

Surrogacy: Assisted Reproductive Technology: A Socio-Biological and Legal Aspects in India

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Abstract: *Assisted Reproductive Technology (ART) has enabled of infertile couples worldwide to have children's. It is about 30% of population of the human being is survive infertility. Infertility is not occurring today still an ancient time also. There are so many causes of infertility, due to failure to ovulate about one third of female infertility due to hormonal imbalance, tubal disease infection that is Pelvic Inflammatory Disease (PID) another possible cause to damage the oviduct. Infertility is most common factor in marital life. Infertile couples are ready to attain all the possible options to have a child. Some of them adopt the child but in present era the medical science to develop the surrogacy. In history of Medical Science the birth of child in which couple they are not able to produce offspring.*

Keywords: ART, IVF, GIFT, ZIFT, TET

1. Introduction

The surrogacy or Assisted Reproductive Technology is the process of manipulation of eggs, sperm and embryo outside the body in order to achieve pregnancy.³

The reproductive system is subject of environment with religious, political, cultural and socio-economic factors. The infertility differ from reason to reason also from one population to another population, also from one place to another within same population.⁴ In modern medical biology their are some ART included IVF, ICSI, Donor Egg IVF, Gestational Carrier IVF, ZIFT, GIFT, TET. Intrauterine insemination involves only the manipulation of spark. In vitro fertilization IVF involves the joining of eggs and sperm in a laboratory dish and transfer the resulting embryos in to the womb. Intracytoplasmic sperm injection ICSI that involve in a process only single sperm is injected in to each egg. This process is used for seminar abnormalities and couple who have unsuccessful fertilization. Donor egg IVF technology used in female has very poor quality of egg. Gestational Carrier IVF is that the common people think about surrogacy. Zygote Intrafallopian transfer ZIFT is another treatment for unexplained infertility. Pre-embryos are transferred in to the oviducts rather than gametes in GIFT. Gamete Intrafallopian transfer GIFT is a variation of IVF which can be useful if the oviduct are not blocked. It is mainly used where is no known cause for infertility or when the women's cervical mucus is hostile to her partners sperm. Tubal Embryo Transfer TET is better approach of transvaginal follicular aspiration with ultrasonically guided needles allows the transfer of invitro generated embryos to the fallopian tubes, TET performing only one surgical process.^{5,6}

2. Socio Biological and Legal Aspects of Surrogacy in India

The infertility and childless India by using National family health survey-2, 1998 @1999 and National family health survey-3, 2005-06 data.⁷

In India the large Hindu population have become epicenters for the fertility tourism, Nemours questions have been raised regarding whether or not surrogacy conflicts with Hindu religion.⁸

Mr.TC Anand kumar a renowned Indian reproductive biologist argues that there is no conflicts between Hinduism and assisted reproduction.

Other reproductive biologists have supported this instance with reference to Hindu mythology including a story in the Bhagwat Puran which suggest the objective of surrogate motherhood.⁹

The king of Mathura Kans imprisoned his sister Devaki and her husband Vasudev. Because Oracle has informed him that her child would be killed him. The births of her sixth children, all the six children's were smashed .It's heads on floor killed by Kans.

When the seventh child was conceived by Devaki, The God intervened, and notice to the Yog Maya Goddess to transfer the fetus from the womb of Devaki to the womb of Rohini. The child conceived in one womb was incubated and delivered through another womb. This is phenomenon of Surrogacy. It has to be general acceptance of medical intervention for the address of infertility among the Hindus.¹⁰

In Indian , an ancient period as well as today those couple have not produce the child the society see them very wrong vision. The family, Friends, relatives and society treated him as a culprit. In society such couple called sterile Such type of couples suffered from mental, physical and social pain. The medical science give the chance that those sterile couple to conceived their child by surrogacy with the help of surrogacy rules.^{11,12&13}

In India Earlier there is no any law to regulate surrogacy. The Law Commission Of India submitted 228th report on "Need for Legislation to Regulate Assisted Reproductive Technologies Clinics, as well as Right and Obligations of Parties to a Surrogacy." The Law Commission has strongly

recommended for a need of comprehensive legislation in the form of assisted reproductive technologies bill to govern surrogacy issue in India. But Parliament is still in the process of finalizing the surrogacy Bill.¹⁴

The Indian Council of medical research and national academy of medical sciences gives the guidelines for supervision, accreditation and regulation of ART clinics.¹⁵ The surrogacy (regulation). Bill 2016 insure the regulation of surrogacy in India But the regulation also prohibited the commercial use of surrogacy. It allows the altruistic surrogacy to Indian married couple who cannot bear children. The Bill Says the surrogate mother and couple that want to have her child must be close relatives. It provides for the formation of National Surrogacy Board, State Surrogacy Board and appointment of appropriate authorities for the regulation of the practice of surrogacy.

The surrogate mother and the intending couple need eligibility certificate from the appropriate authority. The bill allows only Indian Citizens to avail the surrogacy

The ART clinic must not be a party to any commercial element in Donor programs or in gestational surrogacy.

The ART procedure shall be done without the spouse's consent.

Sex selections at any stage i.e. both before and after fertilization or abortion of embryos of any particular sex should not be permitted except to avoid the risk of transmission of a genetic abnormalities assessed through pre-implantation genetic diagnosis. (PGD)

The committee has recommended accepting semen only from semen bank and not from the individual. Hence it has also been recommended that semen bank should be an independent organization. if set up by an ART clinic it must operate as a separate identity.

No relative or a person known to the couple may act as surrogate.

Surrogacy has assisted conception should normally be considered only for patients for whom it would be physically or medically impossible /undesirable to carry a baby to term.

The genetic (biological) parents must adopt a child born through surrogacy.

Human cloning for delivering replicas must be banned.

Though there is no legal bar on an unmarried or single women going for AID (Artificial Insemination with Donor), however it is universally recommended that AID should be performed only on married woman and that .To, with the written consent of her husband.

There is an urgent need to have infertility treated like any other disease the expense of dealing which by authorized ART clinics should be reimbursable e.g. by the Government

for other employer or by the health insurance company but for one child only.

Foreigners, non resident Indians and persons of Indian origin are banned for the seeking surrogate mothers in the country. Homo sexual single parents and live couple that already have children's will not be allowed to go for surrogacy.

Though they would be free to adopt children under a separate law.¹⁶

The Government of India, The Central Home ministry gives the guidelines apply only to foreign couple's and limit the choice of surrogacy to heterosexual couples. However the ART bill allows surrogacy by all including single or unmarried and their is no restriction on sexual orientation. In India many laws have been enforced to regulate surrogacy.^{17,18}

3. Conclusion

Not all nations encourage surrogacy. Ethical and Legal implications have been a hinder for its worldwide acceptance. The surrogacy is a possibility when the woman can not bear a child. An agreement is reached with another woman to have the baby using sperm from the male partner. It is now illegal in other country's to enter in to such arrangement on a commercial "Rent a Woman" basis. This is to forcibly avoid exploitation of infertile women.

Surrogacy is on rise in India that is India become charming destination of fertility tourism. The peoples are practicing in surrogacy, when several children are conceived. The childless couple who want to adopt child is subject to a complex process. The Hindu adaptation and Maintenance Act 1956 does not allow non Hindu to adopt a Hindu child, and immigration procedures after adaptation pose to obstacle. It is the burning problem that the surrogate mother does not want to give their child at the time of birth. Genetically child is hers. It is very crucible to predict that how much surrogate mother feel, when the time comes for birth of child. This is the serious ethical, moral, and social problems over, should the child be told of its origin? The Government, Medical science, Reproductive Biologist, Sociologists, and law experts think about this.

4. Acknowledgment

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