

Assisted Reproductive Technology (ART) and Surrogacy as an option

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Abstract: Surrogacy in simple words can be defined as a mechanism used for treating a woman to get her pregnant and bear a child for another couple or individual with the help of Assisted Reproductive Technology. Married couples and single individuals from across the world may require surrogacy arrangements for a number of reasons. Though this arrangement seems to be mutually beneficial for all the parties that are involved, there are certain complex ethical, moral, social, and legal issues associated with it. These complexities associated with surrogacy have made this practice a major concern across the world. Surrogacy in India has had its own journey from India becoming popular for its commercial hub of surrogacy since 2002 to the introduction of the Surrogacy (Regulation) Bill, 2016, which restricted commercial surrogacy. Surrogacy with the help of ART, is an important medical treatment available to all those couples and single individuals mostly, who are not able to produce a child and bear a child naturally. In India, where there are millions of childless couples, surrogacy can be practiced in harmony if complex and delicate issues concerning surrogacy, are addressed effectively through properly framed laws that would clearly define the rights and obligations of the surrogate mother, intended parents, and the new-born child.

keywords: Assisted reproductive technology, intended parent, surrogacy, surrogate mother.

INTRODUCTION

Nature has enabled women with the capability of bearing and producing a child and offered them the pleasure of experiencing motherhood. The right to reproduction is a natural and fundamental right of every individual. For couples, irrespective of marriage, having their own children is an universal phenomenon. Procreation is a natural desire of human beings. For couples, and even for a few single individuals, Parenthood is a life-changing and rewarding experience. The suffering and pain of not being able to fulfill the dream of parenthood is painful

Every society across the globe has given prime importance to the institution of the family. Globally we have witnessed that there is a change in how in older times, we perceived marriages in order to have children and have a family. In today's world, many individual men and women do not believe in the institution of marriage to have their own biological children. People across the globe definitely want to have their own children but do not wish to get into the complexities of marriages. If procreation is natural to human beings and reproduction is a fundamental right in India, the government should not impose marriage upon its citizens in order to exercise and enjoy this right in true terms. It is a perception that when two individuals come together a new family comes into existence and such family becomes complete with the birth of the children. From ancient times and even now, it is imperative to have children in order to grow and continue the family lineage. Children are considered as a source of happiness for the parents. Psychologists point out that the birth of a child creates a bonding between the partners which can help to restore marital relationship which becomes stressful due to various reasons.

However due to a number of reasons, a large section of the society are unable to have their own biological child. Research has stated that one in six couples have such somatic problems. The absence of a child due to infertility of a woman is considered as a stigma to the family. There are many instances where the problem in conceiving and not being able to bear a child has led to divorces and matrimonial breakdown. The inability to have a child which is known as infertility in medical terms is a global issue. According to the WHO report, the statistics of infertility across the world including India, is almost 10-15 percent. Till recent years, the only solution for childless couples was to adopt a child from an orphanage or a close relative. Science has made so much advancement in the space of infertility treatment. Today, a number of infertility issues in women which were considered untreatable in earlier times have easy and simple treatments available in various parts of the country. The advancement in medical science particularly in the field of infertility treatment by way of assisted reproductive technology (ART) provides the intended couples or single individuals with various options to have a genetically related child.

ASSISTED REPRODUCTIVE TECHNOLOGY:

According to the worldwide definition of Assisted Reproductive Technology (ART) includes all fertility treatments provided by the doctors, in which either female eggs or embryos are handled in a controlled environment. In general,

typical, ART procedures involve surgically removing the eggs from a woman's ovaries, combining or mixing them with sperm in the laboratory, and transferring the embryo to the same woman's body, or to another woman's womb. These procedures do NOT include treatments in which only sperms are handled (for example intrauterine—or artificial—insemination) or procedures in which a woman takes medicine only to stimulate or increase egg production without the intention of having the eggs retrieved for further procedure.

ART is a community of technologies that aid with conception and forecasting. They have different procedures ranging from the relatively basic IUI to the other IVF versions, more generally referred to as test tube technology. Surrogacy is a procedure that is often used when the techniques of either Artificial Insemination or In vitro Fertilisation are used under the umbrella of Assisted Reproductive Technology.

Types of ART

- AI (Artificial Insemination)
- IVF (In Vitro Fertilisation)
- ICSI (Intra Cytoplasmic Sperm insertion)
- GIFT (Gamete Intrafallopian tube)
- ZIFT (Zygote Intrafallopian tube)

WHAT IS SURROGACY:

Surrogacy in simple words can be defined as a mechanism used for treating a woman to get pregnant and bear a child for another couple or individual with the help of assisted reproductive technology. Married couples and single individuals from across the world may require surrogacy arrangements for a number of reasons like the absence of the uterus, or uterine abnormalities, either congenital or acquired (e.g., a hysterectomy for an oncological disorder), repeated in vitro fertilization (IVF) failures, medical conditions for which pregnancy is contraindicated.

WHO IS A SURROGATE MOTHER?

Surrogate mother, she is the lady who agrees to conceive or bear the baby child of other couple, into her womb for the period of nine months, mostly with the charged fees or at times for altruistic purpose. This carrying of baby is done mostly by the process of artificial insemination or by surgically implanted fertilized egg (embryo) of the other woman. Surrogate mother can also be defined as the woman who acts as, serves as, or is an alternate mother. The lady who accepts the child in the natural birth process is affirmed as a "Surrogate Mother" only when she does this for the other couple and carries the child in her womb. After finishing the natural birth-giving process, this child is delivered back to the original and legal couple.

Surrogate Motherhood- This is defined as a kind of relation of the lady carrying the baby in her womb. Here the concerned woman only bears and gives birth to a baby she is carrying. It is mainly done for a person or a couple who after the birth of a baby, either adopts or takes legal custody of the new born baby. It can also be defined as, Motherhood by total proxy. In this process of motherhood, first lady carrying a baby substitutes herself as a surrogate mother for the lady who cannot follow child birth through the natural process. She is also termed as the intended mother. This intended mother's condition is such that she physically incomplete in producing a fertile egg and/ or is unable to carry a conceived pregnancy for a full term of 9 months. There are celebrities and models who opt for surrogacy in order to maintain their physical opulence and shape.

Surrogacy in India has had its own journey from India becoming popular for its commercial hub of surrogacy since 2002 to the Surrogacy (Regulation) Bill, 2016, which restricted the option of commercial surrogacy for couples and Same sex intended parents who want to have a genetic link to the baby and single men. Between 2002 and 2016, India had become a popular and much sort after centre for medical tourism. Many foreigners flocked to India to get a genetically related child through the surrogacy process. The reason for India becoming the hub for surrogacy was the easy availability of surrogate mothers and cheap medical treatment. Indian women from economically backward strata of the society volunteered to become surrogates to the rich and wealthy foreigners.

In a surrogacy arrangement, the childless couple gets a child which is their own and genetically related to them. Secondly, the surrogate mother gets a handsome amount of money to bear the child for nine months in her womb. She gets monetary rewards plus medical care and food for the duration she is pregnant. Mostly everybody involved in this procedure gets benefited. Doctors get a good amount of fee for the treatment which involves a surrogate mother. Though surrogacy arrangement seems to be mutually beneficial for all parties concerned involved, there are certain complex ethical, moral, social, and legal issues associated with it. These complexities associated with surrogacy have made this practice a major concern across the world. And hence many countries including India have banned commercial surrogacy. However, we

cannot forget that surrogacy is an important medical treatment or a procedure, mostly for all those couples and single individuals who otherwise are not able to naturally produce a child.

In a study where doctors and infertility specialists were interviewed, they were of the opinion that, there are millions of couples who are facing infertility issues and are unable to have their own biological children. There are millions of women who are suffering from various issues related to pregnancy. Due to internal physical complications, many women are not able to get pregnant and bear a child due to which they suffer from depression and mental trauma. According to the doctors, infertility is a major concern and needs to be treated with advanced medical treatment like assisted reproductive technologies available for them. With the help of advanced medical treatments and technology, infertility can be easily treated and childless couples can have their own biological children. Through this study and through research it is inferred that infertility is a major problem and can be treated with the medical treatment available to us because of the advancement in science and technology. Renting a womb should be looked at from a different perspective. We have seen how donor organs have proved to be life-saving for patients who need them for survival. Similarly, a womb should be allowed to be given on rent for another woman who is suffering from infertility or unable to bear a child. We need to be sensitive enough to understand the pain of childless women or couples. If all other treatments fail and the only option available to the couple is opting for surrogacy. There is a need, for society to look at surrogacy as an alternative medical treatment available to childless couples. Government and policymakers should also look at surrogacy as an alternative medical treatment available to childless women or couples. And if it is available commercially then it will be more helpful and useful for the couples who intend to have a child of their own through surrogacy.

CONCLUSION:

Considering the staggering number of people who are facing pregnancy issues, surrogacy needs to be looked at as an advanced medical treatment available to treat infertility. Surrogacy with the help of assisted Reproductive Technology (ART) can be a boon for married infertile couples, same-sex couples, and single men who wish to have their own biological child. For Indian citizens, to exercise their right of reproduction, certainly, there is a need to bring in proper legislation to regularize surrogacy in India. There is a need for well-defined laws and rules to take care of surrogacy procedures. It is important for policymakers to consider the nuances while formulating legislation regarding surrogacy laws. A special Act needs to be drafted to take care of the entire procedure and the parties involved in it. Utmost care needs to be taken while drafting the act and rules. Proper legislation should be introduced to take care of the rights and obligations of all the parties and stakeholders including the intended couple, the Surrogate mother, the newborn child, the doctors, lawyers who will draft the contracts, the agents, hospitals, NGOs, Counselors and the family members etc. The Agreements should be mandatory and carefully drafted with rights and obligations categorically mentioned in them. The government needs to come up with an Act and judiciary system which will govern the cases arising out of surrogacy procedures. A lot of research work is required in this space which will help the government and the policymakers to regularize surrogacy in India. If this is systematically done, then definitely it will benefit millions of childless couples and citizens to exercise their fundamental right of reproduction.

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