

NAVIGATING SURROGACY: LEGAL COMPLEXITIES IN INDIA THROUGH THE SURROGATE'S EYE¹

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ABSTRACT

Surrogacy is taboo in the society, though it is important and gives an objective to the lives of a large number of couples. Present Paper is based on an empirical study conducted by the researcher among the surrogates in and around south Indian City Hyderabad. He deals with the analysis of the concept of surrogacy from the moral, social and feminist views along with the views of Surrogates and people of their vicinity. Psychological impact has also been analysed. It is also found that the surrogates are in high spirit of being instrument of exultant for others and represent it an altruistic work. Though it is not socially accepted, but people of the vicinity of the surrogates don't consider as taboo.

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1 INTRODUCTION

The identity of a female is largely associated with a word ‘Motherhood’. It makes a woman complete in socio-psychological sense, Thus Infertility, though not life threatening, but cause immense mental agony, depression and trauma. Only the infertile couples, who are facing this situation, may describe it. WHO estimates that the cases of infertility ranges between 10 and 15% throughout the world (ROWE; VIKHLYAEVA, 1988, p. 2; INDIA, 2005, p. 2). If we analyse World’s Population of 7000 million, approximately 25% (1750 million persons), we presume attempt for parenthood at any time. If we consider the WHO estimate, then 10-15% of this 1750 Million i.e. approximately 175 to 260 million couples are estimated to be infertile at present.

A large number of these infertile couples are thankful to Recent extraordinary advances in Medical Technology lead to satisfy the desire of women/men to have their own children, even in case of severe incurable infertility. Assisted Reproductive Technology (ART) thus allows reproduction without actual physical contact between partners.

Any procedure or method designed to enhance fertility or to compensate for infertility outside the traditional means of procreation can be labelled as assisted reproductive Technology (BLANK; MERRICK, 1995, p. 85). Far back from 1960s some of the countries are using these technologies. These technologies have been developed from the less complex, Artificial Insemination (AI) to more delicate and controversial techniques like In Vitro Fertilization

(IVF) and Cryopreservation Egg and Sperm Donation, Surrogacy and more recently Cloning (KOYONDA, 2001, p. 43 JILI 66 at 67).

First ever IVF child was born on July 25th, 1978 in Great Britain and only 2 months after that, second IVF (In Vitro Fertilization) baby Kanupriya was born in Kolkata on October 3rd, 1978. Thereafter we observe the substantial growth in the field of Assisted Reproductive Technology (ART), whereas in 21st century it developed many folds (INDIA, 2009, para 1.1). Obviously certain legal as well as social issues arise as the biological mother may differ from the mother who actually gave birth to her child. Fatherhood is also a crucial socio-legal issue. Legitimacy of such child is also an issue of controversy.

The word ‘surrogate’ is originated from a Latin word ‘*surrogatus*’, which is past participle of ‘*surrogare*’, which signifies for a substitute³, i.e. a person replaces the original one for a particular purpose or time. So the word ‘surrogate’ has been considered for ‘substitute’ or ‘replacement’. ‘Surrogate mother’ then it signifies with a woman who bears or agrees to bear a child for and on behalf of another woman, or we can say her ‘substitute mother’. Surrogates generally get monetary compensation for the services they render. In brief we can say that they are substitute or ‘tentative’ mother. In Surrogacy arrangement a Surrogate mother generally conceives the embryo after fertilization outside, gestates the foetus in her womb for entire pregnancy period and thereafter give birth to baby for and of another woman who is after the birth of the child, to be seen as the ‘real’ mother socially and legally. So we can summarise the Surrogate mother as a woman “who bears a child on behalf of another woman, either from her own egg or from the implantation in her womb of a fertilized egg from other woman”.

The common form of surrogacy is where the sperm of male intended for his child utilised to fertilize the egg of a lady, generally

³ <http://www.thefreedictionary.com/surrogate+mother>

through Artificial Insemination outside the womb, in a disc, who bears the child for entire pregnancy period and lasts with the delivery. The wife of the intended male considered as intended mother, who for all social purposes considers as the mother of child and the mother carried the child in her womb separates herself from the child. In this kind of Surrogacy, surrogate is Genetic mother of the child, so it is Genetic Surrogacy. Some scholars refer it as ‘partial surrogacy’.

In case of infertility of the commissioning father, or due to defective gene, he doesn’t wish to pass or for any other reason, doesn’t use his sperm and prefer to use the sperm of a donor or even the husband of surrogate to fertilise the surrogate’s egg, is ‘total surrogacy’.

If in the process of fertilisation, the egg and the sperm of intended couple (or of anonymous donors) utilises through the process of in vitro fertilisation, thereafter the embryo being implanted into the uterus of the carrying mother. Here surrogate without having any genetic link with the child, is carrying and performs the function of gestation thus this kind of surrogacy commonly refers as ‘Gestatory surrogacy’ some the scholars use word ‘full surrogacy’ for this type of surrogacy.

In this way technical advances one way gave the pleasure to some people but resulted product, the innocent child compels to carry the motherhood in pieces. The concept of Motherhood in this manner actually splits up into genetic, gestational, and social motherhood. A surrogate mother, generally for monetary compensation, commits herself to carry an embryo for another woman who for reasons of reluctance, age, or medical conditions cannot or does not want to do so. Usually,⁴ the intended father gives his sperm for the fertilization of an egg that may stem either from the surrogate mother herself (traditional surrogacy) or from the intended mother or an egg donor (gestational surrogacy). However, sometime intended mother gives

⁴ As only in rare cases are both intended parents lacking in fertility.

her eggs for fertilisation with donated sperms⁵ for gestational surrogacy.

Surrogacy has been become a thriving business recently, whereas it was technically feasible for decades. As per an estimation, figures have increased nearly tenfold between 2006 and 2010 (TRIMMINGS; BEAUMONT, 2013, p. 483 *et seq.*, *apud* ENGEL, 2014, p. 202-203) meanwhile amounting to some small 4-digit number of surrogacy cases involving intended parents from European countries every year (TRIMMINGS; BEAUMONT, 2013, p. 483 *et seq.*, *apud* ENGEL, 2014, fn. 3, p. 199).

India became most popular surrogacy destination thus in depth study of this growing industry is warranted. The studies conducted up until now were mostly conducted by journalists and their approach is entirely different. Some literary studies were also conducted, but the same have certain limitations. A detailed empirical study around the effects of surrogacy is required, which can analyse its effect on surrogate's health, family, and other social implications. Issue of legal complication arising out of this also requires proper attention of scholars. Another important aspect need to be addressed is the role of women in decision-making process in complex threads of Indian society, to become surrogates, as they are the most important and most affected actors of the surrogacy arrangement.

In present study, researcher attempted to address these issues, specifically from the viewpoint of surrogates themselves. To find out the reaction of the community, a sample survey in the vicinity, where these women reside, was also conducted. This study is different in another aspect that all the surrogates participated in the study have completed their task and researcher analysed their perception after the successful delivery and handing over the children to respective Intended Parents.

⁵ In case where the intended father is infertile or due to defective gene, doesn't wish to pass or for any other reason, though it is only once in a blue moon that the sperm comes from a donor

In India, literature on this aspect is not enough, so humble researcher adopted the sample survey method. First he interviewed the actual players, who may also victim of social stigma associated with this process, i.e. the surrogates and the persons reside in the vicinity of those surrogate women. But before interacting with them, it is found appropriate to discuss the issues raised throughout the world associated with the ART and surrogacy arrangements.

Undoubtedly ART procedure is very personal. In case of surrogacy, issue becomes crucial from the surrogate's perspectives, though, intended parents and their children hardly face discrimination or any other lack of acceptance (ENGEL, 2014). Public opinion is split as to whether Surrogacy arrangement or commonly said "Womb on rent" should be supported?

Since it is general presumption in the society that the conservative Indian society is not ready to accept this kind of development, so Researcher analysed the perception of the society, whether there is any immorality in surrogacy arrangements? What is the perception of surrogate mother herself? He was very particular about the issues that whether surrogacy can be compared with Prostitution or that reproductive labour of women has been commodified and thus degraded or alienated or whether it is being dehumanised, while discussing with the surrogates and people of their vicinity. He also tries to deal with the question "Whether Surrogacy is moral?" While dealing with the moral acceptability of surrogacy the child's perspective was also considered. The morality of surrogacy contracts and the commodification of children were also considered while discussing with the target groups.

2 SURROGACY AND THE PROSTITUTION!

Some scholars compare surrogacy arrangements with the prostitution and held declared them similar. Mary Warnock in her

report on fertilisation and embryology holds it “a form of exploitation similar to prostitution” (WARNOCK, 1985). Andrea Dworkin uses an interesting word (m)otherhood to compare it with the prostitution and held it “a new branch of female prostitution with the assistance of Doctors and Technology”. She presents it as “like the female sales their Sexuality, Surrogate women are selling their reproductive capacities” (DWORKIN, 1983, page 72).

Certain similarities between two may easily be found as Prokopijević says: “In both cases one’s physical service is being offered, in both instances a deep personal or emotional relationship is not required for the transaction to be completed, in both cases material compensation is offered for the physical services provided.” (PROKOPIJEVIĆ, 1990). He further explains that these similarities are ‘superficial and relatively unimportant’ in light of differences between them. Even all kind of Physical labour can’t be compared with that of prostitution only on the ground that it is for money, so comparison on the ground of physical labour for money, declaring it the same as the prostitution is not acceptable at all. Similarly absence of “deep personal or emotional relationship” is nowhere required for Physical labour for money. In almost all transactions of material compensation for physical labour, situation is same.

Unfortunately, in prostitution no emotional relation or deep intimacy develops, but just think about the lady, who carries a baby in her womb for nine months, feels her movements inside, becomes part of every activity including watching her movement in images, may free from emotions? Anton van Niekerk and Liezl van Zyl (1995, p 345-349) rightly condemned the efforts to declare it similar to prostitution.

Whatever scholars world-over are commenting about surrogacy on the basis of her reproductive services for monetary compensation, but without considering their views, is not justifiable and must be considered as sheer brain storming. Though, the

surrogacy arrangements are furtive and surreptitious one and most of the time all the stakeholders concern and care their privacy. But this study reveals that if the poor people after knowing the fact that no actual physical contact is required for surrogacy, though difficult to digest, don't compare it with any kind of prostitution, however they generally don't agree to permit their women to enter into the surrogacy arrangement.

Study conducted by this researcher reveals similar notion about surrogacy. Researcher found that general perception about the surrogacy is more or less based upon misconceived information. While discussing with the people of the vicinity of surrogates, he explained them the procedure of Surrogacy, once, they could not believe, but on explaining through graphics that she does not even touch the intended father, and in some instances she never saw the intended parents, they realized their wrong perception. Even some of them told that even it is for money; still the sacrifice for the contentment of being mother/father of their own child for others is a Noble Cause. They also relate it with their religion as in Hindu culture "The Kanyadan" (Gift of daughter to her husband) considers as the highest sacrifice and similarly in Islam the sacrifice of the Son.

Undoubtedly, prime motivating factor for all the surrogates participated in the study conducted by the researcher, for entering into the arrangement was grave need of the money, but their sacrifice cannot be devalued for this reason only and it should be regarded as a "Noble Cause".

Anderson objects on Surrogacy with a feminist view and claims that it commodifies women's reproductive labour. Her objection is not based on the argument that it is alienated labour, but she condemns the 'alienation of reproductive labour'. In this significance, she compares it with the prostitution and finds somewhere around it. In light of the perception of the people of the vicinity of surrogates and their family members, It appears that her

version is misconceived. Physical labour and even alienated labour is also not immoral, unless it does not satisfy the sexual desire. In this context in fact she unfortunately, compares sexuality with the reproductive labour. She is comparing feeling of motherhood with the sexual pleasure.

I never intended to say that every prostitute extending her physical services for pleasure. Certainly a large number of them have been compelled to do so, and the situation may same for surrogates as well, though I didn't find it in any case, which might their explanation to justify their act, but my protest is against the undermining the reproductive labour of Surrogates, which they are doing not for themselves, but the sake of their families and also for the contentment of others.

It is also requires to consider that surrogacy contract for a surrogate is not amounting to selling her body to satisfy the sexual desire of others, but it is directly associated with the desire of parenthood. Satisfaction of desire of parenthood is the matter of pride, whereas the satisfaction of sexual desire through prostitution seldom consider as a matter of pride on the contrary in most of the cultures it is matter of shame.

Sexual satisfaction is very private thing and performs behind the curtain, whereas the pregnancy in India is a social practice and normally celebrated by the family and surroundings. Many social expectations and considerations are associated with it. Entire family cares for pregnant during entire pregnancy period. Does anybody can undermine these expectations? Intercourse on the other hand, normally keeps very personal and prostitution is the matter of a few minutes or hours behind the doors. Pregnancy is a lengthy process and takes further a long time to recover physically and mentally after delivery. In fact it is beyond simple biological practice.

So, undoubtedly, any kind of labour can't be compared with the women's reproductive labour and it is entirely different from any

other form of labour. But, while holding it different another question arises that whether commodification does not turning it into alienation of labour? According to question-raisers, if we want it to be considered as different, then it should be kept away from commodifying it or leave to turn it into ‘alienated labour’.

Satz cites various scholars, who consider the reproductive labour of women from the naturalistic and biological viewpoint and says that though surrogacy arrangement is not voluntary unlike other forms of physical labour. He says that the other forms of labour, labourer remain free to take decision at every step, whereas, surrogacy requires long term commitment. He further clarifies that once a woman enters into a surrogacy agreement, and conceives, thereafter she is bound to perform reproductive labour, irrespective of her consent at every step. At a later stage if she wants to withdraw, she has no way to escape from the arrangement. Another aspect is the restrictions involved on the behaviour of woman throughout the pregnancy period in reproductive labour in reference to her own body, which is not that much invasive to labour’s body in other form of physical labour (SATZ, 1992, p. 107-131).

In agreement with Satz, I don’t think that anybody can deny these differences between reproductive labour and other form of labour. Pateman is against the consideration of reproductive labour of a woman as an alienable commodity. He says that it is more ‘integral’ to the identity of a woman than other productive capacities (PATEMAN, 1988). Satz’s criticism to Pateman’s view on the ground of morality does not impress me. If somebody may be instrument of Exhilaration for others and that is for their lifetime, after alienating her services for a short, though considerable time, nothing is immoral, specifically when no immoral labour is involved in it.

Martin Engel’s opinion is somehow realistic which dismisses any analysis of the reproductive labour without the product i.e. the

child. The status of child is the decisive factor. If birthing mother remain social mother of the children, than the issue of reproductive labour doesn't arises. So the issue can be discussed only after the child come into existence. Though, Pateman's assertion of consideration of reproductive labour as an integral part of woman's identity can't be denied, specifically in light of present social structure where motherhood completes the woman.

Certainly without considering the resultant children one can evaluate the reproductive labour as the thing that distinguishes it from other kind of labour, as he says that "the product of their labour is not 'something' but 'someone'". I appreciate his arguments that the relationship between a mother and a child even before birth, while pregnancy with her unborn foetus cannot be analysed on similar to that between a worker and his skill or physical labour. While criticizing, we should take care that the scope of Pateman's study was in other context and reference to the present topic was incidental. Martin was further confused in observing that things are means to an end, but not ends in them. This contention is not appropriate in reference to pregnancy and relations of mother and her born or unborn child. He should consider that the Children are not means, and delivery does not end their relationship.

The word mother is different from pregnant and term mother and motherhood is signifies after the birth only. Mother never regards the relationship for any end; instead, birth of a child itself is a beginning of a relation. I agree with Pateman that being '*most integral part of female identity*' reproductive labour should not be considered in isolation. Off course, the bond between a pregnant woman and her unborn child is usually (or should be) an integral part of her pregnancy and it usually never ends, and become stronger by the time. When it converts into motherhood, every smile and action of baby makes it stronger.

Saritha⁶, a Surrogate in Hyderabad, bluntly said, “We Poor People are giving births, without looking the future of resultant children, on sacrifice of one of them, we may ensure better life for others”. On alienation of her body, she assertively asks “What unusual we are doing, which a normal lady doesn’t?” She further adds that “beside money, exhilaration of intended parents is our real reward”.

Researcher met certain intended parents and one of the genetic mothers from USA, while discussing with the researcher, emotionally expressed that when a woman is taking risks of going through pregnancy and labour for another family clearly deserves to be paid specifically when she voluntary chooses the service and money was going to benefit her financially. In fact money she is getting is a usual amount for intended parents but it is life changing for the surrogates, who really is in sheer need of it for the betterment of her family.

Pregnancy is a phenomenon, which develops an intimacy with the child in womb. During the pregnancy mother falls in love with the baby so also her family members waiting for the birth. It is common perception that intended parents are away from this feeling. The researcher does not agree with this perception. The real situation is that intended parents are also remain eager with mere thought of parenthood and for that they travel long distances, fight with the regulatory authorities and even some time with the adverse laws. They also spent a huge amount for their dream of parenthood, how, one can ignore them?

Researcher met with a number of intending mothers and observed their involvement in the process and their attitude with the pregnant lady. In fact they only want the best pre-natal care and services for the lady, carrying their child in womb and even sometime feel a bond with her. Almost all the Intended mothers make

⁶ Changed name

every effort to keep surrogate to be safe, happy and comfortable and they also want to make her feel the same. Some of them consider it friendship but other feels it like sisterhood.

In a surrogacy Hostel this researcher watched an Australian Intended mother with a surrogate; they were playing together with dolls. Intended mother was recording every activity of surrogate in her handycam. Another Japanese lady brought chocolates for all the ladies of surrogate hostel and a huge bag full of gifts for the previous children of surrogate. Even they spend their time in doing makeup of each-other. They were enjoying together every moment of pregnancy even with the barrier of language and culture. Their relationship was based on emotions and feelings associated with basic human values.

3 CHANGE OF PERSPECTIVE

While discussing the surrogates within few days after handing over the child, i found their blunt eyes and one of them told me in Telugu that she is ready to pay whatever she received if Researcher helps her to recover her child. After a month when he met her again, she was somehow comfortable and said that they are constructing a room in her house and her children will not be compelled to face the bad weather. 'Change of Perspective' may be understood from this example. Actually, Perception of surrogate changes as their pregnancy develops.

Researcher analysed the change in their perception right from the entering into contract. Initially lady generally thinks about the society only and don't think of herself and if she thinks sometime even than make her strong to take this step for the betterment of her family. While entering into contract of surrogacy, she act mechanically. At the beginning most of them have been taught to consider the pregnancy simply as a physical labour. They make themselves ready to give up the child. Even during the pregnancy

they do not associate with the pregnancy in early days and feel that they will get money and are giving service for money. In this mechanical feeling they add the work for exhilaration to an infertile couple.

With the advancement of the pregnancy they feel that they are expecting a child, that is not a product, but the part of their body, a living human being, whose presence they feel in their womb. At this juncture they feel themselves tied with another human being developing in their own body. They suffer a stigma that though they are pregnant but in social sense they are not permitted to expect their child. They live with a feeling that something is surviving inside, but they are keeping it for someone else or they don't have any right over the child. In this way it is a kind of divorce of pregnancy from the cautious feeling of motherhood. So we can easily say that the process of surrogacy deals with the surrogates, the cautious ladies bound to feel as a human being and to live as mere 'human incubator'.

Thought, Satz appears to be knowingly ignoring the above perspective of surrogates and divorce her innocently from the knowledge of the emotions 'normally' involves during the pregnancy. On the contrary she points out the examples of women, having no affection with their children or fetuses or while pregnancy they abort it. She also tells about the women, who could not develop bond with their children (SATZ, 1992, p. 107-131, note 10).

Unfortunately, Satz is undermining the basic human emotions related with motherhood or the affection of mother with her child. The feelings in the mind of a mother shall certainly be of affection, though she doesn't express it as she is bound by the agreement. Even the mothers, she is referring shall not permit to bring their child away. No parameter can evaluate the love and affection of a mother with her child, though some of them express well and some do not. Some of them are careless by nature and some are hyper sensitive, but this situation does not only reflect in their behaviour with their child but it becomes the part of their general behaviour.

So, the question arises that whether we should object the institution of Surrogacy on this count? We should also consider the cases in which the surrogate feels deep sense of bonding with the child in womb, but in order to execute her agreement of surrogacy, she forced to give the child to the intended parents against her will? Isn't amounting to dehumanising or alienated labour?

Some scholars suggest the way to overcome this problem by leaving the issue of handing over the child to intended parent on the willingness of the surrogate, thus not legally compelling surrogates. In this way she, would have an opportunity to withdraw, in the circumstances of change in her perspectives during the pregnancy. She would have options either to continue with the terms of the contract and handing over the child to the intended parent, or, if she is willing to keep him after change in the perspective, to keep him with her. Russia adopted this model.

Uncertainty is nowhere part of law, so rather finding illusionary solutions, which keep contracting parties in dark and doubt the probable solution, must be based on solid principles. Intended parents, who have been spent a huge amount and time besides the feelings or the sense of expecting a child, have to suffer a lot. In this analysis we find that, though Satz fails to explain the human behaviour and affection of mother with the child, but her critics also fails to provide somehow acceptable solution.

Prokopijević while dealing with this issue come forward with 'repercussion of a non-moral nature' model. He suggests that the surrogates might be granted liberty to choose the option to handover the child to intending parents or keep with her after paying entire expenses incurred in the process along with the compensation. A specific period of time should be allotted to exercise this option if she changes her mind.

The solution seems to be attractive but it unfortunately impractical for two major reasons. First can we presume that a lady

who just for the economic reasons agreed to sale her reproductive labour may be in a position to return the entire amount including the expenses and the commission and charges of all stakeholders? Secondly, that while giving liberty we can't ignore the claim of the commissioning couple, who were 'expecting a child' and in this way they were feels them-selves 'pregnant' psychologically, although there was no physical pregnancy to the female partner of such couple. It should also be kept in mind that the child is their genetic child. While satisfying the emotions of a lady who voluntary entered into a contract we can't ignore the desire of intended couple and the legitimacy of their desire to be parent of their child, the emotions developed during the process and psychology of 'expecting a child'.

Prokopijevic supposes that around 10% of the surrogates may change their mind. He says that this shall not affect the institution of surrogacy adversely. He further explains that in case of an intended couple falls in that ten percent, at the next time the probability shall be only 1 percent. He contends that repetition of such bad luck is almost negligible. He prefers to neglect such a slight probability (PROKOPIJEVIĆ, 1990).

Unfortunately he is ignoring a simple fact that the relation of mother and a child is not subject matter of mathematical calculation. We have an example of Russia, probably based on the analogy discussed by Prokopijević, but we have to examine, whether the model is successful or not. Otherwise also the surrogates are poor lady, who are not in a position to break the contract and compensate the commissioning couples. They can't afford to break the contract. Does it not amounting to emotional shock to them when they will get the knowledge that due to lack of money they had to leave their child? This may create certain psychological problems to the surrogates and otherwise also it is inhumane that a woman shall be compelled to leave her child only due to lack of money.

On the other hand he is ignoring the fact that the bearing a child in the womb is more than a biological or physical process and intending parents, who are ‘expecting a child’ in psychological and social sense have to suffer a lot. Prokopijevic is also neglecting the feelings and desire to have a child. He makes mistake in separating the feelings of intended parents from that of Surrogate mother. Monetary compensation is immaterial as alternate to the child for either of the parties.

Love and affection of parents with their adopted child is also a common phenomenon. As we discussed above in a number of cases intended mother spend time with the surrogates and in most of the cases intended parents bother to care of Surrogate while pregnancy as ‘their’ own. They in fact expect a child. One can presume the psychological effect on the intending mother, who expects a child and can’t be satisfied simply to ‘try again later’ in case of failure of first attempt. I am of the opinion that the mental shock will create a psychological impact on the expecting parents and they shall never be relying on any of the surrogate for the purpose.

Now another question arises that who will be considered as social parent of child. From the open eyes one can say that in the case of compliance of the terms of the contract of Surrogacy, the intended parents, else the biological mother and her husband shall be considered as social parent of the child. Courts in most of the jurisdictions, while deciding the matter of parenthood consider the well-being of the child itself. Similarly, in my opinion Instead of asking about the ‘real’ parents of the child on the basis of determination of biological or genetic linkages, the best interest of the child should be paramount consideration. Best interest of the child is the only parameter to decide the guardianship is the only best known solution.

Now, if we presume a situation where surrogate is compelled to handover the child to the intended parents against her will, her

labour shall be turned into ‘alienated labour’. In fact she is compelled to alienate herself from the fruit, the child, and to hand over to intended parent.

For an instance, if fruit lies with the tree, i.e. the surrogate, and surrogate and her Husband (if exist) are the legal parent(s), the intended parents shall be victim and the decision shall be amounting to denial of the legitimacy of their relations with the resultant child, whereas, genetically they (or at least one of them) are parent of the children. It is also noteworthy that if the surrogate decides to keep the child with her, the arrangement shall be immoral, since it will be amounting to denial of the valid claim of the genetic parent. Definitely, it will cause severe disappointment to them, may result into moral and psychological harm.

However, while discussing with the surrogates, researcher heard about a large number of successful transactions. He never heard about any dispute of change in perspective from any stakeholder and even from any person of the vicinity of the surrogates. Ultimately all the stakeholders of the surrogacy contract are in benefit; the intended parents got the child, whereas the surrogate has been compensated financially and other stakeholders also got their rewards, and question or even feeling of alienated labour found no place.

4 DEHUMANISING LABOUR

Another question arises that whether the surrogacy arrangement is a kind of ‘Dehumanising labour’? As we have discussed earlier that the pregnancy is not merely a biological or physical process, but it has psychological impact as well. Cautious knowledge of surrogate that she is carrying a child in the womb develops an intimacy with it. Psychological expectation of a child prepares a woman for the birth of a child. In case of pregnancy by contract for a surrogate are geared up by the feeling that they are

experiencing the pregnancy for other. They have to leave the result of the pregnancy, the child. This may keep them under stigma for a long duration till the pregnancy ends or even thereafter also.

Now consider another situation where a lady get pregnant for the sake of desire of child of a close friend or relative and she is cautiously aware that the child will remain with them and she shall always be considered the second mother of the child, shall we describe it as alienated or dehumanised labour? When she knows that she is doing it for the exhilaration of someone close to her by bringing a child into the life of a childless couple with whom she also has a close relationship.

An inherent problem with the surrogacy arrangement is its character, which involves at least two different persons who can legitimately claim the parental rights over a child. This is a situation of conflict, which can be resolved only through a clear and unambiguous statute. Till then a conflict can in principle always arise. Almost all the personal laws give first parental right to the natural parents, but in case of surrogacy situation get complicated as genetic parents may differ from the biological parents.

An easier solution to combat with this problem is to prior agreement with clear terms, but the danger of causing moral or psychological harm to the surrogate and/or the intended parents may always arise. One can find solution to make such arrangement between close friends or relatives. But it is not the guarantee that the problems would not arise. During his study researcher found that in no case the arrangement was made with close friends or relatives, but on the contrary he found that a couple usually prefer a surrogate totally stranger to them. The reason he analysed behind this perception is that they don't want a 'second mother' to their child, who can interfere with his upbringing.

Moreover, this perception of intended parents is generally based on the advice given by the professionals, who seldom want

them to develop any kind of relation or even motivate them to make a distance even with the prospective surrogates. A large number of intended couples are following the advice, but some of them in abeyance of it developed intimacy with the surrogates, caused the development of mutual trust resulted into impact of Aluistic Surrogates, her near or dear, never complained about dehumanization of her reproductive labour.

5 CONCLUSION

After overall discussion about surrogacy, scholastic approach towards it, Surrogate's perception and general perception, it is clear that surrogacy is the model to counter infertility, generally not accepted by the community. Most of the countries of the world don't approve commercial surrogacy, but India does.

In Indian society, reproductive role of the women has been taken as granted and it has no consideration at all, though, in case of infertility of either of the spouses, she held liable. Commercial Surrogacy is the way where some significant amount of money associated with the reproductive capacity of the women. But the important question does arise that whether childbearing capacity of women may be commercialise in traditional Indian families? Whether society accepts it? Whether women are ready to it? Whether reproductive autonomy is right of the women? Whether family should have control over the reproductive autonomy of a woman? What does consent actually mean or represent in these conditions?

All these questions lead to a new debate in conservative Indian society. The surrogacy as a means to economic empowerment may be considered but with great cautious, so as to keep safe the complex threads of typical Indian social structure. So two main concern reveal from this study- first is the Reproductive Autonomy and influenced decision making and second one is the role of community.

Surrogacy arrangements shall remain devalued by community members, though, as observed during the study, their immediate families support and defend them. Those who consider it as a good mean to counter infertility shall also contest on the issue of payment for surrogacy. First who think that in the present capitalistic age reproductive labour should be monetary rewarded or at least compensated, whereas the other are disagree with it, who says that it should remain the matter of maternal altruism for the contentment of others, which will their real reward. In their opinion, it is commodification of child or womb.

While the study it was observed that all the pregnancies ended into Caesarean. It was also informed to the researcher that in every case pregnancy ends in caesarean only. This phenomenon is of great concern for the policy makers. Clinicians never tell the risk of Caesarean to the surrogates. Most of the Surrogates are facing problems arising out of the caesarean. Women must be informed about the caesarean well in advance along with the complications associated with the procedure.

Unfortunately, the present work was suffered from lack of resources, scope and directions also. Psychological aspect could not be addressed, which requires proper consideration to reveal the actual scene. In depth study is required to analyse the behaviour of Surrogates, Psychological impact, effect of their decision on Social behaviour etc. Need proper consideration in a subject specific study.

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