

ISSUES AND CONCERNS OF SURROGATE MOTHERS: A DISCOURSE ON WOMEN'S REPRODUCTIVE RIGHTS

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Abstract : Surrogacy has led to a boom in the medical tourism, since the Indian Government legalized commercialization of the process in 2002. It has now become a multi-million dollar industry with over 1000 ART clinics in the country. The cheap medical facilities coupled with improved knowledge of reproductive technologies along with the legal environment has led India become a “Hub of Surrogacy” for the infertile couples worldwide, especially to the “milk capital” of India. The present study on “**Issues and Concerns of Surrogate Mothers: A discourse on women’s reproductive rights**” was carried out in the Akanksha Clinic of Anand, Gujarat, headed by Dr Nayana Patel who is popularly known as the Queen of Surrogacy in India; to study the prominent points in question regarding the entire surrogacy arrangement. The study focused to scrutinize how the reproductive and health rights of women were subjected to exploitation in the name of development, taking advantage of women’s urge to strive for a better standard of living. But, this discourse took another turn when the foreign minister Ms. Sushma Swaraj announced a complete ban on commercial surrogacy for Indian and foreign clients in August 2016. The reproductive rights of women came into a questionable bubble even more. This study challenges the status quo of women’s reproductive health rights and unmasks the condition of women who undertake surrogacy arrangement as the most feasible option to earn money.

Keywords: ART clinics, Government, Surrogates, Health tourism, Reproductive & health rights, Stigma

Introduction: Some women are unable to procreate a life due to several physiological complications. Hence the strong desire of motherhood makes them seek other possible alternatives. Surrogacy tends to offer itself as the most viable alternative in this gloomy situation. Surrogacy Motherhood: Surrogacy refers to an arrangement where a substitute mother carries a child for another person or couple, in exchange of money. The surrogacy arrangement has given hope to many infertile couples, single parents and homosexual couples to bear a child of their own (Centre for Social Research, 2012).

Commercialization - Birthing a Market: India has already earned fame as the cradle of the world, poised to become the surrogacy outsourcing capital (Reason for Liberty, 2009). The couples have to pay relatively a quarter less in this developing country. With the inclusion of monetary incentives, the process has converted into a commercial contract giving rise to several ethical concerns- be it commercializing women’s labour, pregnancy; related emotions and physical risks or treating the new born children as mere commercial commodities (Centre for Social Research, 2012). Media reports about women who act as commercial surrogates indicate that they are not the poorest of the poor or street-dwellers, nor are they rich or middle class – they belong to disadvantaged sections in urban and semi-urban areas who have aspirations of a ‘good life’ where the children need to get education, there are aspirations of owning a house, some are on the look-out for the initial investment for an entrepreneurial aspiration, but on the whole there is a daily struggle to make

ends meet. In such a situation, earning lakhs of currency in just nine months using something every woman has – a womb – is hard to resist. (Counter Currents, 2011)

Estimates suggest that 25,000 couples travel to arrange surrogacy contracts in a year and there are about 1,000 surrogacy centers across the country (ICMR, 2010). India, a highly conservative society is one of the few countries which recognizes the commissioning parents as the legal ones, although the child may be born out of the surrogacy arrangement (Philosophy, Ethics, and Humanities in Medicine, 2013). On the other hand, countries like Australia, Canada, France, Hungary etc recognize surrogacy as illegal and prohibited by the law.

Government’s take on the issue: As per ART guidelines draft bill 2010 prepared by Indian Council of Medical Research (ICMR), only gestational surrogacy, i.e. through In-Vitro Fertilization (IVF) and Embryo Transfer (ET), were permitted, and genetic surrogacy, i.e. through Intra Uterine Insemination (IUI) was not. The ARTs bill seeks to regulate India’s heavily market-driven Fertility Industry, and introduces a number of guidelines ranging from clinic regulation to limitations on ART access. With the recent ART Bill that has come up in 2015, has led to a bigger debate about the issue as it has clearly banned the foreign couples for seeking surrogacy in a country which itself upheld the idea of promoting medical tourism. Subsequent to the draft ART bill, this industry witnessed a black day in August 2016, when India’s Minister of External Affairs, Ms Sushma Swaraj introduced a new bill;

putting a complete ban on the commercial surrogacy (i.e. surrogacy done by women for unknown childless couples in exchange of money) and permits only the altruistic surrogacy (i.e. when the surrogate is not paid for her labour, which may be done in case of a relative woman bearing the child).

The problems and Controversies: As ARTs are practiced today, there is no regularity of the drugs used, no proper documentation of the procedures, inadequate information for patients about the side effects of the drugs used, and no limit to the number of times a woman could be asked to go through the procedure. (Indian Journal of Medical Ethics, 2009)

The most crucial proposal was put across to limit surrogacy in India to "Infertile Indian married couples" only. Non-resident Indians (NRIs), Persons of Indian Origin (PIOs) and Overseas Citizens of India (OCIs) would be eligible but foreigners, unless they're married to Indian citizens, will not (The Hindu, 2014). Recently it was stated that foreigners will be barred from commissioning surrogacy in India under the proposed ART Regulation Bill, 2014 but would continue the arrangement for Indian nationals, NRIs, PIOs and OCIs (India Today, 2015). And finally, the proposed bill was accepted in 2016.

Health risks associated with Surrogacy: The process of transfer of large number of embryos creates not only the probability to produce more babies in one go but also brings the woman's health at edge. Technically speaking, the reaction to fertility medicines itself is a high risk to the surrogate's health (Surrogacy America, 2010). Adding to it, the psychological distress and post-partum depression after delivery are commonly seen due to the harsh reality of handing over the child they bore in their womb, to the intended parents. The fundamental question becomes, is it ethical to seek an extremely intimate (and sometimes self-damaging) service from a vulnerable stranger, knowing that she possibly offers it from a position of desperation? (India Currents, 2012)

Through the Gender lens: The prevalence of patriarchal norms has led to women stay being marginalized, thereby making them vulnerable to exploitation both physically and psychologically. This set-up can unreasonably cause both. The staying power of patriarchal norms can be sensed from the growing demand of young, fair-skinned and educated women to become surrogate mothers for the foreign couples. Given that the surrogate is often quite poor, uneducated or semi-literate, it seems doubtful that she is even aware of the hazardous nature of her unequal status in this commercial relationship.

The doctors and medical practitioners are one major driving force involved in bringing forth surrogacy as a new platform for the women belonging to lower strata of society as well as for the childless couples

who seek new ways to inherit a child. India's cooperative milk capital has also turned into its surrogacy hub; thereby delivering over 900 surrogate children in 2015.

Methodology: The study was undertaken to scrutinize the prominent points in question regarding the entire surrogacy arrangement. An attempt was made to understand surrogates' level of awareness about surrogacy process and laws, the ethical issues that deeply affect them, the health aspects involved that are deteriorating their physical state mutely, and the challenges that they face at the individual level; tackling the emotional trauma, social barriers, stigma, and personal motivations to stay away from their family for nine long months. An attempt was also been made to understand the personal perception of surrogacy as a technique, in which they play the most important role as the reproducing being.

The study was conducted in the city of Anand, Gujarat with a sample of 50 surrogate mothers was taken, coupled with 10 detailed case studies of surrogate mothers and 10 doctors/clinic staff conducting surrogacy in the clinic. The women who volunteer to be surrogate mothers tend to face stigma in the society, thus, purposive sampling technique was used; whoever was comfortable to share the details of their experience as surrogate mothers.

Findings And Discussion: Various prospects were scrutinized in the study, which are discussed below:

Socio-economic profile: It was observed that majority of women performing surrogacy (60%) belonged to the age group of 30-35 years, while only 10% were from the age group of 20-25 years. It was found that 70% of the surrogates had qualified the secondary level of schooling and only 2 amongst the 50 surrogate mothers were illiterate. Majority of the women i.e. 60% were from Hindu families. The rest 30% were Christians while only one surrogate mother belonged to a Muslim family. Also, it was inferred that the surrogates belonged to varied income groups. But, the majority of surrogate mothers (35%) had an income of Rs 5000-7000 per month. It was also noted that almost all surrogates (95%) had 1-3 biological children.

Awareness about the Surrogacy Process: Most of the women who had come to be a surrogate had another source responsible for landing them up at the clinic. Most of them (30% each) were informed by their relatives and neighbors about the surrogacy arrangement. 30% women held association with the clinic for more than two years. And they were performing surrogacy for the clinic for the second time.

Ethical Issues: In regard to surrogate's familiarity with the rules & regulations enlisted in the surrogacy contract with the client, it was noted that 70% SMs

were fairly familiar with the rules and regulations laid down in the surrogacy contract. But 20% of the surrogates confessed of not knowing much about it. While, 20% surrogates confessed of being scared and nervous; another 15% were entirely dependent on their husband and follow the league. From the interaction, it was inferred that the majority of surrogates (40%) thought of their clients to be taking them leniently. A huge communication gap existed between the surrogate and her client as most of the clients were living in foreign countries. Also, 25% surrogate mothers did not have an interaction with their clients even once. These clients were expected to come to India only at the time of delivery. 35% of the SMs did not inform their family members about them bearing a childless couple's baby. They had not dared to inform, perceiving them to be shallow-minded and to have lack of awareness about the technology. Besides, 55% surrogates' family members had a fair idea about their profession but agreed due to acute poverty and helplessness.

Health Aspects: 100% surrogate mothers claimed of turning up again for the surrogacy arrangement. Majority of the women (45%) partly knew about a few tests that were done before, during and after surrogacy. Most of them responded "full body scan" while another 45% did not have any idea about the medical tests that happened or should have happened. Majority of the women (60%) confessed of suffering from nausea problems; including vomiting, uneasiness, morning sickness, depression and anxiety. Besides, 40% women told to feel sleeplessness and the inability to eat anything. Other problems like fever, body ache, lactation problems and BP problems were also reported. The colostrum feeding is done through the surrogate mother. Also, the child is fed the breast milk of the surrogate mother with the help of a breast pump for the first 15 days.

Challenges faced during Surrogacy: The majority of women (45%) did not tell their families & children about their profession. In order to escape from the numerous questions, comments and taunts; 55% of the surrogate mothers ended up not sharing information with their relatives and neighbors.

Psychological Aspects: Majority of surrogates (90%) had received the counseling at the initial stage of the surrogacy process while the remaining 10% did not receive any as they were yet to meet their clients. Most of them claimed Dr. Patel to be God for them.

Social Stigma: Only 45% surrogates interviewed could get the support from their husbands as they were the only ones who knew about their involvement in the surrogacy arrangement. 85% avoided to share their involvement in this arrangement from their family members & neighbors.

The pros and cons: Majority of the surrogates (40%) confessed it to be the best alternative available in order to earn such a huge amount in a few months span. 10% surrogates were glad to be able to build up their own new house and they wouldn't have been paying a rent anymore. Another 15% surrogates were high on their dreams to invest the entire amount for their children's education. The other positive aspects listed were- material incentives received from clients, vocational activities at surrogate house, peaceful life at surrogate house, all women living together. When enquired about the negative aspects of surrogacy, Majority of the surrogate mothers (50%) claimed of having no negative perspective about the entire arrangement. While another 40% surrogates were concerned about their families and children; regretting to have had a crèche facility available for their children; in or nearby the surrogate home.

Conclusion: The entire surrogacy arrangement has been seen birthing a commercial market where surrogate mothers are literally treated as incubators and the child as a commodity. The true power lies in the hands of the clinic performing surrogacy and the client who is paying money for getting the child. Surrogacy has become a multi-million dollar industry and due to ineffective regulatory system, it is foreseen to continue exploiting the main stakeholders i.e. the women performing surrogacy. Measurable steps must be adopted by stakeholders involved at each level- the client, the medical practitioner, and the government to secure the rights of the child born in surrogacy as well as the surrogate mother.

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