capitalist patriarchal system experience globalization differently from those whose identities allow them to benefit from global outsourcing. Specifically, the practice of subcontracting allows those companies to make the most profit from the work of those in less privileged social locations. This practice is a global phenomenon and can be applied to the idea of transnational surrogacy. If intended parents do not want to pay the price of a surrogate in their country then those intended parents can “shop” for a less expensive surrogate by making contact with surrogacy clinics in developing countries where the exchange rate will allow them to pay less for the same services.

### **“Choice,” Structural Violence, and Oppression**

Another issue involved in the debate around the idea of transnational gestational surrogacy is the friction between surrogacy and economic wellbeing. To some, the choice to participate in surrogacy should be left up to individual agents and informed choice could be a result of specific regulation—not a ban (Dey, 2016). A ban does not create an environment that would promote open communication that would facilitate informed choices, enabling individual Indian women are to make informed choices about participating in transnational gestational

surrogacy (Dey, 2016). However, this is subjective. Though work is associated with morality within a capitalist framework, specifically through the perpetuation of “work ethic,” this might be a myth to achieve profit (Limki, 2017, Weeks, 2011). Those who decide to work in surrogacy in India could feel a moral obligation to work and, depending of their social and geographic location, might have to utilize relevant choice. While the idea of choice is situational and contextual, those who put forth the idea that choosing surrogacy as a way out of poverty is due to structural oppression only and not individual agency are too simplistic (Dey, 2016). Further, the idea that surrogate mothers are being exploited due to Western privilege without any consideration for their own agency is highly problematic (Dey, 2016). While the decision to become a surrogate is housed within colonial history and the context of global transnational capitalism, surrogate mothers may still experience agency in that decision making process. Much of the academic discussion surrounding surrogacy often obfuscates the facilitated relationships between surrogate mothers, intended parents and clinics (Majumdar, 2018). This can be an empowering experience, an alienating one or anywhere in-between—but it is based in the sociality practiced between all parties (Majumdar, 2018).

There are also possibilities for oppression during the progression of activities surrounding conception, pregnancy and birth. For example, surrogates are taught to imagine their uterus as an empty room (Vora, 2009). If they are not currently pregnant with a child that is staying in that “room,” they can choose to rent it out. In this way, the surrogates are taught that their bodies are commodities (Vora, 2009). As stated, Indian women are particularly susceptible to this kind of violence because of possibility of intersectional identity. Indian women who chose to perform transnational gestational surrogacy due so in a context that includes colonialism, racism, sexism and neoliberalism. Furthermore, according to the 2016 National Family Health Survey by the

Indian Ministry of Health and Family Welfare, Gujarat, a widely known and very popular location for commercial surrogacy, medical tourism and reproductive tourism, has experienced an almost overwhelming overhaul in standards of living. Medical tourism occurs when people travel outside of their home country to attain medical attention or to rest (Saravanan, 2010). Reproductive tourism works in the same way, only focused on reproductive needs. After becoming a hub for these transnational needs, the state of Gujarat has experienced such improvements as better access to electricity, sanitation, and clean fuel for cooking. These improvements reflect the money flowing into this poor area of India through surrogacy opportunities. Women undertaking this work are using the money they receive to make lasting improvements in their children's and families lives. However, there is no such change in the level of education for girls and women. This discrepancy leads researchers to question how much agency women, as a whole, are gaining from the surrogacy enterprise. Perhaps the changes might not occur for generations or perhaps women's bodies are being used exploitatively.

There are risks to surrogacy on a more macro sociological scale (Dey, 2016). In fact, there are several systemic problems that wide spread transnational gestational surrogacy could support. First, the author notes that there are possible financial risks associated with the surrogacy if the child born through this process is abandoned (Dey, 2016). Additionally, it is important to note that there is a subset of surrogates who perform multiple pregnancies and whose emotional and physical toll is therefore multiplied accordingly (Dey, 2016). Last, if the surrogate mothers are busy or absent having surrogate children then the mother's children might suffer neglect (Day, 2016). The global economy was affected by the provision of unfettered access to surrogate mothers without enforced rules or regulations to protect them and thus India became one of the world's most popular locations for commercial surrogacy (Huber, Karandikar

& Gezinski, 2018). This is especially striking when one begins to understand the level of impact Indian surrogate mothers are having on the world's population. For example, one thousand children are born to Indian surrogate mothers each year with intended parents in the United Kingdom (Blyth, Crawshaw & van den Akker, 2014). These situations show the need not only for enforceable laws protecting intended parents and children born through transnational surrogacy, but also surrogates.

### **Media Representation**

The idea of media representation is multifaceted and its execution can weave information into societies for various purposes—some obvious and others less so. Importantly, media representation cannot be a neutral message; there is always something that prompted a person to create it (Branston et al., 2010). If these messages are widespread and perpetuate or challenge norms, those creating them can contribute to societal change or stagnation. In this way, those who create messages have power and influence over others' realities. Due to socialization, there is the possibility that those creating media messages can reflect unconscious bias and even stereotypes. As much as those creators would like to invent something unique and unaffected, they are anchored in their society and, as such, experience their humanity through that society's lens first. Additionally, those who create images have the power to showcase certain types of images repeatedly (Branston et al., 2010). By doing so, those with the power to decide what images people in a given society see (and how much they see them) can change how their audience understands the people and ideas being represented. For example, if a group of media creators decided to portray a specific group negatively and then repeated this portrayal over a number of years, the audience might believe that this constant representation is a true reflection of reality. Further, a lack of representation might lead a group to be marginalized and experience

alienation (Branston et al., 2010). A lack of representation could signal that a certain group is not embraced by society, and media creators do not find that group as important as other groups.

Indian transnational surrogacy is a topic about which many scholars have written. Though there is a dearth of scholarly articles written in the US that focus on the media representation of Indian transnational surrogacy in news items, there are other kinds of media that have come under review. For example, Maierhofer's 2014 article, "Indian womb – German baby: transnational gestational surrogacy in the film *Monsoon Baby*," highlights the treatment of transnational surrogates in India. Maierhofer (2014) argues that the film takes a stance against transnational surrogacy in India as it depicts Indian women's exploitation. Further, while there have been "movies, films, blogs, documentaries and other representations" of Indian transnational surrogacy, a systemic analysis of US media concerning this topic is still needed (Lau, 2018, p. 666). This researcher was inspired Lau's 2018 article, "A Postcolonial framing of Indian commercial surrogacy: issues, representations and Orientalisms." Lau's work explores the ways in which scholarly articles depict Indian transnational surrogacy. Lau delves into the global intellectual conversation concerning Indian transnational surrogacy, analyzing peer-reviewed articles and detailing how Orientalism manifests. Lau also examines an article on Oprah.com named "Journey to Parenthood." This article follows a couple's experience with transnational surrogacy in India. Lau explains that this popular media article, too, demonstrates the subjugation of Indian women performing international surrogacy through the act of silencing.

Additionally, researchers have looked into how intended or previously intended parents become "market actors" in this industry. For example, former intended parents might post blog entries about their positive experience with transnational surrogacy in India and current intended parents might read these blogs and become more convinced of the positive morality of their

choices. Researchers Rudruppa and Collins explain that these “market actors” serve to normalize the industry when others believe it to be “exploitative” (Rudruppa & Collins, 2015, p. 937). These researchers conducted “in-depth, semi-structured interviews with eight heterosexual and 12 gay individuals/ couples availing infertility services in Mumbai, Anand, and Delhi in 2011-2012” (Rudruppa and Collins, 2015, 943). Interestingly, those intended parents provided framing for their participation in this industry through morality. For many of these intended parents, a blog or other form of media in which other parents detail their own experiences with Indian transnational surrogacy shaped this frame. In Rudruppa and Collins’ work, all of the intended parents were from Australia or the United States, signaling that a transnational surrogacy arrangement would have been necessary if the parents hired an Indian surrogate. These blogs act as “public diaries” and, as such, shape intended parents’ views of transnational surrogacy in India (Rudruppa and Collins, 2015, p. 944).

Two of the most common moral frames to emerge from these researchers’ interviews are “liberating Indian women from patriarchal control through access to wages” and “surrogacy allows infertile couples reproductive rights while simultaneously helping working class Indian mothers provide for their own children” (Rudruppa and Collins, 2015, p. 949). Last, Lewis (2019) examines how Dr. Nayna Patel, a celebrity physician who headed up a transnational surrogacy clinic in India, re-cast surrogacy as the efforts of capitalists (Indian surrogates) who excel through the aid of philanthropists (doctors). Lewis cites multiple interview headlines that speak to this media representation such as, “ Giving a new life to many a childless couple and a livelihood to women” (2019, p.16). This research showcases how those medical professionals who stand to make the most profit from Indian transnational surrogacy purposefully shaped their media messaging to preserve the industry. This extends Rudruppa and Collins’ (2015) idea that

through very careful “moral framing” those who profit from transnational surrogacy in India maintain that “compassion and altruism” are the impetuses behind this industry’s success.

The researcher has not been able to find any articles about the media representation of Indian transnational surrogacy in the United States focusing on news items. The researcher hopes that this work will not only fill a void in the global conversation surrounding the topic, but also bring awareness to the topic itself within the United States. It is the researcher’s hope that this paper will aid in arguments for a more thoughtful consideration of the Indian government’s stance on transnational surrogacy and the laws that follow from that ideology. Specifically, this researcher hopes that this paper will contribute to global discourse regarding transnational surrogacy in India. The researcher writes with the hope that more conversation surrounding this topic will encourage awareness of the need for enforceable legal recourse for surrogates on all matters concerning their own bodies, health, location, and fee.

### **Implications**

This researcher believes that this project will aid in the awareness of Indian transnational surrogacy—the practices associated with it legally and the changes that need to be made to ensure the ethical treatment of transnational surrogate mothers in India. This researcher believes that this paper’s dissemination will impact the ways in which those living in the US understand US media representation of transnational surrogacy. Specifically, the researcher hopes to apply postcolonial feminist theory to the media representation of transnational surrogacy in India focusing on US news items. This lens will add to the global dialogue concerning this topic, as it will focus only on news items. Additionally, while postcolonial feminist theory has been applied to scholarly and some media representations of transnational surrogacy in India, there has not yet been a study only focusing on how news items in the US could be synthesized through this

theoretical approach. Last, furthering research on this topic will aid in the awareness of Indian transnational surrogates experiences and need for enforceable laws that govern this industry.

## **Theory**

This researcher employed Postcolonial Feminism as the theory from which to view transnational gestational surrogacy as a social phenomenon. However, context is needed to imagine the current discussion of the idea of work within feminist conversations. Within the lens of feminist theory, this researcher will focus on postcolonial feminist theory. Postcolonial feminism centers on both past and present identities, oppressions and privileges, and relationships (Kerner, 2017). Both of these theories call for political change and imagine overcoming inequality and a more equal dispersal of power (Kerner, 2017). Importantly, postcolonial feminists debate the quality with which global conversations about and among feminists occur.

Rudruppa and Collins document two moral frames, “surrogacy liberates and empowers Indian women from patriarchal control; and surrogacy furthers reproductive rights” (2015, p. 937). These scholars used “interview data with eight infertility specialists, 20 intended parents, and 70 Indian surrogate mothers as well as blogs and media stories” (2015, p. 937) to find how transnational surrogacy was being framed morally through media. Rudruppa and Collins discuss how “the moral frames of altruism and compassion are not incidental to but systemic of transnational surrogacy” (2015, p. 38). Other scholars have found surrogacy to be framed through a feminist lens, specifically grounded in capitalism. Lewis illuminates the ways in which Dr. Nayna Patel frames surrogacy as a less painful and more lucrative occupation than traditional forms of physical labor or domestic work (2019). Lewis zeros in on how advocates for transnational surrogacy disguise racism as philanthropy (Lewis, 2019). The idea that a Western

person might pay a non-Western person for something when it is easily found in the West could impact how commissioning parents experience their decision to employ and Indian surrogate mother. Specifically if the couple feels that they are giving money to support the Indian surrogate mother and her family, the commissioning parent(s) might feel as though they are being charitable.

Power differences between the West and India (as Orient) are reappearing through transnational commercial gestational surrogacy (Lau, 2018). Further, the social positioning of India allows for exploitation of the previously colonized and currently vulnerable in India (as Orient). Additionally, nations outside of India, by hiring and outsourcing Indian surrogates for a considerably lesser fee than that which those surrogates in the West require, “perpetrate and reinforce neo-colonial power relationships in this industry” (Lau, 2018, p. 668). No only does this researcher argue in favor of Lau’s theory—that surrogacy work is repeating Orientalistic patterns, but also agrees with Lau that Postcolonial Feminism can illuminate some of the ways in which imperialistic and colonial power structures still impact the media representation of Indian surrogacy. Because surrogacy work is gendered, various feminist theories have been applied to this phenomenon. In this paper, the researcher chooses to look at Indian Transnational Surrogacy through the lens of postcolonial feminism.

According to Lau, “postcolonial feminist theorization is particularly instrumental in pointing out that women in non-Western countries have been misrepresented, silenced, or distorted in representation” (2018, p. 669). This misrepresentation can occur as the US media portrays Indian surrogacy as a way in which “women can help women.” Specifically, when discussing the discrepancies in payment between Indian surrogate mothers and Western surrogates born in the United States, the idea of inequality and poverty emerge, as discussed

above. Postcolonial feminism posits that in their representation, non-Western women must contend with “their patriarchal culture”, and “the (ironically paternalistic) universalizing tendencies of mainstream Western feminism” (Lau, 2018, p. 669). This last point is specifically valid as couples in the US were made to believe that they are helping Indian women better their lives instead of focusing on the discrepancy in pay between Western and non-Western women. Additionally, due to the lack of regulations in place during the time transnational surrogacy functioned at its height in India, there were more health and safety risks associated with becoming a surrogate mother. Importantly, the idea that they were helping women in poverty allowed commissioning parents to feel better about paying an Indian surrogate mother less money for the services she rendered with higher risks (Fixmer-Oraiz, 2013). Last, as “postcolonial subjects Indian surrogate mothers experience a silencing” that is different than the layering of identities intersectionality offers due the way in which intersectionality works with the concept of nationality (Kerner, 2017). By emphasizing how nationality can obscure history, the lens postcolonial feminism provides allows this researcher to begin to understand how subaltern women may be silenced even as they are the subjects of global conversation and news. These representations, as they are, obfuscate the reality of Indian surrogates lived experience concerning their global and social positioning. Although there is some representation of Indian surrogate mothers in the sample, there are not enough first hand accounts of Indian surrogate mothers lived experiences as they participate in this industry.

Chandra Talpade Mohanty (2003) puts forth the idea that Western feminism can homogenize non-Western women’s experiences and beliefs. Her essay “Under Western eyes: Feminist scholarship and colonial discourses,” showcases the unequal distribution of power among various feminisms and details how nationality can create hierarchies in the global

conversation and ideological definition of feminism. This article is included in her monograph, “Feminism Without Borders.” Some of the issues Mohanty illuminates include the idea that Western women make assumptions about how women outside of the West understand themselves, the assumption Western women make that women outside of the West imagine gender the same way Western women do and thus, want the same results from a feminist movement, as well as how Western feminists do not place non-Western feminism into a postcolonial or historical context outside of the Western one in which Western feminists operate (2003). Further, western feminists lack of context allows them to make assumptions about the oppressions of women outside the west in uninformed ways (Mohanty, 2003). Some of these assumptions include the notions that women outside the west *all* live in poverty, do not have opportunities to be educated, and do not veer from traditions because they are from a “Third World” (Mohanty, 2003). Specifically, Mohanty troubles how Western women have written about “women” as though that is a homogenous group with the same goals (2003). Importantly, Mohanty is an advocate for transnational feminists; yet, she is “highly critical of the homogenizing concept of a global sisterhood” (Kerner, 2017, p. 856). This is a key point, as many Western women believe that they are participating in such a sisterhood as they employ Indian surrogates. Specifically, the researcher focuses on how colonial experience and postcoloniality impact how global power structures silence Indian surrogate mothers through tracing the neo-coloniality imbedded in transnational Indian gestational surrogacy. Those in the West who pay transnational gestational surrogates in India (the non-West) less than what they would pay those also living in the West perpetuate Orientalistic methods of global commerce (Lau, 2018).

Colonialism is rooted in the capitalist imperative. Work as an activity necessary to live in a capitalist society. Without payment of some kind, workers do not have opportunities to buy things such as shelter, food, and water (Marx, 1976). In a capitalist society, paid work is valued higher than unpaid work as marked by the presence of monetary gain on the behalf of the worker (Marx, 1976). In this way work can be understood as a binary with those who hold the means of production (employment opportunities) on the more positive side and those looking for work on the negative side of this relationship (Marx, 1976). However, even paid work exists on a spectrum of value due to the amount of money ascribed to different positions (Proudford & Nkomo, 2006). Positions earn various salaries and hourly rates, depending on the expertise that a person needs to be able to complete a specific kind of work (Proudford & Nkomo, 2006). However, this is not the only way in which work and working is demarcated (Proudford & Nkomo, 2006). Globally, depending on a person's sex, gender and social location, work is experienced differently. For example, problematic power relationships regarding sex, race and gender have been shown to repeat themselves in the workplace (Proudford & Nkomo, 2006). As stated above, reproductive labor, as such, does not secure payment, and the women undertaking this work in India are taking risks in regards to their compensation depending on the viability the children produced. Reproductive work should be seen as work proper (Pande, 2009).

With the spread of globalization, or more specifically, with neo-liberal globalization market practices, problematic ideologies have repeated themselves to a larger extent than they have ever done before. As access and connection to global populations those with privilege have been able to secure wide reaching structural inequities. These inequities mirror those established by colonialism. By establishing markets that pay Indian women less money to produce a child or no money if they do not produce a child, international surrogacy as a business maintains the

coloniality of the relationship between India and the so called western world (Limki, 2017) By not validating the reproductive labor of Indian women as equal to the work of western surrogates, global surrogacy companies are perpetuating coloniality in India.

Colonization created relationships based on “subjugation and domination” (Limki, 2017, p. 327). While these relationships are broadly based on nationality, “class, sexual, racial, and gender biased oppressions can intensify the ways in which colonization is experienced (Limki, 2017, p. 327). Specifically, the experience of being Othered can be problematic process for groups of people when it curtails their opportunities. For example, “historical effects of colonial logic postulate gender, sexual, and racial Others as sites of domination and exploitation, and thereby naturalizes them as objects of subordination in work” (Limki, 2017, p. 327). Work, as described above, is a reflection of beliefs in the modern age of capitalism. However, difference or “Otherness” is not created at work, but rather, work highlights the ways in which difference or marginalization appear in the context of work (Limki, 2017). Because capitalism calls for work to be the modality through which humans show their morality, those who are subjugated can become exploited if work occurs after a colonial history. In the case of transnational gestation surrogacy in India, the ontological differences between intended parents and surrogates allowed the success of the transaction to exist as such (Limki, 2017). As discussed, the sociality surrounding the relationship between intended parents and surrogates was curated carefully by fertility clinics. This relationship building was occurring within the revitalization of the Indian economy after colonization country seems like a good one; yet, the ways in which surrogacy implores non Indians to invest financially relies on the idea that Indian mothers are somehow heartbroken figures with terrible lives who need to provide for their families (Limki, 2017). This trope allows intended parents to feel that they are saving Indian women. Further, while some

endorse Indian surrogacy as a global sisterhood, others believe that there is not such a thing. Because women are born into certain positions of various privileges, women on the margins of eurocentrism are Othered (Mohanty, 2003).

Circling back to the idea of sterilization and the medicalization of reproduction, non-Indian life was being prized over Indian life before the ban on surrogacy. Ecofeminist and postcolonial theorist Vandana Shiva explains western emphasis on scientific and economic advancement is dangerous as it develops without the same respect and care for all living entities (1989). Thinking like this, that is devoted to “progress” at all costs can damage human as well as non-human life. This can also apply to “progress” in terms of medicalization and reproductive science. Because nature has been commodified under colonialism, those who are associated with it (due to scientific eurocentrism) are also at risk of being exploited as a means of the perpetuation of the colonial system of domination and subjugation, especially as a result of the capitalist, imperialist venture of Great Britain. Specifically because there is a market for Indian women are having babies for others instead of themselves (in some clinics there are limits to the number of children surrogates can have of their own) Indian life is starting to be replaced by non-Indian life globally.

## **Methods**

### **Research Question**

This researcher utilized qualitative methods to examine transnational Indian surrogacy as depicted through US media. This study allowed the researcher to understand how documents written and published in the US contributed to the ways in which people living in the United States imagine Indian transnational surrogacy. In this study the researcher learned how US media coverage portrayed Indian transnational surrogacy from 2006 through 2015. This timeframe was chosen because it allowed for the widest breadth of articles within a ten-year span before the ban on Indian transnational surrogacy. This researcher only focused on the social representation of Indian transnational surrogacy before the practice was banned.

### **Research Design**

In this study the researcher “examined documents” (Creswell, 2018, p.181). Qualitative studies allow researchers to study and learn about social phenomena through the examination of documents. Further, through this examination researchers can understand how the social representation of Indian transnational surrogacy in the United States was formed and disseminated from 2006 through 2015. Although not generalizable and speak only to this project, qualitative research creates opportunities for a greater depth of understanding of the phenomenon. Qualitative researchers will look for emerging “patterns or categories” and then organize them into “codes or themes” that can be recognized throughout their data (Creswell, 2018, 181). Qualitative researchers need to maintain their role as observers and not ascribe their own meaning to information in the dataset. Broadly, qualitative design is emergent and cannot be unequivocally described as the themes or research question may change once the researcher begins or continues to collect data. Qualitative researchers need to express how their own lived

experience might direct the findings of the study. This includes naming possible biases and personal experiences previous to the study. In trying to represent a more nuanced reflection of a complicated human experience, the topic of the study, qualitative researchers often include a visual representation of their research so that readers can better understand the topic.

### **Reflexivity**

My relationship to Indian Transnational Surrogacy surrounds the ideas of commercialization and commodification of women's bodies as a means of production (Marx, 1976). This is especially true when a woman's class or caste is not a privileged one. I came to be interested in this topic when Amrita Pande spoke about it in a lecture I attended at Wright State University in 2015. Later I learned that Pande is prolific in her study of Indian transnational surrogacy and thus, I have given her epistemological favor in the literature review section of this thesis. Additionally, because she has many publications on this topic and I have read many of them, this work might reflect that experience. I am aware that I am a cultural insider in the United States of America and simultaneously a cultural outsider in India. I am a white, US citizen, who identifies as female, with a working class background, and a first generation college student. I am not a mother; however, I have been a co-parent in the past. In my role as a co-parent I experienced unpaid care work and emotional labor in addition to great happiness.

### **Sample**

The researcher used purposive sampling. Purposive or judgmental sampling is "a type of non probability sampling in which the units to be observed are selected on the basis of the researcher's judgment about which ones will be the most useful or representative" (Babbie, 2016, p. 187). My sample was collected from the online database Nexis Uni. To get the sample, the researcher sought for articles in the Nexis Uni online database of newspaper articles using the

search term “Indian Surrogate Mother,” listed under “news,” and published between January 1, 2006 and January 1, 2015. The results were narrowed by publication location. The publication location was The United States of America. When searching “under all fields” in the Nexis Uni, the database pulled all articles with the search term included anywhere in the document. The researcher found thirty-six news items. Six were eliminated, as they were duplicates, leaving thirty to be coded.

<p>Allen, C. (October 7, 2013). Womb for rent: The brave new world of childless couples, enterprising lawyers, and surrogate mothers. The Weekly Standard. <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:59FM-H0K1-JBRW-21WY-00000-00&amp;context=1516831">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:59FM-H0K1-JBRW-21WY-00000-00&amp;context=1516831</a>.</p> <p>Genre: Magazine</p>
<p>'Babies born to Indian surrogate mothers may be unable to leave the country after New Delhi changed rules on surrogacy'. (March 8, 2013 Friday). NAMPA (Namibia Press Agency). Retrieved from: <a href="https://advancelexiscom.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:57XK-12F1-F03R-N52V-00000-00&amp;context=1516831">https://advancelexiscom.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:57XK-12F1-F03R-N52V-00000-00&amp;context=1516831</a>.</p> <p>Genre: Web Blog</p>
<p>Bilker, J. (March 31, 2010 Wednesday). Closing This Weekend. Chicagoist. Retrieved from <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:7Y4K-0FX0-YB00-H2DD-00000-00&amp;context=1516831">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:7Y4K-0FX0-YB00-H2DD-00000-00&amp;context=1516831</a>.</p> <p>Genre: Web Blog</p>
<p>Child born to surrogate in India in legal limbo. (August 6, 2008 Wednesday). Associated Press Online. Retrieved from <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4T59-40T0-TWCX-P1G9-00000-00&amp;context=1516831">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4T59-40T0-TWCX-P1G9-00000-00&amp;context=1516831</a>.</p> <p>Genre: Newswire</p>
<p>Chopra, A. (April 3, 2006). Childless couples look to India for surrogate mothers. Christian Science Monitor. Retrieved from <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4JMF-3FM0-TX2W-X2SJ-00000-00&amp;context=1516831">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4JMF-3FM0-TX2W-X2SJ-00000-00&amp;context=1516831</a>.</p> <p>Genre: Newspaper</p>
<p>COMMITTEE ON RIGHTS OF CHILD EXAMINES REPORTS OF INDIA UNDER THE CONVENTION AND PROTOCOLS ON CHILDREN IN ARMED CONFLICT, SALE OF CHILDREN. (June 3, 2014 Tuesday). States News Service. Retrieved from <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:5CBV-YWC1-JCBF-S0KY-00000-00&amp;context=1516831">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:5CBV-YWC1-JCBF-S0KY-00000-00&amp;context=1516831</a>.</p> <p>Genre: Newswire</p>
<p>Editor's Note. (October 1, 2007). Marie Claire. Retrieved from <a href="https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4R8H-7G90-">https://advance-lexis-com.ezp.waldenulibrary.org/api/document?collection=news&amp;id=urn:contentItem:4R8H-7G90-</a></p>

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## Data Analysis

The researcher used flexible coding (Deturding & Waters, 2018). This process includes reading line-by-line and word-by-word to search for categories both deductively and inductively (Deturding & Waters, 2018). The researcher looked for anticipated categories as well as others that emerge. This study performed a qualitative content analysis using both inductive and deductive approaches. Content analysis is “the study of recorded human communications, such as books, websites, paintings, and laws (Babbie, 2016, p. 323). Further, by employing inductive methods the researcher made a “specific set of observations and find a pattern that represents some degree of order among all the given events” (Babbie, 2016, p. 23). Additionally, by utilizing deductive reasoning the researcher found common themes discovered in the literature review in mind, expecting them to occur, and then “observed if the expected pattern actually occurs” (Babbie, 2016, p. 24). This process included multiple readings of each of the news items, each time examining how the reoccurring topics in each article relate to each other. This study used content analysis to find themes in the US media representation of Indian surrogate mothers. I focused on conceptual content analysis—that is, the presence of specific terms within a body of selected texts (Carney, 1972). To code the articles, I read each article and identified areas that depict a certain idea and write that idea in the paper margins (Rossman & Rallis, 2012). I had several expected codes based on previous research and my theoretical perspective, these include: “race,” “colonialism,” “sex,” “gender,” “caste,” “class,” and “poverty.” I also focused on more general descriptions of surrogacy either as a “loss” or a “gain.” Those coded as a loss will include statements about transnational surrogacy that are negative. Those general descriptions of transnational surrogacy coded as a “gain” will reflect positive descriptions of this subject. This “gain/loss” coding is based on previous research accomplished by Van den Akker et al. in the

2016 article, “This neo-natal ménage a trois: British media framing of transnational surrogacy.”

The researcher read for patterns concerning media portrayal of India’s transnational surrogacy market. I used an observation protocol in which I write down words that occur multiple times throughout the articles on one document. I kept a separate page for notes concerning personal thoughts (Creswell, 2018). I worked to limit themes to between five and seven (Creswell, 2018,). By doing this, I narrowed and streamlined the data (Guest, MacQueen, & Namey, 2012).

## Results

The researcher used Flexible Coding to search for previously designated codes (words) and document emergent codes (words) as they arose. Code numbers were dedicated to specific words before research began and as words began to repeat, additional codes were established. The original codes were: Race (Asian, Caucasian, and South Asian) Nationality (Indian, American), Sex (Male, Female), Colonialism (Colony, Economy, and Independence) Gender (Gender Roles, Motherhood, Birth, Caring for Children), Caste (Lower Caste, Higher Caste), Class (Lower Class, Higher Class), Poverty (Building, Home, Education, Money made in a period of time), Gain (positive depictions of Transnational Gestational Surrogacy in India), Loss (negative depictions of Transnational Gestation Surrogacy in India), and Stigma. Throughout the coding process some of these words or concepts that appeared in the news items collected.

Many of these pre-established codes were found. Further, the analysis includes emergent codes. Codes were grouped into themes encompassing a larger discussion. After reading the news items specified for this project and separating those that were duplicates, the information discussed and disseminated through publication in the United States manifested four themes.

Law was the first theme to emerge. The code words composing this theme were related to populations banned from commercial surrogacy in India. Much discussion specifically surrounded populations that were legally banned from participating in transnational commercial surrogacy in India, travel visas required to legally leave India with a child by a surrogate and the need for the more regulation in the industry. The codes that make up this theme are travel documents, visas, ban, law, same sex, sex, single, married for two years, nationality, motherhood, and adoption. These descriptions were coded as “loss” or negative media portrayals of transnational surrogacy in India. The second theme is money made in a certain period of time.

This theme manifests through emergent codes including surrogacy cost, exploitation, globalization, economy, global, outsource, and surrogates pay. This theme also addresses how surrogates responded to questions about how they planned to use the money they received for their work as such. Much of these discussions include the words house, building, education, future or children. In this discussion authors wrote about the relationships between surrogates and intended parents on a global scale. These codes and this theme have are not coded with a loss or gain as the articles were ambiguous about the process of transnational surrogacy in India. The third theme is surrogate health and includes the words, hotel, hostel, diet, prenatal care, pregnancy care, and Dr. Patel's house. This theme was not coded as a loss or a gain. There is an ambiguity due to the restrictive nature of living situations described in the articles; yet, there is an option for prenatal and pregnancy healthcare. The fourth theme is intended parent desperation for children. The word desperation manifests repeatedly. This theme was not coded as a loss or a gain.

## **Law**

Throughout the articles, a discussion of the laws and regulations surrounding transnational surrogacy appeared. Restrictions on populations legally allowed to participate in this industry occurred through a series of decisions made in India. Transnational surrogacy in India was limited by many factors that impacted surrogates' options for work and intended parents' access to the industry in India.

In January of 2013, India began to place restrictions on intended parents they would serve (Allen, 2013, p. 7). At this time, India banned commercial surrogacy practices involving "foreign gays, foreign unmarried heterosexuals, and foreign married couples married for less than two years" (Allen, 2013, p.7). Additionally, in India, surrogate parents "must legally adopt

the baby after birth before taking it home” (Associated Press, 2008, p. 2). In an article published by Newstex on January 23, 2013, the author shares, “If you are a gay couple or a single man or woman, looking for a surrogate then India’s no longer the place for you” (Health. India.com, 2013, p. 2). The article itself was titled, “No Indian surrogate if you’re gay, unmarried or single” (Health. India.com, 2013, p. 1). As these regulations were being considered, news items documented the change. For example, one author records Dr. Sudhir Ajja’s thoughts on this topic. Dr. Ajja was working at Surrogacy India at the time he made the statement, “There is a need to regulate the sector” and he continued, “But if the new law tightens rules as suggested by the ministry of home affairs, which disallows surrogacy for same sex couples and single parents, then it will clearly impact industry and put off clients from overseas” (India Builds World’s First Baby Factory; Mulls over Regulating Flourishing ‘Rent-a-Womb’ Industry, 2013, p. 3).

Regarding the tightening of regulations in India, there were many responses. Statements included, “Same sex couples are being recognized all over the world and India needs to do the same” (Health. India.com, 2013, p. 2). In one news item, an American surrogate mother remembers, “I’ve carried twins for a male couple and I’m considering my second surrogacy” (National Public Radio, 2010, p. 6). Additionally in a 2010 news items the writer explains, “Same-sex couples, single parents and even busy single women who just don’t have time to give birth are welcomed” (Fontanella-Khan, 2010, p. 2). Further, one news item is titled, “PlanetHospital™ Helps Gay Couples Discover Having Children Via Surrogacy in India: Free Presentation/ Surrogacy Seminar Series” (PR Newswire, 2009, p. 2). This news item also includes the following statement, “The Gay community along with PlanetHospital™ is embarking upon a quiet revolution regarding a secure, permissible, affordable, and frustration-free journey to parenthood. Gay couples are going to India to have children that are legally theirs

and avoiding the hassles and costs involved with adopting or having a surrogate in the U.S.” (PR Newswire, 2009, p. 2). This particular agency, Planet Hospital advertises itself specifically as an advocate for gay parents. The author includes a quote from Rudy Rupak, Co-Founder and President of PlanetHospital™. According to this news item, Rupak stated, “Now same sex-couples can exercise their right to have a family, even if their right to legally marry has been denied” (PR Newswire, 2009, p. 2). The article also highlights Dr. Gautam N. Allahbadia, Director of Rotunda- The Centre for Human Reproduction in Mumbai, India. Dr.Allahbadia, “has successfully assisted seven gay couples from the US to have children of their own from his ISO Certified clinic in Mumbai, India (PR Newswire, 2009, p. 2).

There is a possibility that children born to surrogate mothers could be unable to leave India. This could occur if India does not legally recognize the parent or parents, and will not grant the child a passport (Allen, 2013, p. 8). This could occur if the intending parents met Indian requirements as they entered the surrogacy contract but failed to meet those same requirements when coming to retrieve the child. Home Ministry in India “placed strident rules regarding medical visas given to foreigners” (Health. India.com, 2013, p. 2). These rules seemed to follow the need for more regulation among Indian transnational surrogacy clinics and practices. According to Dr. PM Bhargava, the decision to ban homosexual couples from participating in transnational surrogacy in India was based on the Indian law that stipulates marriage is only legal if between a man and a woman (Health. India.com, 2013, p. 2). Additionally, couples will need proof that their home country will recognize a child born out of transnational surrogacy. The author explains, “That there is a need for more stringent laws governing ART [Assisted Reproductive Technology] in India is undeniable” (Health. India.com, 2013, p. 2).

That regulations (and laws) were needed in India regarding transnational surrogacy was highlighted when Australian, intended parents did not adopt the child they commissioned. For example, an article published by the Associated Press and written by Rod McGuirk details how a child born out of a transnational surrogacy agreement was abandoned. The child was rejected based on gender (McGuirk, 2014, p. 2). Although the gender of the rejected child is unknown, the intended parents explained that they had a previous child of their own and did not have the intention of parenting more than two children of the same gender (McGuirk, 2014, p. 2). The abandoned child became stateless, as they were not an Indian citizen. Nor were they an Australian citizen—since the intended parents did not apply for that child’s citizenship in Australia (McGuirk, 2014, p. 2). Eventually a good citizen with ties to the family adopted the child; however, the author expressed skepticism concerning a possible financial agreement between the intended parents and that individual. Importantly, this ban directly impacts those foreign married couples that have been married for over two years when they enter into a surrogacy contract, but divorce while the child is in utero. Because of their divorce, these couples are now in an ambiguous situation, as India does not grant passport or visas to children who have not been legally adopted by their intended parents. Warner’s article details dialogue from a film script in which transnational surrogacy is addressed. According to Warner, in their film, “Made in India,” Rebecca Halmowitz and Vaishall Sinha depict how intended parents might have trouble bring their children back from India after being born to a surrogate. In this film transcript, the writers discuss Planet Hospital, a once California-based surrogacy service that has moved to from country to country several times including India, Mexico and Thailand. In this script the Rudy Rupak, CEO, is a character. Rudy’s character states, “We have all the answers. I mean, the whole process, from you know, which surrogate clinician they go to, all the way to, you know,

what's our legal problems and how do I bring my babies back (Warner, 2011, p.13). This is an imagined discussion of how a couple might face legal issues after a child is born through surrogacy in the film script (Warner, 2011, p.13).

In one interview, a caller was actively participating as an intended parent and explained that genetics is important to secure American citizenship for a child born overseas. The caller, Mark, outlined, “ So long as you have a genetic connection to the child and one of the parents is an American, you're fine” (National Public Radio, 2010, p. 4). On the other side, getting involved with transnational surrogacy in India might have been easier than doing the same in the United States. In an interview with Dr. Roshini Raj, NBC News reporter Ian Williams explains, “there's a lot of legal red tape that goes on this country that in some ways can be subverted if you go to India” (ASC Services II Media, 2012, p. 2).

In contrast, there are ways in which India's transnational surrogacy industry includes additional legal procedures. An article from US Fed News details the way in which a child born out of a transnational surrogacy agreement became stateless. A couple from Japan had traveled to India to participate in the surrogacy industry there and entered into a contact with surrogate. At the time the couple entered into the agreement, they were heterosexual, married, and had been married for over two years as was required by the Indian government to engage in the surrogacy industry as foreigners. However, after the child was conceived, the parents divorced. At that time the mother decided that she no longer wanted to be a part of the child's life (US Fed News, 2008, p. 2). As the father was now single, he no longer fit the description of those foreigners allowed to participate in the surrogacy industry.

Additionally, the biological father, Ikufumi, could not obtain a passport for his daughter, Manji. Sadhna Arya, a gynecologist at the hospital in Jaiper, where Manji was kept after her

delivery as the surrogacy clinic, explained why this would occur (US Fed News, 2008, p. 2). Arya stated that the passport of a newborn child on the mother's passport in India. Since the mother no longer wanted to be included in the child's life, the passport was unavailable to Manji (US Fed News, 2008, p. 2). Additionally, under Indian law, "single men are prohibited from adopting children" (US Fed News, 2008, p. 2). Further, Manji's paternal grandmother came to Jaiper and was concerned about how long she could stay in India on a tourist visa (US Fed News, 2008, p. 2). Later, audiences find out that Manji was able to leave India with her father at three months of age (Cable News Network, 2008, p. 2). After living in India for three months, the baby girl was allowed to leave with her paternal grandmother and live with her biological father in Japan (Cable News Network, 2008, p. 2). Also, the audience learned that Ikufumi's ex-wife was not Manji's biological mother. Rather, Manji's biological mother was an anonymous egg donor (Cable News Network, 2008, p. 2). Eventually, Manji was issued a birth certificate with only her father's name listed (Cable News Network, 2008, p. 2). Arya explains that this was "the first time in 28 years in Jaipur that a single father has been issued travel documents by Indian authorities" (Cable News Network, 2008, p. 2). The gynecologist believes that this only was possible due to the media attention on the situation (Cable News Network, 2008, p. 2). Before regulations banning foreign couples who were same sex, foreign single people or those foreign heterosexual couples who had not been married for two years from participating in transnational commercial gestational surrogacy in India, Dr. Nayana Patel explained, "Legislation should be there so that this wonderful procedure can be supervised and it is being done the right way for the right people. But more bureaucracy will make it difficult for everyone. It will not only mean less commissioning parents from overseas but it will also impact surrogates who, who will lose

out on the only chance they have to change their lives for the better” (India Builds World’s First Baby Factory, 2013, p. 3).

### **Money Made in a Certain Period of Time**

Through this research, financial gain was a reoccurring topic. United States media included, “surrogacy cost, exploitation, globalization, nationality, economy, global, outsource, and surrogates pay.” US media articles highlighted the ways in which surrogate pay is determined in India based on current globalization practices and the idea of outsourcing. Additionally, transnational surrogacy payment practices are examined ethically.

### ***Globalization***

Holly Williams, CBS News Correspondent, explains, “Hundreds of Americans are discovering that surrogacy, the act of women willing to carry a couple’s unborn child, is less expensive, less regulated, and less complicated in India, and that has given birth to a lucrative industry” (O’Donnell, 2013, p. 2). These comments show how working with a transnational surrogate in India might be less expensive than in America especially. Slate Magazine published an article titled, “India, the Rent-a-Womb Capital of the World” on August 22, 2010 and many other articles reference this description. It appears that the article’s name comes from a reference to globalization and outsourcing. The author writes, “You can outsource just about any work to India these days, including making babies” (Washington Post, 2010, p. 2). The idea of outsourcing labor is synonymous with globalization and globalization is changing and growing the national Indian economy. This author writes, “Reproductive tourism in India is now a half-a-billion dollar industry” and that the “primary appeal of India is that it is cheap, hardly regulated, and relatively safe” (Washington Post, 2010, p. 2). Additionally outsourcing specifically was a common thread among news articles. One article was titled, “ Outsourcing to Indian Surrogate

Mothers,” another “ ‘Google Baby’ Follows Birth outsourced to India. A different news item states, “ Another way to cut the staggering cost of a U.S. surrogacy is to outsource it to a Third World medical-tourism destination” (Allen, 2013, p. 8). Another article is titled, “ India Builds World’s First Baby Factory: Mulls Over Regulating Flourishing ‘Rent-a-Womb’ Industry (International Business Times, 2013, p.1).

Additionally, Fontanella-Khan writes, “But the usual empowerment vs. exploitation debate eludes something much more fundamental that the surrogate industry reflects about India. India has leap-frogged several stages of development and zoomed straight into service economy. Indians stock call centers and tech help lines where Westerners get their questions answered efficiently. In these centers, Indian youths temporarily adopt new Western names and accents—another milder, way Indians act as “surrogates” or substitutes for Westerners. The country is romanced by the idea of selling human capital as the next great commodity. So surrogacy resonates not as an old problem of ‘exploiting the poor,’ but as an inevitable part of the ‘new India where the locals provide much needed services for the new global economy’” (Fontanella-Khan, 2010, p. 3)

### ***Exploitation***

However, Mohan Rao, a professor at Jawaharlal Nehru named transnational Indian surrogacy “reproductive trafficking” and believes it to be the efforts of “cash-strapped surrogate mothers from rural India” in order to make a “last ditch effort to get money” (Washington Post, 2010, p. 2). Last, surrogates’ freedom is questioned. As postcolonial country, India has made bounds in economic development after 1947. Currently, India is participating in the global economy—however, perhaps not all Indians. According to the author of “India, the Rent-a-womb Capital of the World,” surrogates “hail from this historic culture, which is essentially

semi-feudal and pre-industrial” (Washington Post, 2010, p. 3). This author is making a reference to a quote from Alan Greenspan in which Greenspan states, “India is fast becoming two entities: a rising kernel of world class modernity within a historic culture that has been for the most part stagnating for generations” (Washington Post, 2010, p. 3). Dr. Roshini Raj explains that exploitation might be an issue – but not from intended parents. During an interview, NBC Anchor Savannah Guthrie states, “a final issue, some people do have concerns that women in India, who are purportedly volunteering for this may be just in a situation where they have no choice, where there is fear about it being exploitative” (ASC Services II Media, 2012, p. 5). To this inquiry, Dr. Raj responds, “that fear is very real” and that “to a poor woman in an Indian village that’s a huge amount of money” and that “often they could be pressured by family members to do it, even if they don’t want to do it themselves” (ASC Services II Media, 2012, p. 5). In contrast, Dr. Nayna Patel “cautions against seeing the trend as exploitative” (Chopra, 2006, p. 2). Patel explains that along with the financial rewards that come with surrogacy work, that “having a child is a deeply emotional issue” and that “a nine-month pregnancy can never be forced” (Chopra, 2006, p. 2).

In an interview from PBS NewsHour, Special Correspondent Fred De Sam Lazaro discusses his experience investigating transnational surrogacy in India. As an introduction to the report the host, Jeffrey Brown states, “And finally tonight, the second of two reports on Indian Surrogate mothers who are paid to bear children for infertile Western couples. The money lifts the women out of poverty, but transactions also raise many ethical issues” (Miller, 2011, p. 15). In one interview Williams asks, “But in a country of dire poverty some worry that India’s surrogate mothers are ripe for exploitation” (O’Donnell, 2013, p. 2). Describing a mother who wishes to remain unidentified a Mann and Bindra write, “thirty-three years old and with three

grown children, she knows the joys of motherhood. She also understands the pain of poverty. Both she and her husband are unemployed” (2006, p. 2).

An advocate for surrogacy, Dr. Patel explains that surrogates, “are doing the physical work agreed and they are being compensated for it” in an article published in *International Business Times Australia*. The article highlights that Patel operates a surrogacy clinic in Gujarat, India. She states, “I have faced criticism and I will in the future” (Newstex, 2013, p. 2). She states that she has been accused of “baby selling” or operating a “baby-making factory,” but that “she pays each surrogate roughly US\$8000” (Newstex, 2013, p. 3). Intended parents pay her approximately “US\$28,000” for surrogacy services (Newstex, 2013, p. 3).

Surrogate mothers have goals following their experience with commercial surrogacy. In an interview with Holly Williams of CBS News, former transnational surrogate Meena Parmar explains that she will use the money from her surrogacy work to “pay for her own son’s education” (CBS Worldwide, 2013, p. 5). Education and permanent housing are two common reasons that Indian surrogates take on the work they do. For example, Mamta Sharma explains that she “invested her earnings in a new house” (Newstex, 2013, p. 3). Further, on PBS NewsHour, Special Correspondent Fred De Sam Lazaro explained, “Surrogates we talked about building a new home and using their money for their children’s education” (MacNeil/Lehrer, 2011, p. 2). In “Wombs for Rent: Indian surrogate mothers tell their tales,” Indian surrogate mothers explain that they already have their own children and not trying to keep the children of intended parents” (Newstex, 2013, p. 2). Thapa, 31, explains that she does not regret her decision to become a surrogate and that she “has no doubt what she did was right in allowing an Australian couple to use her womb to fulfill their dream of parenthood” (Newstex, 2013, p. 2). Further she states that she knew why she wanted to become a surrogate when she states, “I

wanted to deposit money into an account for my children for their future” (Newstex, 2013, p. 2). In this way participating the surrogacy industry allows surrogates to be resourceful mothers to their own children financially.

In a different interview when talking about Indian women performing transnational surrogacy, Holly Williams explains, “most are from impoverished backgrounds and see their \$7000 fee as a way of transforming their lives. There is no shortage of volunteers” (ASC Services II Media, 2012, p.2). An article published by the Associated Press explains that surrogate mothers are “often poor women with little education” (Associated Press, 2008, p. 2). Holly Williams of CBS News states, “But the problem is that many of the surrogate mothers are desperately poor. Some are even illiterate, they’ve had no education” (CBS Worldwide, 2013, p. 6). This situation allows intended parents to believe they are acting altruistically, yet also creates a power imbalance in which a surrogate mother might not fully understand the surrogacy contract she signs. The exact translation on both sides is key in each situation.

### **Surrogate Health**

The fourth theme surrounds surrogate health. There are several ways in which the theme of surrogate health manifests. Dr. Nayna Patel explains, “We do a lot psychological counseling to the surrogate and the family before we recruit them. We explain to them the procedure of IVF, what all they will have to undergo” (Miller, 2011, p. 16). Fred De Sam Lazaro further explains that the surrogates, once pregnant, “are required move into a home run by Dr. Patel” (Miller, 2011, p. 16). There, the surrogates are “offered skills training in things like tailoring, but mostly it’s a quiet sedentary life” (Miller, 2011, p. 16). Also, while the surrogates are living in Dr. Patel’s home, they receive meals, prenatal care, and medical attention (Miller, 2011, p. 16). These services are available “round the clock” (Miller, 2011, p.16). In another interview, with

previous clients, Dr. Patel states, “This hostel where is where the surrogates stay while pregnant so their health and nutrition can be monitored around the clock” (ASC Services II, 2012, p. 2). Additionally, Dr. Roshini Raj discusses surrogate housing. He explains, “In India, many of the times, the surrogate mothers are living in a hostel or on a compound, where literally they’re being taken care of. They’re fed three meals a day. You might actually have more control in that situation than you would in this country” (ASC Services II, 2012, p. 2). Additionally, Slate Magazine explains, “The surrogates, many of whom are cooped up in “surrogacy homes” away from their family for the duration of the pregnancy, are often in dire financial straits” (Washington Post, 2010, p. 2). However, some clinics explain that surrogates receive important information from clinics concerning their health. For example, Gour, a previous surrogate, explains, “the clinic organizes counseling sessions for the surrogate mothers to stress the importance of eating nourishing food” (Newstex, 2013, p. 3).

### **Intended Parents’ Desperation for Children**

Throughout the news articles, intended parents discuss their desperation to have children. For example, Special Correspondent Fred De Sam Lazaro introduced a woman from Colorado who participated in transnational surrogacy in India as an intended parent. He explained “Kirshner Ross Vaden had tried unsuccessfully in recent years to conceive. Surrogacy was her last hope and India her first choice” (Miller, 2011, p. 15). These concerns appear repeatedly throughout the media portrayal of Indian transnational surrogacy. Intended parents explain their efforts to conceive before looking for a surrogate. In an interview for CBS Worldwide, Dana Chandra, who was born in India and immigrated to the United States, talks about her experience with transnational surrogacy. As Dana begins to speak the CBS News correspondent informs the audience, “Dana and Sumnanth Chandra have been trying to have a baby since they married

fourteen years ago in Chicago” (O’Donnell, 2013, p. 2). During this interview, Dr. Nayana Patel states, “When you see a childless couple, you understand how desperate, how frustrated they are” (O’Donnell, 2013, p. 2). Another news source discusses the desperation intended parents experienced before looking into transnational surrogacy. In an interview documented by NBC News Transcripts, Ian Williams asks Robyn Wright (former intended parent and now mother) about her experience with transnational surrogacy in India. Williams explains, “Their passage to India was born out of a desperate desire for a child that Robyn was unable to carry after a hysterectomy” (ASC Services II, 2012, p. 2). Sumnanth Chandra states, “so we kind of struggled with these kind of issues ourselves, kind of thinking we are taking advantage because obviously we’re doing it here for financial reasons” (O’Donnell, 2013, p. 2).

## Discussion

This research documents the kind of attention US news paid to Indian laws and regulations concerning transnational surrogacy. In this study, one focus in US news items was India's changing legal policies. The news items reported on both which populations were allowed to hire transnational surrogates and the required legal documents. The narrowing margins surrounding those populations who could participate as intended parents were widely reported. Additionally, these news items focused on surrogate pay and exploitation heavily. Further, the desperation of intended parents was also documented. The news items included in this study showed that US media discussed the themes of law, money earned within a certain period of time, surrogate health and intended parent desperation for children. These themes relate to the researcher's original codes and also include emergent codes. Original codes included: Race (Asian, Caucasian, and South Asian) Nationality (Indian, American), Sex (Male, Female), Colonialism (Colony, Economy, and Independence) Gender (Gender Roles, Motherhood, Birth, Caring for Children), Caste (Lower Caste, Higher Caste), Class (Lower Class, Higher Class), Poverty (Building, Home, Education, Money made in a period of time), Gain (positive depictions of Transnational Gestational Surrogacy in India), Loss (negative depictions of Transnational Gestation Surrogacy in India), and Stigma. Of those codes Money made in a period of time, building, home, motherhood, education and loss/gain were used. Those that were not used include race, nationality, sex, gender, and caring for children. Additionally, emergent codes included law, travel documents, visas, ban, law, same sex, sex, single, married for two years, nationality, motherhood, adoption, surrogate health, exploitation and globalization.

The original codes were created after the researcher read through scholarly articles mapping out various aspects of transnational surrogacy. It was throughout this time that the

researcher began to develop a list of possible codes based on the global scholarly conversation. Since some of these codes were present in the research conducted for this project, it seems to indicate that there are common ideological concerns that exist between the US representations of transnational surrogacy. However, due to the emergent codes, there is a possibility that US media representation of transnational surrogacy on India differs from publications concerning other countries. This information and these results allow those who study media portrayal of Indian transnational surrogacy to better understand how this industry was represented in the United States from 2005-2016. This study specifically highlights the depiction of Indian transnational surrogacy through US news items.

India's representation in the US media seems to document a series of changes and limitations surrounding surrogacy regulations— after the country profited from the industry. As India began to gain financially from the practice of transnational gestational surrogacy, the country welcomed foreigners, sexual and gender minorities, single parents, and those who had not been married for over two years to participate in this practice. This is directly related to the shrinking circle of intended parents. The codes that make up this theme are travel documents, visas, ban, law, same sex, sex, single, married for two years, nationality, motherhood, and adoption. These codes are listed under the theme “Law.” There were guidelines concerning the ways in which surrogate mothers should be treated—yet these were not law. This is directly related to the theme “Surrogate Health.” This theme discusses the movement limitations put on surrogate mothers in India regarding housing. Additionally, there were limitations placed on surrogates' movement and housing. This was especially impactful when the surrogate mother was far from her children and family as she was monitored during her pregnancy.

The influx of money into the newly formed Indian state resulting from the reproductive labor of Indian women propelled the country forward. More Indian children had access to education, housing and other basic needs allowing the country to develop financially but not in a legal sense. This relates directly to the ways in which Indian surrogates chose to invest their payment and recalls the theme “Money made in certain period of time.” Through this research, financial gain was a reoccurring topic. United States media discussed “surrogacy cost, exploitation, globalization, nationality, economy, global, outsource, and surrogates pay.” The advances financially benefitted India (as a state) since the government did not need to provide monetary means to families to help with upward mobility. The Indian government was unable to regulate the industry or ensure the safety of surrogate mothers. Again this relates to the theme of “Surrogate Health.”

Seen through a postcolonial feminist framework, these limitations on movement and housing depict the Indian transnational surrogacy industry as confining and denigrating to women. Additionally, the practice of Indian transnational gestational surrogacy is depicted as unsafe – especially if surrogates do not have access to the entire surrogacy contract in their own language before committing to it.

Some researchers compare the British exploitation of Indian labor to the global exploitation of Indian women’s wombs during transitional gestational surrogacy. For example, scholars discuss the neo-colonization of the body. The phrase recalls the ways in which European colonizers reframed the bodies of those under their control. In India, British colonizers replaced Indian medicine systems for European ones. In this way, Europeans decided and measured Indians’ medical treatment (Arnold, 1993). Currently, western medicine, including IVF, is moving into India and onto Indian surrogates’ bodies. This is problematic as IVF could

be seen as a medical treatment that is required for Indian women undergo in order to thrive in an emerging economy. Because Indian citizens have already been exploited for their labor and have had their systems of medicine colonized by a western country, that Indian women's bodies are being subjected to western medicine for monetary gain (possibly under duress) brings the idea of neo-colonization to the conversation. Additionally, Lau discusses the ways in which Indian transnational gestational surrogacy is "systemically Orientalistic" (2018, p. 666). In the commercial transnational surrogacy industry systemic Orientalism occurred when intended parents sought surrogates based on skin and eye color and on "racial hierarchies privileging white skin" which related to "essentialized notions of race and beauty" Deomampo 2016, p. 306). According to Deomampo, "widespread colorism" existed in this industry, especially when intended parents were searching for egg donors (2016, p. 306).

The realities of British imperialism and colonization are paramount to understanding the ways in which India's presently growing economy came to be. Due to the problematic ethical and unbalanced power structures put in place during British rule, India's current economy must rise out of a colonialism that stripped away much of the country's infrastructure, natural resources, and reduced its citizens to workers alienated from their identities as such. Throughout British occupation of India, the country was exploited for many reasons including labor. British citizens in India took power from Indian citizens and many Indians worked as British subordinates. This is particularly highlighted in the industries involving manual labor. Although this lasted hundreds of years, Indian citizens gained independence in 1947.

After gaining independence Indian citizens faced a new challenge—how to begin engaging with a global economy. Armour and Lele explain, "the liberalization of India's economy since 1991 has brought with it considerable development of its financial markets and

supporting legal institutions” (2009, p. 491). These authors also state, “an influential body of economic scholarship asserts that a country’s “legal origin” -- as a civilian or common law jurisdiction – plays an important part in determining the development of its investor protection regulations, and consequently its financial development” (Armour and Lele, 2009, p. 491). As a newly created state, India is reorganizing and discovering its new national consciousness and determine standards of living. A significant point to remember is that India is fast-forwarding through many stages of growth to engage on a global scale. Indians’ concerns with the success of their national economy coincided with individual transnational surrogate mothers’ wishes for their children’s education and security – and the mothers’ ability to provide these things. As India continues to engage in the transnational capitalist economy, the newly formed country will need to edit its laws and regulations of as the country emerges on a world stage—including those concerning transnational commercial surrogacy.

## Conclusion

The research presented in this paper allows for a critical discussion of US media representation concerning transnational gestational surrogacy before 2016. This paper highlights the ways in which Indian women participating in transnational surrogacy were Othered and marginalized by Indian and global patriarchies simultaneously – as portrayed through the US media representation. For example, the themes “surrogate pay” and “money made in a specific amount of time” signify that the US reported on surrogate financial situations, The US media discusses the amount of money Indian surrogate mothers get paid in terms of what US surrogate mothers would have been paid. This comparison highlights the ways in which the neo-colonial power structures established during the British occupation of India still impact economic processes. Further, because the US media typically defines surrogate mothers as female, there is a multiple layering of oppressions that occurs for Indian surrogate mothers. Additionally, the Indian Council of Medical Research (ICMR) created a set of guidelines through which this multi-billion dollar (at its height) industry was governed. The ICMR put forth its last set of guidelines in 2005; however, as discussed earlier, these were not enforceable laws. The US media portrayal of Indian transnational surrogacy showcases dearth of enforceable laws and guidelines, specifically those regarding surrogate health. By creating an industry without regulations, the Indian government (traditionally made up of Indian men) allowed transnational surrogacy to bring in millions of dollars to India without protecting those most likely to be participating in it – Indian women in financial need. Postcolonial feminism is a helpful lens to use when trying to understand this situation. US media representation of transnational surrogacy in India illuminates the ways in which colonization still impacts India’s position as an emerging economy. Due to reaping of India’s resources and the toppling of India’s infrastructure under

colonialism, Indian lawmakers allowed the nascent economy to be bolstered by an unregulated industry that perpetuated global inequalities tracing back to that same period of colonization. The researcher puts forth the idea that, should India legalize transnational gestational (or any other type of) commercial surrogacy again, Indian lawmakers ensure surrogates health and personal freedoms are assured and that surrogates in India are paid comparable fees to their Western” counterparts.

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