

SF Community Medicine and Health

Surrogacy-An Act of Violation or Protection of Human Rights

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Abstract

Surrogacy is providing joy of parenthood to the intended couple but the irony is that to protect one woman from being called childless, surrogate takes over the responsibility of carrying her child to be stigmatized by the society. Though many issues of exploitation have received attention some like surrogacy have been overlooked. The global crisis of population and resources limitation is turning the attention of the world of reproduction towards adoption. Deep down everyone who opts for surrogacy wants to have their own DNA but how does genetic linkage tend to be more than humanity. This commentary therefore gives an insight as to how surrogacy market exploits the reproductive rights of the female though at times it seems to be voluntarily and motivated but it is indeed the violation of human dignity of both mother and child and it also discuss on how adoption could be an alternative to surrogacy.

Keywords: Surrogacy; Assisted Reproductive Technology (ART); Adoption; Surrogate

Abbreviations

IVF: In-Vitro Fertilization; ART: Assisted Reproductive Technology

Introduction

Surrogacy involves an agreement between the intended parents and a surrogate woman, that she will carry the child in her womb with the intention of handing the child over to the commissioning couple after delivery. The Department of Health & Social Care stated that surrogacy is carried by women who is termed as surrogate, who willingly want to help IP's to create family.

Surrogacy is an important procedure which has a medical, legal, social and ethical components. According to the Health Ethics, Population Health, Global & Public Health, the reasons why intended parents choose to go for surrogacy are recurrent miscarriages, repeated failure of IVF treatment, premature menopause, often as a consequence of cancer treatment, a hysterectomy or an absent or abnormal uterus, a serious risk to health that may result from pregnancy, heterosexual couples wanting to create a family and also there are women born with chromosomal abnormality like turners syndrome in which because of the high risk of serious cardiovascular disease and other complications during pregnancy and so gestational surrogacy is a reasonable alternative to pregnancy in the few countries where surrogacy is legal [1].

Women Employment and Surrogacy Market

Surrogacy is legal in several developing countries. In 2002, in India, surrogacy was legalised in an attempt to encourage medical tourism in which commercial surrogacy practices were largely neglected. The current absence of regulatory oversight and lack of legal protections for commercial surrogates is the root cause of exploitation [2]. There is no clarity in the deal for the surrogacy so there are strong risks of legal problems. Surrogacy across boundaries contributes to issues of race, motherhood, and children's rights [3]. Surrogacy in India may contribute to equality for women if their rights to reproduce and to work are respected.

Economic disadvantage can compel poor women to engage in surrogacy as a form of employment, if we glance at the surrogate mother, her issues and conditions are much worse and immoral. In these deals their partner or middlemen also convince the weak, illiterate women of rural background to gain easy money. These women therefore have no ability to make choices about their own bodies and lives however this employment need not be inherently exploitative as in Indian scenario the women already struggle to provide her family and cannot afford not getting paid as they have to secure the future of their own children [4].

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Societal Perspective of Surrogacy

Apart from the financial exploitation the surrogates during pregnancy bonds with the child not just through umbilical cord but emotionally which indirectly harms the surrogate psychologically. Psychological evaluation or legal treatment is not given in India, but is compulsory in the USA [4]. Because artificial insemination does not require much contact with the surrogate, but the price of this seems to entail considering the surrogate mother as something in the society. The importance of motherhood is important as in Indian male dominance society the women with failure to reproduce is considered as stigma for being childless. And to protect one woman from being called childless, surrogate mother takes over the responsibility of carrying her child even if the society stigmatizes her. The women though can undergo uterus transplantation as an option available in the cases of absence of uterus or uterus anomaly but again the problems of due immunological rejections or donor-receptivity synchrony might occur, also it is financially not possible for all and so in these cases the women have to decide to either go for surrogacy or adoption.

Most women don't have a choice to choose about their reproductive rights for themselves and hence have to co-dependent on their husbands to sign the form to whether be a surrogate or not. Whereas some husbands of surrogates are construction labours or not working at all so to protect the husband from being called as not a man enough to earn, the women takes over the job of being surrogate. Whereas in India where surrogacy and prostitution are rejected far from being profession Indian surrogates are stigmatized while being compared with the paid sex workers [5].

Surrogates and ART

Surrogacy inherently transforms a women's body into commodity to be used and cared for, while it is useful and to be forgotten once the contract is fulfilled. Women have least knowledge of procedures of IVF while some don't have any idea about what is happening with them what is been inserted during surrogacy. In some cases where a surrogate is dealing with twins or triplets certain abortion pills are released into the body for conduction of abortion without the surrogate mother knowing, which is indirectly violating the reproductive rights of the surrogate. And whether is it necessary that in order to protect the reproductive rights of one female we have to violate the reproductive rights of the other female?

Undergoing infertility treatment for a woman is not that easy she has to bear lot of pain and after failing all the treatments the psychological disturbance about not been able to deliver baby herself and have to rely on surrogate is even more intense. According to reproductive scientist the pain of delivering a baby is equivalent to breaking several bones at the same time. Some women while delivering a baby also lose their lives and this event is sometimes unpredictable in the lives of some surrogates which is also a huge loss to her own family. Another important cultural factor to think about in India and particularly in Mumbai is Bollywood, which inspires the spread of surrogacy. All residents in Mumbai are conscious of and really attached to Bollywood films and protagonists. Bollywood may be a key player within the evolution of surrogacy in the society.

Why not Adopt?

The bond between a child and a parent is incredibly special though they may or may not be genetically linked. Being a parent

is not just about the genes those are inherited in fact it is about how a child is been raised. It seems unfair that most of the couples are engaged in surrogacy rather than legal adoption procedure as there are about 31 million orphan children in India. Most women undergo surrogacy as they do not want their career or job to be paused as for example the wealthy people tend to have babies *via* surrogacy in order to have their own biological kids in this scenario they can have adoption as an alternative wherein they can secure a life of an orphan rather than undergoing surrogacy. Deep down everyone who opts for surrogacy wants to have their own DNA but how does genetic linkage tend to be more than humanity. If couple undergo adoption not just their desire to have a child will be fulfilled but the child's life also be considered with healthy future along with the love of parents which is so much important from a point of view of child's psychology which many criminals lack.

Adoption an Alternative to Surrogacy

Country like India also have a population overload which indirectly have a crisis of limited or shortage of utility of natural resources as well as space consumed. In this scenario awareness and education about adoption is of utmost importance as giving the birth is not only that makes a woman a mother but also how she nurtures her baby after birth even if she hasn't carried her in her womb. As being a biological parent is a very sensitive and special event in every couple's perspective but people should also believe in humanity and potentiate adoption over surrogacy not as an act of charity but as an available option. As the chances of abortion or twin triplet pregnancies or medical issues in adoption is far less than that of surrogacy. Adoption is nowhere going to affect the assisted reproductive technology as there are few couple who have rigorous infertility and have no cure other than assisted reproductive technology. Due to its high costs, the majority of Indian women are not exposed to ART.

In this context, ART's inaccessibility should be seen as a violation of human rights. It does, however, produce and establish a real market and company vitality that primarily attract international people for its easy access and cost effective in India as they can opt for more than one attempt in affordable cost in comparison with their own country. Therefore, efforts should be made and research should be enhanced in order to bring about opportunities for the weaker economic sections to have an access to ART [6].

Surrogacy somewhere is not a lifelong opportunity to earn as there are certain limitations on the number of gestation pregnancies to carry forward with. What after the time period of her reproductive age? The surrogate has to have an alternative to earn other than being a surrogate so why not do that rather than surrogacy. Surrogacy links two mothers to the baby and male gender in comparison with the female have to deal with just the psychological, financial stress and less of physical pain in this journey of becoming a father.

Regulation of Adoption

Many IVF clinics should spread awareness about adoption as a healthy option to have a baby besides providing knowledge about complications associated with gestational surrogacy. Adoption needs acceptance and can be done legally. Adoption also provides a woman with opportunity to continue her education or job or get married with the goal of providing her child with love and security. Open adoption is a type of adoption in which a child can communicate with his biological mother wherein this option is not availed in surrogacy as she has no rights over the child. The only responsibility

of the parents while adoption is to never make a child realise that the child is not genetically linked to them and even if the child comes to know he should be provided more of emotional support rather than discrimination.

Conclusion

It's high time to bring population under control so why not limit baby showers and promote showering babies by feeding and becoming guardians? While initiatives towards this can go tandem when we run out of time. Fortunately, if used correctly, we have a very powerful tool which can bring about a great change in the mindsets of people. And what the newspapers and media has done, policy government power or money failed to accomplish in the last five years. If compared with the financial burden of surrogacy, adoption proves to be more beneficial without having to worry about not getting a healthy child or medical complications like in surrogacy.

Though many issues of exploitation have received attention some like surrogacy have been overlooked. To safeguard one woman's reproductive rights meanwhile exploiting the surrogate mothers' reproductive rights is not a justice and solution to deal

with the problems of reproduction. Adoption and surrogacy share many resemblances though each one has its own different process advantages and issues meanwhile both are enriching process for the prospective parents in starting their family only if surrogacy as well as adoption provides protection rather than violation of human rights.

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