

# SURROGACY AND IT'S COMMERCIALIZATION.

NEHA

M.A IN SOCIOLOGY FROM I.G.N.O.U

U.G.C- N.E.T QUALIFY (SOCIOLOGY)

## ***Abstract***

Surrogacy is that topic which is in talks from the ancient times and is been almost every societies of the world surrogacy means to carry the child for the other women who is not capable of producing the one ,due to certain complexities . India allowed commercial surrogacy in the year 2002 but it has not got the legal status in the country by the legislative. Commercial surrogacy refers to any surrogacy arrangement in which the surrogate mother is compensated for her services beyond reimbursement of medical expenses.

Commercial surrogacy is also known as wombs for sent out sourced pregnancies or lady farms.

Surrogacy may be commercial or alternative depending upon whether the surrogate receives financial reward for her pregnancy. India had been a favorite destination of fertility tourism before it was made illegal every year couples from abroad were attracted to India by so called surrogacy agencies because the cost of the whole procedure in India as less as one third of what it is United State and United Kingdom (10-20 lakhs).

## ***Introduction***

Surrogacy can be defined when other women carry the child and give birth to him when the couples want a child who are not blessed to produce him themselves. Surrogacy is also appreciate for the person who has an impossible condition or

there is very much danger situations for mother to get pregnant or is a same couple's preferred method of having children.

Monetary compensation may or may not be involved in these an arrangement. If the surrogate receives money for the surrogacy the arrangement is considered commercial surrogacy if she receives no compensation beyond is imburement of medical and other reasonable expenses it is referred to as altruistic.

These are laws in some countries which restrict and regulate surrogacy and the consequences of surrogacy. Some couples or individuals wanting a child in this manner but who live in a Jurisdiction which does not permit surrogacy in the circumstances in which they find themselves may travels to another jurisdiction which permits it.

### ***Hypothesis***

- Is commercial surrogacy is bless or a curse for a society.
- Commercial surrogacy is a good alternative for commissioning parents and surrogacy .
- Surrogacy is more successful in urban areas as compared to rural areas.

### ***Objective Of Research***

At the present data , the birth of the child is very important for the society in which we are living to continue its existence in future period . There are people who are not blessed which the quality to create a new life.

### ***Thus major concerns are :***

- The rights of surrogate.
- What if the surrogate mother changes her mind to not to give the child to the commissioning parents.
- Becoming child's legal parents
- Whether these can be a second legal parent?

- What will be the nationality of the child?

## ***Review of related literature***

**(1)** The gona Institute gives summary in their paper that commercial surrogacy is a very good activity and many countries are adopting it. They help the couple who are incapable of producing the child naturally many agencies from the databases of the women who are ready to become the surrogates and the commissioning couples can choose from them by their own that are more capable of producing their child. In developing countries like India, the rated of the commercial surrogacy are much less than those of the developed countries like California.

**(2) Diane:** Explained the differences between commercial surrogacy and Non- Commercial surrogacy .The monetary benefit is required in commercial surrogacy because there are women from such socio- economic background who are not even able to satisfy the needs of their own children. Such women are just not interested in the child form out of surrogacy because they already have so many months to fill.

**(3) ARATIKA CHAKRABORTY AND SUKANYA BHATTACHARYA (2015).**

Here the author speaks about the scientific progress for the problems of in fertility. This article also brings about an important point that the 228'th law commission report that there is need to stress more on altruistic surrogacy and this is to ensure that baby is born in a family with love and affection and not commercialization of reproduction.

**(4) LAVANIA VINITA (2014)**

After Supreme Court judgment making commercial surrogacy legal in 2002 couples from around the world started coming to India for surrogacy at cheaper rate. The author believes that counseling is a major part of surrogacy where

women is told that she has to take care of the child for nine months at her our place and then hand it over to commissioning parents.

## ***Problems***

- (1) Commercialization of motherboard has raised ethical, philosophical and social questions and raised fears of the explanation of women as baby production and possibility of relative breeding.
- (2) Surrogates are subjected to the risk of infection from the tissues transmitted from infections disease and sexually transmitted infections human and medical are still possible.
- (3) All drugs have side effects It may be dangerous to the life of the women.
- (4) **IVF** is generally more invasive and therefore more risky than **AI**. **IVF** also cases a higher risk of multiple pregnancies which is riskier than single pregnancy.

## ***Suggestions to stop commercialization of surrogacy.***

- (1) Adopt clear and comprehensive legislation that prohibits the sale of children as defined by the optional protocol to the convention on the rights of the child on the sale of children child, prostitutions and child pornography in the content of surrogacy.
- (2) The sights of the surrogate mother should be protected in every possible manner.
- (3) The commissioning parents should be the legal parents of the child.
- (4) The nationality of the child should be same as that of the commissioning parents.

## Conclusion

As discussed earlier surrogacy arrangements could be gratuitous or a paid as any commercial transaction as according to the agreement between the commissioning couple and the surrogate.

Commercial surrogacy has to face many ethical questions such as the status of the surrogacy contract in the case of miscarriage custody of baby if born with serious disability or basic questions but what will happen if the commissioning couple change their mind set up.

For India it is now the high time to come up with the laws related to surrogacy so that this arrangement could be regulated and a greater harm to the society could be prevented so at the end we can say that even after having certain guidelines even after having judicial interpretations recognizing commercial surrogacy as a practice we need to have strict and elaborate laws or regulate this issue of surrogacy as a practice which can be missed in form of selling child for money.

## Reference

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