

Is surrogacy a face of Baby selling?

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Abstract: *The word surrogacy and debate on its misuses have been talk of the town for last couple of decades. Surrogacy is blessing to those infertile couples and individuals who desire to be single parents. Through surrogacy procedure those childless people can make their dream true with own genetic connection to that baby which adoption procedure can't ensure.*

Requirement of surrogacy occurs in multiple situations. Some couples opt for this when wife has infertility issues. And many women have other physiological issues like, cardiac or kidney problems, obesity, underweight, age factor, hormonal issues etc. On the other hand, some changed habits and lifestyle changes of modern days are also responsible for facing pregnancy problems.

Though this advanced medical procedure (surrogacy) is solving problems of thousands of people around the world, there are some concerns related to it and threat of baby selling is one of those major concerns today. In different part of the society, young girls are trafficked or lured to better lifestyle to make them surrogate mothers and this mal practitioners sell the baby after its delivery. It is a real concern that needs to be addressed with proper and flawless law by the government. Many human rights activists and feminist groups argue to ban this advanced medical procedure to stop baby selling market, we can't go with this opinion as it will leave thousands of people childless forever and it will bring another kind of bad impact on social psychology. So, we need to handle this tough situation tactfully and resolve this issue keeping the blessing of science for childless people intact always.

Key Words: *Surrogate mother, Metamorphosis, Homosexuality, Single parents, Childlessness, Human reproduction, Womb rent, Altruistic surrogacy, Intended parents, Baby selling.*

1. INTRODUCTION:

Surrogacy has become the talk of the town nowadays and it is under continuous philosophical, ethical and legal scanner at the same time. Anything new has to face hurdles and obstacles in the world and surrogacy is also not out of that natural law. It is also true that when an anxiety or concern develops in human society, it means there is any bad or unwanted previous experience that has triggered the concern. So, we can't overlook the issue but at the same time we should not generalize that particular matter too like any other subject. Surrogacy enables couples or individuals to have their own children genetically without carrying the baby themselves. Surrogacy can ensure a prime aspect to the intended parent(s) which adoption procedure can't, and that is presence of own genetic material in the baby. It is very effective and helpful way out to infertile couples, individuals and homosexual couples. But like any other act, surrogacy has also its own pros and cons.

We must make it clear first that when we are focusing on surrogacy related controversies, we are talking about "commercial surrogacy" only, not "altruistic surrogacy" as in the latter case monetary transaction is not involved unlike the former one. Commercial surrogacy is only possible when a woman is willingly coming out to give birth to a baby for someone else against a fixed service charge or compensation. Unlike commercial surrogacy, in altruistic surrogacy the intended parents carry on medical and insurance expenditures only of the surrogate during pregnancy period but no other monetary transaction is involved in this scenario.

For decades now the surrogacy practice has skyrocketed with advanced medical option of IVF (In Vitro Fertilization). this is really a new horizon of hope to the childless couples or individuals. The surrogacy procedure includes problems or controversies like exploitation of poor surrogate mother, identity of the child, probability of scams to the intended parents or surrogate and most importantly, the practice of baby selling. We will focus on this last option in this article to understand the this sensitive issue clearly.

2. What is Surrogacy?

Surrogacy is a medical procedure that enables childless couples or individuals to have their baby with their own genetic material. In some cases the child is genetically related to one of the parents or sometimes both the parents and often none of them. Among these three options, which will be applicable ultimately that depends on the physical situation of the intended parents. But donor gametes are used very often too. In some cases, the surrogate mother is genetically related to the child also. Surrogacy is done domestically in large amount but at the same time there international arrangements at the same time. Intended parents from developed countries opt for surrogate mothers from less developed or poor countries to make it cheap. Surrogacy has become one of the most vital wings of medical tourism in present time. But in international surrogacy arrangements, there are some more legal and other difficulties.

There are mainly two kinds of surrogacy - traditional and gestational surrogacy. In traditional surrogacy the mother who carries the baby in her womb, she is genetically connected to the baby. This procedure is older than gestational one which is a recent medical development. In gestational surrogacy, the surrogate mother is not genetically related to the baby and this is done with the help of IVF (In vitro fertilization) procedure. There must be an agreement between the intended parents/ individual and surrogate mother in both kinds of surrogacy prior to the conceive. After the birth of the baby, the surrogate mother delivers the child to the intended parents or individual. It is not mandatory for the intended parents to be genetically associated with the child but at least this process gives an option to do so to any one of the intended parents or to the both as per situation which adds an emotional value to it unlike adoption procedures.

In terms of monetary transaction between the surrogate mother and intended parent(s), there are two more variations in surrogacy which are known as - altruistic surrogacy and commercial surrogacy. In altruistic surrogacy, mainly close friends or relatives of the childless couples/ individual carries the baby in her own womb and there no monetary transaction is done apart from medical expenses. But in the case of commercial surrogacy, the surrogate mother gets extra compensation.

3. Why surrogacy is required?

Surrogacy, as we know that this is an alternative way of having baby to those people who can't have own child naturally, we need to go one step back and have to ask "why they can't have own children?" Because we are supposed to focus on the problem and surrogacy is not that problem, it is the solution to that problem. So, we must find the situations when an individual or a couple can't have their own genetic children. Let's discuss multiple situations below

- At the first situation when a wife or individual girl is having issues in her uterus, she may need to take the help of surrogacy procedure. It is called absolute uterine factor infertility in which the uterus doesn't function properly or there is absence of uterus. And as a result, that particular woman can't get pregnant naturally. This issue can be congenital (issue by birth) and acquired. The latter one is caused by removal of uterus during hysterectomy in the case of hemorrhage (large amount of blood loss), cancer, Severe endometriosis, fibroids, or adenomyosis etc. to save the patient. Though uterus transplant can enable a woman to get pregnant and deliver baby for maximum two times, it is not applicable each individual case. It depends on that particular woman's health condition.
- There are other situations of cardiac or kidney problems. Apart from these there is another physiological issue called Gestational Diabetes Mellitus (GDM) that creates threat to the baby in the womb.
- Many women have other pregnancy related complications like problems with the fallopian tube, problems related to ovulation, problems with eggs numbers and quality.
- There are some other physiological difficulties that prevent normal pregnancy as - obesity, underweight, age factor, hormonal issues, autoimmune disorders, tumors, sexually transmitted infections (STIs), Polycystic Ovary Syndrome (PCOS), Primary Ovary Insufficiency (POI) etc.
- And few negative habits also affect pregnancy often. Habits of smoking, heavy alcohol drinking etc. And stress, depression, trauma like conditions make the situation more complicated.
- There is another situation that is called DES (Diethylstilbestrol) syndrome. DES is a medication that is given to a woman during previous premature birth or miscarriage to prevent further complications. But it has side effects in future like, infertility, reproductive tract differences, probability of certain cancers.
- In today's society, women are also having professional lives so they are unable to manage adequate time to give birth to own child so those professionals also avail surrogacy treatment to have baby.
- And at last we can observe that people from LGBT (Lesbian, Gay, Bisexual, and Transgender) community or single individuals don't have other alternative to have baby with own genetic touch.

In these above mentioned situations, any couple or individual can opt for surrogacy to overcome childless condition. Surrogacy has brought opportunity to many people to get rid of regret and depression of childlessness.

4. Is surrogacy baby selling?

Surrogacy is blessing to those infertile couples, individuals and persons from LGBT (Lesbian, Gay, Bisexual, and Transgender) community who are unable to have children in normal course. But as we all know that there are malpractices in every good arena, the same is present in the surrogacy procedure too. People with vested and commercial interests, consider babies as any other products and take birth process as “production” and sell the baby after its birth. There are many incidents like this all over the globe but now we will take a look on a similar instance in our own state, West Bengal, India.

The incident took place in North Bengal. In north Bengal, the baby selling has become an important concern to the local administration as the place itself has a geographical importance because it shares international borders with Bangladesh, Bhutan and Nepal and state borders with Bihar and Assam. Any border area is always sensitive and prone to crimes.

A local girl named **Tsering**, aged 19, was working in a local beauty parlour from where she was lured of better job opportunity by a person. She was taken to an place and was artificially inseminated. Later she was handed over to the intended couples but the girl finally succeeded to escape from their. She was six months pregnant then. Presently she is married to another person and living a normal married life with the baby.

According to **The Surrogacy (Regulation) Act 2021** which was passed during the winter session of Parliament in 2021, commercial surrogacy is banned in India. Only altruistic surrogacy is permitted. But the reality is galaxy away from laws in papers. In remote areas, girls aged between 16-19 are trafficked on regular basis and sent to other parts of the country and even to other neighbouring countries as well to use them as surrogate mothers and “produce” babies for sell.

In remote village areas where majority of people are poor and uneducated, they can't follow the long term legal process of surrogacy to have a child. They take the shortest illegal way to become parents by taking womb rent forcefully.

The whole world is experiencing the same situation nowadays, but we can not say that “surrogacy” and “baby selling” are synonymous. Exceptions are everywhere but exception can't be example.

5. Surrogacy should be banned?

Answering to this most debated topic, we can say that if the process is banned totally, Childless parents will be deprived permanently and as the desire for a child can't be suppressed, this process will be going on continuously by other means. That means, this ban will bring bigger scam or malpractice and will create a deeper black market. Many human rights activists, feminists etc. argues in favour of banning surrogacy as it hurts intended parents, surrogate mothers and most importantly, the child in different situations. Though this argument is true, still this advanced medical procedure can't be eliminated completely by generalizing the subject.

Each and every subject has its pros and cons, that doesn't mean that we should ban everything. By doing so, the whole system will collapse in no time. We can support banning of commercial surrogacy in this situation as Indian Government has already done the same. But by taking practical reference from this scenario, we can say that though Indian Government has banned surrogacy agreements for same sex couples, agents are continuing the practice underground. In the same way as commercial surrogacy is also not allowed here anymore, thinkers are concerned that this ban may trigger any new more complex and harmful hidden or alternative system instead. But on the other hand, many thinkers and social activists also argue in return, hypothesis of black market can't be the logic for allowing commercial surrogacy to continue.

6. Conclusion:

We need to find out remedy to this problem instead of banning the whole surrogacy procedure. Government and other local observatory bodies should be more active. The government must pass flawless laws and the executory authorities must implement those in proper way. There should be invigilators at grass-root levels to control girls trafficking for fertile womb.

At the same time, I feel that the government must take strong initiative to educate the masses and economic discrimination has to be controlled. Apart from these, the surrogacy procedure should be made easy to make it smoothly acceptable among common people.

The remedies to this evil will be different in all countries as each and every country has its own law structure and diversified social, psychological, cultural, religious, ethnic legacy and tradition.

There is no special need to remind that the whole subject is very sensitive and most importantly it is an emotional part of a woman's life, so at any circumstances law makers need to think twice before banning the surrogacy procedure. And we can conclude that intention or motive of the surrogacy procedure is not bad and it doesn't encourage baby



selling or any kind of business related to parenthood. There is no doubt about the advantages of surrogacy procedure, but the only concern is its execution part and that related misuses.

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