CHAPTER-5

ISSUES OF SURROGACY

5.1 Legal Issues Surrounding Surrogacy

Establishing paternity may be easy enough with one quick genetic test, but the issue is not simple and easy for the courts. What will happen if a non-custodial father has been the “father” to a child for 15 years only to learn that he is not the biological father? Does he get a refund on the child support he is paid? Or if a surrogate mother breaks her contract, can she go after the husband and wife clients for monetary support for the resulting child? These are tough legal questions for judges and policymakers.

The Indian system only recognizes the birth mother. There is no concept of DNA testing for establishing paternity as far as the Indian legal system is concerned, i.e., the name on the child's birth certificate has to be that of the birth mother and her husband. In 2008 the Supreme Court of India in the Manji's case (Japanese Baby) has held that commercial surrogacy is permitted in India and it has again increased the international confidence in going for surrogacy in India.

The law commission of India has submitted the 228th Report on "Need for Legislation to Regulate Assisted Reproductive Technology Clinics as well as Rights and Obligation of Parties to an surrogacy." The main observations had been made by the law commission are as: Surrogacy arrangements will continue to be governed by contracts amongst parties, but such an arrangement should not be for commercial purposes. A surrogacy arrangement should provide for the financial support for surrogate child in the event of death of the commissioning couple or individual before delivery of the child. A surrogacy contract should necessarily take care of life insurance cover for surrogate mother. Legislation itself should recognize surrogate child to be legitimate child. The birth certificate of the surrogate child should contain the name(s) of the commissioning parent(s) only. Right to privacy of donor as well as surrogate mother should be protected. Sex selective surrogacy should be
prohibited. Cases of abortion should be governed by Medical Termination of Pregnancy act 1971 only.

According to Kimbrell (1988) most women who get involved as surrogates do so because they are in need of money. The surrogate mothers are often unaware of their legal rights and due to their financial situation they cannot afford the services of lawyers.

Horsburgh (1993) believes surrogates are physically exploited once they have signed contracts agreeing to give birth to babies for clients. To make matters worse, if the pregnancy is indeed aborted, the surrogates often receive just a fraction of the original payment. The contracts can also place liability on the mother for risks including pregnancy-induced diseases, death and post-partum complications.

Foster (1987) states that many surrogate mothers face emotional problems after having to relinquish the child. However, a study by Jadva et al. (2003) showed that surrogate mothers do not appear to experience psychological problems as a result of the surrogacy arrangements. Although it is acknowledged that some women experience emotional problems in handing over the baby or as a result of the reactions around them, these feelings appeared to lessen during the weeks following the birth. Surrogacy is illegal in some American states, as well as in many other countries.

Also, in certain states it can be a complex process for the intended mother to be named as the parent, especially in cases where the surrogate is the biological mother.

Hence, intended parents must prepare a legal contract where the surrogate agrees to abandon her maternal rights and thereby allows the intended mother to adopt the child.

- Some jurisdictions forbid commercial surrogacy.
- If doctors discover that the fetus has potential birth defects or some other health problems, then the intended parents might decide to discontinue the pregnancy. This can give rise to several legal problems,
particularly if they use the sperm from a donor or eggs not belonging to the surrogate for pregnancy. In this case, the problem is who gets to decide whether the pregnancy should be carried on or terminated.

So before you approach a surrogate, it is imperative that you seek the advice of legal counsel and make sure that all pertinent issues are addressed. Also, when the contract is drafted and ready for you and the surrogate to sign, make sure that it complies with the state and local laws involving surrogacy.

There are two legal aspects to gestational surrogacy agreements: the contract and finalization of parental rights. The surrogacy contract should be drafted, reviewed and signed at the beginning of the relationship between the intended parents and the surrogate. A solid contract will outline the rights and responsibilities of the intended and the surrogate as well as compensation, medical and psychological screening, selective reduction policy, medical insurance and parental rights.

Surrogacy is controversial in the U.S., and laws on surrogacy agreements vary greatly from state to state. Some states have no laws in regard to surrogacy contracts or have declared contracts unenforceable in public policy. Many states that allow surrogacy agreements only allow uncompensated arrangements and gestational agreements (where the carrier is not biologically related to the child). Some states with surrogacy laws prohibit same-sex couples from entering into surrogacy agreements and require intended parents to be a married male/female couple.

Carriers must live in states where commercial surrogacy is allowable. In addition to drafting the contract, the intended parents must finalize their parental rights in order to be recognized as legal parents. In some states, a pre-birth order may be filed with the court usually when pregnancy occurs allowing for the names of the intended parents to be placed on the baby’s original birth certificate upon birth.

In other instances, the surrogate mother’s name is placed on the original birth certificate because she gives birth to the baby. The intended mother then goes through a step-parent adoption process to be recognized as the legal mother and named on the child’s birth certificate. A Judgment of
Paternity is filed to recognize the intended father as the legal father of the child and place his name on the child's birth certificate.¹

Both the contract and the finalization of parental rights can be complicated matters depending on state laws. In 1986, Mary Beth Whitehead brought national attention to the surrogacy debate when, after being artificially inseminated with intended father William Stern's sperm and giving birth, she refused to give up the child to the intended parents. The case, known as that of "Baby M," ended without the court upholding the surrogacy contract. William Stern was granted custody, but Mary Beth Whitehead who donated her egg and was therefore the genetic mother of Baby M was given visitation rights. However, two recent high-profile cases have established the legality and enforceability of gestational surrogacy contracts. In the cases of Johnson v. Calvert and Buzzanca v. Buzzanca, California courts ruled that the intended parents' initiation of medical procedures determines legal parental rights not genetic links through surrogacy, donated eggs or sperm.

Surrogacy continues to be a complicated tangle of legal, social, ethical and technological issues. Arguments against commercial surrogacy compare it to baby buying and selling a "womb for rent." Some detractors also believe that commercial surrogacy uses technology to exploit women, children and the meaning of motherhood and fatherhood in our society.

In some states, surrogacy is illegal. Even in states where surrogacy is allowed, it can be a complicated process for the non-biological mother to be named as the parent, particularly in cases where the surrogate is the biological mother.

The surrogate must sign away her maternal rights so that the intended mother can adopt the child. If the sperm of the adoptive mother's husband was used to fertilize the egg, the biological father is named on the child's birth certificate. Many states require that a legal contract be drawn up between the couple and the surrogate and her spouse or partner detailing all arrangements relating to the pregnancy and birth. The parties involved in a surrogacy contract should seek the advice of legal counsel to make certain that all pertinent issues are addressed and that the contract is in compliance with state and local laws involving surrogacy and adoption.

Surrogacy involves complicated legal issues.

- The rights of the surrogate
- What if the surrogate mother changes her mind?
- Becoming the child’s legal parents – parental orders
- Becoming the child’s legal parents – adoption
- Prior to a parental order/adoPTION, who can be the child’s second legal parent?
- What happens if the child is born outside the country?
  - It is advantageous to be well informed of the surrogate mother’s rights before deciding to become a surrogate. Therefore, seeking legal counsel is a necessity. The lawyer will assist the surrogate in defining her right, prior to signing any document. It is important for the surrogate to be knowledgeable of her rights as well as the rights of the infertile couple. Once the contract is agreed upon and signed, a lot of the surrogate’s privacy is done away with. The infertile mother is privileged to accompany the surrogate to her medical appointments and be present when certain examinations are conducted.
  - In case of a married surrogate the spouse is a necessary party and many states presume him to be the genetic father. If the spouse is not in full agreement a contested legal proceeding may ensue.
  - In the traditional scenario of an unmarried surrogate with a semi-permanent significant other, some states may allow him
the rights of a common law husband and he is at liberty to contest the legal proceedings. In either case the surrogate’s spouse or significant other would have to agree to sexual abstinence during the duration of fertilization or embryo transfer. These men are also subject to infectious disease testing. Diseases could be problematic during pregnancy or delivery.

- When it comes to compensation to the surrogate, this issue comes under close scrutiny. The surrogate is usually paid $10,000.00 for her services upon completion of her contract. If the contract is not fulfilled she gets nothing (if she backs out). If the pregnancy results in a miscarriage, the surrogate receives partial payment. If for any reason remuneration is out of order, it is looked upon as baby selling (reproductive prostitution, baby trade, selling body and parts, prostitution, renting uterus) by the pregnant woman. The law frowns upon baby selling and in many states it is classified as a felony and punishable by heavy fines and many years in prison.

- In the adoption procedure the amount of money exchanged is disclosed along with purposes it is intended to be used for. In an informal adoption procedure the amount that is allowed are restricted to the reimbursement of medical fees, cost of living and legal fees. Adoption agencies are flexible in allowing reimbursement expenses. Wages lost due to illness may not be allowed. All compensation issues must be reported.

- Some issues arising out of gestational compensation are:
  - The pregnancy was deliberate and consciously arranged (after being advised by lawyer)
  - Legal matters were agreed upon by all parties (as advised by lawyer)
  - Surrogate has no genetic ties
  - In the state where the child is to be born (if the surrogate just happens to be passing through) has a sufficient connection and
has to issue the birth certificate. It is also a legal matter as to whose names are listed on the birth certificate.

- It is a requirement of some states that a contract be drawn up among the parties involved in birthing arrangement. All points in the contract should be carefully and fully explored. Parties that should be present are:
  
  - The surrogate (spouse/significant other)
  - The infertile couple
  - Legal counsel
  - In order to avoid disputes, most infertility clinics require a contract. Legal counsel is recommended in order that all involved, to ensure that local laws are kept in compliance.

- A possible checklist for the surrogate and the intending couple to explore with their attorneys are:
  
  i. The infertile couple (intrusting their child’s care and nurturing to another and surrendering of child).
  
  ii. Surrogate (forfeit her privacy) i.e. Roe vs. Wade issue the U.S. Supreme Court Fundamental Rights of Privacy. The issue includes a woman’s ability to control her reproductive freedom hence her pregnancy.
  
  iii. Surrogate’s spouse or significant other must agree to sexual abstinence at certain times; must submit to medical examination.
  
  iv. Infertility physician ? if insurance is not assessable the infertile couple will assume all costs.
  
  v. Psychiatrist/Psychologist/Counselor assists in surrendering the child to the infertile couple and counseling.
vi. Birthing hospital provide birth certificate information.

vii. If a contract is not required, they are certainly essential to protect all parties involved in keeping their transactions legal.

- The surrogate must at no time place the fetus at risk. Behaviors that may lead to inappropriate risk are: taking non-prescription drugs, contraband drug usage, smoking of any type (a word of caution is also to avoid the company of smokers), and alcohol consumption.

- It is left up to the laws of a particular state to determine the mother or father of the child prior to birth. All parties must agree to provide affidavits, a court appearance, and testimony to effectuate the designated mother and father of the unborn fetus. The courts will honor contracts and agreements between surrogate and intending parents, unless circumstances significantly change that will jeopardize the best interest of the child. The gestational bond is not an issue. The question is asked, how much bonding actually takes place? The decision is always for the best interest of the child. This may not always be the most applauded solution; nevertheless it is what it always boils down to.

- Frozen embryos are costly and should be addressed in the last will and testament of infertile couple. Methods of disposal can be controversial and should be addressed. The methods commonly used are: donate to unknown couple (separate consent is preferred and the parties may wish to screen each other), disposal (thawed embryos degenerate and cease to grow), and tissue donation for medical research. The later is truly an ethical issue that should be explored. The rights to life activists are very vocal on this ethical issue regarding pre-embryo embryo. The board of trustees of the American Medical Association (AMA) recommends that the gamete providers (sperm and egg) be the primary authority over the frozen embryos.
5.1.1 The rights of the surrogate

- The surrogate has the legal right to keep the child, even if it is not genetically related to her.
- Surrogacy arrangements are not legally enforceable, even if a contract has been signed and the expenses of the surrogate have been paid.
- The surrogate will be the legal mother of the child unless or until parenthood is transferred to the intended mother through a parental order or adoption after the birth of the child. This is because, in law, the woman who gives birth is always treated as the mother.

5.1.2 Rights for surrogate mothers

- Surrogates are the legal mother of any child they carry, unless they sign a parental order after they give birth transferring their rights to the intended parents.

5.1.3 Mother’s rights

- The woman who gives birth is always treated as the legal mother and has the right to keep the child - even if they’re not genetically related.
- Surrogacy contracts aren’t enforced by UK law, even if a contract has been signed with the intended parents and they’ve paid for any expenses.
- It’s illegal to pay a surrogate in the UK, except for their reasonable expenses.

5.1.4 Father’s rights

- The child’s legal father or ‘second parent’ is the surrogate’s husband or civil partner unless:
  - legal rights are given to someone else through a parental order or adoption
  - the surrogate’s husband or civil partner didn’t give their permission to their wife or partner.
• If a surrogate has no partner, or they’re unmarried and not in a civil partnership, the child will have no legal father or second parent unless the partner actively consents.

5.1.5 Maternity leave

• Every pregnant employee has the right to 52 weeks’ maternity leave and to return to their job after this.²

• What a birth mother does after the child is born has no impact on her right to maternity leave.

5.1.6 What if the surrogate mother changes her mind?

• The surrogate has the legal right to change her mind and keep the child, even when the baby she gave birth to is not genetically related to her. This is difficult for everyone concerned and that’s why it is vital that you trust each other and are clear about what is going to happen.

5.1.7 Becoming the child’s legal parents – parental orders

• If the intended parents wish to become the legal parents of the child, they may either apply to adopt the child, or apply for a parental order.

• The effect of the order is to transfer the rights and obligations of parentage to the intended parents, providing certain conditions are met.

• Applications for a parental order must generally be made to the Court within six months of the birth of the child.

• To obtain a parental order, at least one of the commissioning couple must be genetically related to the baby i.e. be the egg or sperm provider. Couples must be husband and wife, civil partners or two persons who are living as partners.

²Last updated: 12 November 2014 https://www.gov.uk/rights-for-surrogate-mothers retrieved on 10-Jun-16 11:02:30 AM
5.1.8 **Becoming the child’s legal parents – adoption**

- If the commissioning couple cannot apply for a parental order because neither of them are genetically related to the baby (donor egg and donor sperm or donor embryos were used), then adoption of the baby is the only option available to them.
- If adoption is to be the option used, then a registered adoption agency must be involved in the surrogacy process. This is why it is important to get legal advice before you decide to embark on surrogacy.

5.1.9 **Prior to a parental order/adoption, who can be the child’s second legal parent?**

Unless parenthood is transferred to the intended father or second parent through a parental order or adoption:

- the child’s legal father or second parent will be the surrogate’s husband, civil partner (unless it can be demonstrated that her husband/civil partner did not consent to the treatment) or partner (if the partner consented to being the father/second parent)
- if treatment was performed in a licensed clinic and the surrogate mother is not married/in a civil partnership, either:
  - the intended biological father will automatically be the child’s legal father on birth (providing no other person has been nominated as the legal parent)
  - the intended father who is not the biological father (e.g., an intended father using donor sperm or the male partner of the biological father) can be nominated as the child’s second legal parent
  - the intended female parent can be nominated as the child’s second legal parent.

5.1.10 **What happens if the child is born outside the UK?**

- In a surrogacy arrangement, if the child is born abroad, the commissioning couple can apply for a parental order only if they are living (or domiciled) in the UK.
The parental order officially transfers parental responsibilities to the commissioning couple.

While waiting for the parental order to be processed, the child born abroad will require a visa in order to enter the UK.

5.1.11 Surrogates’ refusal to give the child

In certain instances, the surrogate mothers have developed a strong attachment to the baby, and thus refused to give away the child on birth. In some of these cases, the surrogates, being biological mothers, have won the cases. However, in states where surrogacy is allowed, this has gone against them and they have lost their visitation or custody rights.

5.1.12 Breach of Contract

Either of the parties, be it the intended parents or the surrogate can breach their contract. Some of the examples of surrogacy contract breaches include:

- Voluntary abortion by the surrogate without the consent of intended parents.
- The surrogate can also breach the contract by failing to follow certain behavioral restrictions (by indulging in drug abuse/alcohol consumption for example) during the gestation period.
- Failure of the intended parents to pay for all the expenses and fees.
- The surrogate’s refusal to go for an abortion following the attending physician’s recommendation.

5.1.13 Medical Complications

The surrogate mother may face obstetrical or medical complications during the pregnancy.³

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• For example, the surrogate mother is more susceptible to develop infections when another woman’s eggs are transplanted into her.

• Miscarriage is very common in surrogate pregnancy.

• Since in most cases, more than one embryo is implanted in the uterus to enhance the chances of successful pregnancy, it also enhances the possibility of twins or triplets. Often, this becomes crucial for the mother’s health as well as that of the unborn babies.

As of 2013, locations where a woman could legally be paid to carry another's child through IVF and embryo transfer included India, Georgia, Russia, Thailand, Ukraine and a few U.S. states.

The legal aspects of surrogacy in any particular jurisdiction tend to hinge on a few central questions:

• Are surrogacy agreements enforceable, void or prohibited? Does it make a difference whether the surrogate mother is paid (commercial) or simply reimbursed for expenses (altruistic)?

• What, if any, difference does it make whether the surrogacy is traditional or gestational?

• Is there an alternative to post-birth adoption for the recognition of the intended parents as the legal parents, either before or after the birth?

Although laws differ widely from one jurisdiction to another, some generalizations are possible:

The historical legal assumption has been that the woman giving birth to a child is that child's legal mother, and the only way for another woman to be recognized as the mother is through adoption (usually requiring the birth mother's formal abandonment of parental rights).

Even in jurisdictions that do not recognize surrogacy arrangements, if the genetic parents and the birth mother proceed without any intervention from the government and have no changes of heart along the way, they will likely be able to achieve the effects of surrogacy by having the surrogate mother give birth and then give the child up for private adoption to the intended parents.
If the jurisdiction specifically prohibits surrogacy, however, and finds out about the arrangement, there may be financial and legal consequences for the parties involved. One jurisdiction (Quebec) prevented the genetic mother's adoption of the child even though that left the child with no legal mother.

Some jurisdictions specifically prohibit only commercial and not altruistic surrogacy. Even jurisdictions that do not prohibit surrogacy may rule that surrogacy contracts (commercial, altruistic, or both) are void. If the contract is either prohibited or void, then there is no recourse if party to the agreement has a change of heart: If a surrogate changes her mind and decides to keep the child, the intended mother has no claim to the child even if it is her genetic offspring, and the couple cannot get back any money they may have paid or reimbursed to the surrogate; If the intended parents change their mind and do not want the child after all, the surrogate cannot get any reimbursement for expenses, or any promised payment, and she will be left with legal custody of the child.

Jurisdictions that permit surrogacy sometimes offer a way for the intended mother, especially if she is also the genetic mother, to be recognized as the legal mother without going through the process of abandonment and adoption.

Often this is via a birth order in which a court rules on the legal parentage of a child. These orders usually require the consent of all parties involved, sometimes including even the husband of a married gestational surrogate. Most jurisdictions provide for only a post-birth order, often out of an unwillingness to force the surrogate mother to give up parental rights if she changes her mind after the birth.

A few jurisdictions do provide for pre-birth orders, generally in only those cases when the surrogate mother is not genetically related to the expected child. Some jurisdictions impose other requirements in order to issue birth orders, for example, that the intended parents are heterosexual and married to one another. Jurisdictions that provide for pre-birth orders are also more likely to provide for some kind of enforcement of surrogacy contracts.

5.1.14 Surrogacy only furthers Right to Life under Article 21 of the Constitution:

The relation of the surrogated mother to the child she is carrying is nothing but womb leasing or womb for rent. After the birth of the child she has no right to keep the child because she is neither the mother (where both ova and sperm are from different persons) nor the owner of the genetic material. She is only a contractor who is willing to give the end product once the contract between her and the person is fulfilled.

5.1.15 Who does the child legally belongs to?


- Surrogacy is not illegal in the UK.
- Surrogacy arrangements are not enforceable in law.
- A child born as a result of surrogacy is the legal child of the surrogate mother, not its genetic parents. Thus a commissioning couple has no legal right to the child they have commissioned if the surrogate mother refuses to give it up after birth - even if it is genetically their child.
- It is an offence in the UK to advertise either that one is looking for or is willing to be a surrogate mother.
- Any commercial interest in the arrangement by the commissioning couple, the surrogate mother or a third party is illegal.
- The surrogate mother can, however, receive payment for the necessary expenses of the pregnancy. What this should include is still under
debate. Karen Roche, the surrogate mother in the case given at the start of this article, was thought to have received £12,000 from the Dutch couple. Many argue that sums of this amount render the legislation given in the previous point meaningless.

- Once the surrogate mother has given up the child to the commissioning couple they have to go through an adoption procedure for that child to become theirs legally. However, if either of them is genetically related to the child they can instead apply for a court 'parental order'. They can do this between six weeks and six months after the birth, the advantage being that it takes far less time than the adoption process.
- At first sight surrogacy can seem a simple ethical issue: a mother agrees to bear a child for an infertile couple as a response to their need. But is it so straightforward? What are the ethical issues involved?

Before we can answer this question we need to examine child bearing from a biblical perspective.

**5.2 Health issues Associated with Surrogacy**

**5.2.1 Indian Scenario**

The concept of surrogacy in India is not new. Commercial surrogacy or "Womb for rent," is a growing business in India. In India, English speaking environment and cheaper services attract the willing clients.

Future projections of surrogacy practice range from opportunity to exploitation - from rural women in India uplifted out of poverty to a futuristic nightmare of developing country baby farm. In case of surrogacy in India, it is hard to tell that whether these women are exercising their own personal rights or whether they are forced to become surrogate mothers due to their mother-in-law's or husband's desire to fulfill material and financial needs.

Opponents of surrogacy argue that the practice is equivalent to prostitution and by virtue of that similarity, it should be disallowed on moral grounds. Surrogacy contracts are "dehumanizing and alienating since they deny the legitimacy of the surrogate's perspective on her
pregnancy. Surrogate mother tries to avoid developing a special bond with the child in her and views the pregnancy as merely a way to earn the much-needed money. The payment for bodily services dehumanizes the surrogate mother and exploits her reproductive organs and capability for personal gains of the wealthy.

In fact, outsourcing surrogacy is an exploitative practice in India. Currently, no law exists to protect the surrogate mother in case of birth complication, forced abortion etc.

Since 2002, commercial surrogacy has almost become legal in India and India has become a sort of leader in it. This is the reason that has led critics to allege that surrogacy business is exploiting poor women in country like India already having high maternal mortality ratio. According to estimates, which might be conservative - the business of surrogacy in India is already touching $445-million a year.

Surrogate motherhood as an arrangement, in which a woman takes no ownership of the child born, has raised moral, ethical social and legal questions about both woman and the "Commissioned baby." According to legal experts"...if surrogacy becomes an avenue by which women in richer countries choose poorer women in our country to bear their babies, then it is economic exploitation, a kind of biological colonization."

The Ministry of Women and Child Development is examining the issue of surrogate motherhood in India for bringing up a comprehensive legislation. A draft legislation on surrogacy-prepared by the Indian Council of Medical Research (ICMR) has recommended strict penalties for offenders and a tight regulation on Assisted Reproductive Techniques (ART). The draft law restricts the number of embryo transfers a mother can go through to 3 times for the same couple, if the first two attempts fail and it also adds that no woman should act as a surrogate for more than three live births in her life. In fact, these are the only guidelines framed by the ICMR and the Ministry of Health and Family Welfare in 2005. ICMR guidelines, states, "A relative, a known person as well as a person unknown to the couple may act as a surrogate mother for couple. In case of a relative acting as a surrogate, the
relative should belong to the same generation as the woman desiring the surrogate." The experts believe that surrogacy propels childless couples needlessly toward commercial surrogacy. Section 3.10.5 of the guidelines states that "a surrogate should be less than 45 years" being the upper age without mentioning the minimum age to be surrogate. So does that mean an 18 year old or someone even younger, can become surrogate mother? Before accepting a woman as a possible surrogate for a particular couple, the ART Clinic must ensure (and put on record) that the woman satisfies all the testable criteria to go through a successful full term pregnancy." These guidelines are skewed and thoughtless. The bifurcated role of woman in surrogate arrangements is prompting renewed assessment of the meaning of motherhood and designation of maternal rights.

5.2.2 Public Health Relevance of Surrogacy

Surrogacy and ART offer solutions to infertility. The existing demand for these services distorts priorities in the organization of health-care services as pressure is built to set up hi-tech reproductive techniques within open markets and public sector service infrastructure without building the basic facilities that help to prevent the infertility. The poor have to either sell their assets to access the facilities or use the opportunity to earn by selling their own reproductive potential - the women that are pushed into this process carry the maximum risks to their health. Over the past 10 years or so, our country has seen a mushrooming of fertility clinics. This has inspired the medical tourism, where surrogacy has important place in its list of attraction as couples from abroad come seeking easy access to surrogate mothers. According to private providers, first world comforts and quality is available at these Indian Institutions at the third world prices. Often this is achieved by reducing to the bare minimum, the necessary tests and safety procedures in women. In view of the high rate of prevalence and poor implementation of ART Regulatory Guidelines-2005 has raised several issues about the suitability of surrogacy in the present context from public health point of view. Most of issues and problems are as a result of totally unregulated private ART clinics-with varying costs, standards and procedures-that give primacy to profits rather than epidemiological needs of the majority in India. The need to prevent
secondary infertility owing to poor obstetric services, reproductive tract infections and poor nutritional status of women and provision of basic services to deal with treatment of infertility is thus ignored by the government. Private sector is given full freedom to expand ART clinics to promote medical tourism and surrogacy. This can physically harm surrogates leading various complications due to techniques, e.g., low birth weights and malformed babies, which are not publically disclosed. There is no transparency in surrogacy contract and chances of legal problems are high. Cross border surrogacy leads to problems related to nationality, motherhood and rights of child.

In the US, surrogates are given no more than two embryos for their safety, whereas in India, surrogates are implanted with up to five embryos in order to increase the chances of pregnancy. Using such a large number of embryos increases health risks for babies and the mother. Chances of post-partum depression of surrogates are more with the child that grew in mother’s womb. Pregnancy, birth and the post-partum period includes complications such as pre-eclampsia and eclampsia, urinary tract infections, stress incontinence, hemorrhoids, gestational diabetes, life-threatening hemorrhage and pulmonary embolism. Multiple pregnancy increases the likelihood of requiring an operative delivery. A surrogate host of advanced maternal age has increased risk of perinatal mortality, perinatal death, intrauterine fetal death, neonatal death. There is a greater risk to the mother of pregnancy induced hypertension, stroke and placental abruption. When hormones or drugs the surrogate is instructed to take, all drugs have side-effects. Many women undergoing Artificial insemination also take fertility treatments, increasing the likelihood of an adverse reaction and risks involved with the procedure.

Issues such as premature delivery, genetic malformation and infections which lead to increased hospitalization of newborn are important issues to be considered in surrogacy contract.

Many surrogate mother's breastfeed the newborns during the first few hours following birth. However, parents find difficulty in initiating the breast
feeding and in establishing the bonding between mother and child in case of surrogacy.

One of the major draw backs of induced lactation in most surrogates or adopting mothers rarely produced the same quantity of breast milk as a new mother immediately following child birth. This presents a problem in terms of infant nutrition.

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5.2.3 Risk to surrogate mother

All women considering surrogacy should be aware that there are serious risks with IVF, fertility medications, pregnancy and childbirth. The list compiled below is an extensive list of all types of side effects, complications and serious risks that surrogate mothers face. Surrogacy contracts often have sections discussing the risks that the surrogate mother is willing to take. However, they are often very limited in detailing them. All women should read this list of risks and feel confident about continuing with a surrogacy arrangement. Some surrogate mothers end up with serious complications and/or loss of their reproductive organs after a surrogate birth and this is why it is often recommended that surrogate mothers have completed their own families.

- Common side effects during pregnancy
  
  - exhaustion (weariness common from first weeks)
  - altered appetite and senses of taste and smell
  - nausea and vomiting (50% of women, first trimester)
  - heartburn and indigestion
  - constipation
  - weight gain
  - dizziness and light-headedness
  - bloating, swelling, fluid retention
  - hemmorhoids
  - abdominal cramps
  - yeast infections
  - congested, bloody nose
  - acne and mild skin disorders
  - skin discoloration (chloasma, face and abdomen)
  - mild to severe backache and strain
  - increased headaches
- difficulty sleeping, and discomfort while sleeping
- increased urination and incontinence
- bleeding gums
- pica
- breast pain and discharge
- swelling of joints, leg cramps, joint pain
- difficulty sitting, standing in later pregnancy
- inability to take regular medications
- shortness of breath
- higher blood pressure
- hair loss
- tendency to anemia
- curtailment of ability to participate in some sports and activities
- infection including from serious and potentially fatal disease
- (pregnant women are immune suppressed compared with non-pregnant women, and are more susceptible to fungal and certain other diseases)
- extreme pain at delivery
- hormonal mood changes, including normal post-partum depression
  - continued post-partum exhaustion and recovery period
  - (exacerbated if a c-section -- major surgery -- is required, sometimes taking up to a full year to fully recover)

- **Permanent side effects from pregnancy...**

  - stretch marks (worse in younger women)
  - loose skin
  - permanent weight gain or redistribution
  - abdominal and vaginal muscle weakness
  - pelvic floor disorder (occurring in as many as 35% of middle-aged former child-bearers and 50% of elderly former child-bearers)
- associated with urinary and rectal incontinence, discomfort and reduced quality of life
- changes to breasts
- varicose veins
- scarring from episiotomy or c-section
- other permanent aesthetic changes to the body
- increased proclivity for hemmorhoids
- loss of dental and bone calcium (cavities and osteoporosis)

**Occasional complications and side effects:**

- hyper emesis gravid arum (morning sickness)
- temporary and permanent injury to back
- severe scarring requiring later surgery (especially after additional pregnancies)
- dropped (prolapsed) uterus (especially after additional pregnancies, and other pelvic floor weaknesses -- 11% of women, including cystocele, rectocele, and enterocele)
- pre-eclampsia (edema and hypertension, the most common complication of pregnancy, associated with eclampsia, and affecting 7 - 10% of pregnancies)
- eclampsia (convulsions, coma during pregnancy or labor, high risk of death)
- gestational diabetes
- placenta previa
- vasa previa
- anemia (which can be life-threatening)
- thrombocytopenic purpura
- severe cramping
- embolism (blood clots)
- medical disability requiring full bed rest (frequently ordered during part of many pregnancies varying from days to months for health of either mother or baby)
- diastasis recti, also torn abdominal muscles
- mitral valve stenosis (most common cardiac complication)
- serious infection and disease (e.g. increased risk of tuberculosis)
- hormonal imbalance
- ectopic pregnancy (risk of death)
- broken bones (ribcage, "tail bone")
- hemorrhage and numerous other complications of delivery
- refractory gastroesophageal reflux disease
- aggravation of pre-pregnancy diseases and conditions (e.g. epilepsy is present in .5% of pregnant women, and the pregnancy alters drug metabolism and treatment prospects all the while it increases the number and frequency of seizures)
- severe post-partum depression and psychosis
- research now indicates a possible link between ovarian cancer and female fertility treatments, including "egg harvesting" from infertile women and donors
- research also now indicates correlations between lower breast cancer survival rates and proximity in time to onset of cancer of last pregnancy
- research also indicates a correlation between having six or more pregnancies and a risk of coronary and cardiovascular disease
• **Less common (but serious) complications**: 
  - peripartum cardiomyopathy 
  - cardiopulmonary arrest 
  - magnesium toxicity 
  - severe hypoxemia/acidosis 
  - massive embolism 
  - increased intracranial pressure, brainstem infarction (stroke) 
  - molar pregnancy, gestational trophoblastic disease (like a pregnancy-induced cancer) 
  - malignant arrhythmia 
  - circulatory collapse 
  - placental abruption 
  - obstetric fistula 

• **More permanent complications**: 
  - hysterectomy (removal of uterus) 
  - salpingectomy (removal of fallopian tube) 
  - future infertility 
  - permanent disability 
  - death 

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5.3 Social and Psychological issues

One of the main concerns of surrogacy is the treatment of children as commodities. Surrogacy can be considered paying for the creation of children. This turns children into a resource and the surrogate mothers into the caretaker of that resource. This creates the problem of the contracting parents viewing the mother as more of an object than a person. Often, there is no contingency planning should complications arise in the pregnancy with the surrogate mother or the contracting parents. This can lead to confusion over whom the baby lives with or even who the proper mother is.

A noticeable trend in surrogate motherhood is that the contracting parents are often upper-middle class while the surrogate mother is working or lower class. This has led many to speculate that this situation is a way that the rich take advantage of the poor, by using their bodies and offering money as compensation. Many couples are embarrassed to say that they used a surrogate mother because they feel their child will be looked at as not their own, even if he or she was fully raised by the contracting parents.

Commercialization of surrogacy creates several social conflicts. Given the extreme vulnerability, one-third of the Indian women due to poverty, exclusion from and marginalization in labor and job markets, patriarchal social and family structures and low educational levels, the financial gain through surrogacy become a key push factor. Since most surrogate mothers are not from well-off sections and the motive primarily is monetary so they are easily exploited by the agents working for commissioning parents. Secrecy and anonymity creates a negative environment that affects human relations within and outside families.

Surrogacy carry social stigma in the society as it is equated with prostitution and by virtue of that it is argued that it should be disallowed on moral grounds. Surrogate mothers are kept in isolation from families and allowed to meet families in weekends, which are against the human rights. Hence, there are number of ethical, social, legal and psychological issues associated with surrogacy, which require urgent need for framing and implementation of law.
5.3.1 Who does the child genetically belong to?

The sperm and the egg that give rise to the embryo that the surrogate mother bears can come from a number of different sources.

If the commissioning couple can produce viable sperm and ova these can be fertilized in vitro and the resulting embryo implanted into the surrogate womb. However, it might be that either the commissioning man or woman is unable to produce viable gametes. Sperm or ova in this case must be obtained by donation from a third party.

If both partners of the commissioning couple are unable to produce viable gametes then both sperm and egg must come from donors. Here the resulting child is genetically unrelated either to the commissioning couple or to the surrogate mother but to two unknown gamete donors!

Confused? Well that's not the end of it. Potentially the surrogate mother could contribute genetically to the child. Using AI (artificial insemination) her ovum could be fertilized with sperm from a donor or the commissioning male. To take things one step further the surrogate mother could conceive a child with her own partner and then give it up to the commissioning couple.

5.3.2 Is surrogacy wise for family relationships?

Although consideration for the child is paramount we also need to think about the relationships that surround that child. There is the surrogate mother, her family and the commissioning couple to take into account. What is the psychological effect on the mother of giving up the child she has carried in her womb for nine months? What if she wants to keep the child rather than hand it over? What if the commissioning couple doesn’t want the child once it is born? Perhaps the child will be handicapped: who will look after it? What effect will see a sibling 'given away' have on the surrogate mother's children? Will surrogacy open the door to further distortions of family dynamics such as
the case of Edith Jones, a grandmother who carried a baby for her own daughter?

5.3.3 Is surrogacy wise for society?

Many issues that at one level are personal choices need also to be examined on a larger scale: how will they affect the society in which we live? Some might argue that surrogacy is a form of class abuse in which rich middle class couples commission working class mothers to have babies for them. Or does it encourage us to see children as a material product that can be ordered and delivered to fulfill a consumer demand, rather than a gift and a responsibility?

These questions are hard to answer with the information presently available but they need to be thought about if we are to fully examine the ethics of surrogacy. On the face of it, surrogacy may seem to be a reasonable response to the pain of a childless couple. However, does it risk causing more pain than it relieves for individuals, families and society?

Interestingly there are two cases of surrogacy in the Bible, both of which illustrate the distortion of family relationships and society that result. Genesis 16 tells us the story of Abram and Sarai who were childless. Sarai gave her servant Hagar to Abram and said to him, 'Sleep with my maidservant; perhaps I can build a family through her'. In Genesis 30 very much the same scenario occurs but this time it was Rachel who said to her husband Jacob, 'Here is Bilhah, my maidservant. Sleep with her so that she can bear children for me and that through her I too can build a family'.

In both cases family discord resulted. After Hagar gave birth to Ishmael she began to despise Sarai who subsequently sent her away. We are told that Ishmael would 'live in hostility towards all his brothers'. He became the father of the Arab peoples and enmity between them and the Jews lives on until this day.
In Genesis 30 Bilhah gives birth to Dan. Jacob has other children: four sons by concubines, six sons and a daughter by his wife Leah and only two sons, Joseph and Benjamin, by his favorite wife Rachel. Ten of the twelve brothers are jealous of Joseph, the special son; he is puffed up with the pride of being a favorite. They conspire to sell him into slavery, the rest, as they say, is history.

From these passages it seems that there were two failures. The first, a failure to wait on God and trust him, led to the second, a wrong attitude to the marriage bond. Even though both Jacob and Abraham were within their legal rights we learn from Jesus and the epistles that one man and one woman in a lifelong exclusive sexual relationship is God's desire for his people. The use of a surrogate mother was taking matters into their own hands rather than trusting in God: it lead to disordered family and social relationships.

5.3.4 Surrogate

A study by the Family and Child Psychology Research Centre at City University London in 2002 concluded that surrogate mothers rarely had difficulty relinquishing rights to a surrogate child and that the intended mothers showed greater warmth to the child than mothers conceiving naturally.

Anthropological studies of surrogates have shown that surrogates engage in various distancing techniques throughout the surrogate pregnancy so as to ensure that they do not become emotionally attached to the baby. Many surrogates intentionally try to foster the development of emotional attachment between the intended mother and the surrogate child.

Surrogates are generally encouraged by the agency they go through to become emotionally detached from the fetus prior to giving birth.

Instead of the popular expectation that surrogates feel traumatized after relinquishment, an overwhelming majority describe feeling empowered by their surrogacy experience.

Although surrogate mothers generally report being satisfied with their experience as surrogates there are cases in which they are not. Unmet
expectations are associated with dissatisfaction. Some women did not feel a certain level of closeness with the couple and others did not feel respected by the couple.

Some women experience emotional distress when participating as a surrogate mother. This could be due to a lack of therapy and emotional support through the surrogate process.

Some women have psychological reactions when being surrogate mothers. These include depression when surrendering the child, grief, and even refusal to release the child.

A 2011 study from the Centre for Family Research at the University of Cambridge found that surrogacy does not have a negative impact on the surrogate's own children.

5.3.5 Child

A recent study (involving 32 surrogacy, 32 egg donation, and 54 natural conception families) examined the impact of surrogacy on mother–child relationships and children's psychological adjustment at age seven. Researchers found no differences in negativity, maternal positivity, or child adjustment.

The recipient couple must face a withdrawn social attitude after the birth of the baby. Most people view this procedure as a sort of ‘baby bartering’. They are not concerned about the possible reasons that compelled the couple to opt for this alternative. This happens because at the end of it all, it is money that decides the price of the service.

This again has another problem to it. The woman who has consented to become a surrogate mother has to face a social stigma of offering services similar to a prostitute. The process of artificial insemination is not very commonly known amongst people.
So there is a possibility that the woman stands to live on the fringes of the society during and even after the delivery of the child.\(^6\)

According to the findings of the various studies conducted by social scientists, it has been observed that women opt for surrogate pregnancy due to the following reasons:

- Since in most cases, they are from the underprivileged class of the society, they are naturally in need of money. This means that they are doing it for money.
- It has also been observed that women who agree to surrogacy are fascinated with the idea of having a child. They are thrilled by the process and the entire chapter of pregnancy and motherhood gives them a sort of high.
- It can also be the case that the woman who becomes a surrogate mother is extremely compassionate and co-operative at heart. She feels the pain of the other woman who cannot become a mother due to fertility issues and are ready to help them experience the joys of motherhood by conceiving the child on their behalf.
- The sentimental and maternal instinct provokes the woman to agree to surrogate pregnancy.
- In a developing country like India where still poverty is a major concern the poorer husbands are driven to direct their wife for surrogacy as an income generating option.
- Pregnancy affects the woman’s health and one cannot know all the long-term consequences of repeated pregnancies.

- Careful consideration must be given to the medical, emotional, legal and practical issues, and to the implications of surrendering the child at birth. Thought must also be given to the effect on any existing children, the potential surrogate mothers partner, family and friends.\(^7\)

- In case of divorce of intended parents before the completion of surrogacy the custody of child remains a question mark. Complicated situation arises when both parties refuse to take custody of child specifically when the child is born abnormal.

- Care should be taken that the surrogacy should be resorted by those couples who are facing medical unfitness and not for cosmetic purpose.

- Proper laws should be framed in order to protect for interest of surrogate mother and commissioning parents.

- A surrogacy arrangement should provide for financial support for surrogate child in the event of death of commissioning couple or individual before delivery of the child, or divorce between the intended parents and subsequent willingness of none to take delivery of the child.

### 5.3.6 Gay and lesbian surrogacy

The lesbian, gay, bisexual, and transgender community has also looked to surrogacy as a means of starting a family. However, some states and countries limit surrogacy to married couples only. In the United States, same-gender marriage is not legalized, making this a difficult obstacle to pass. Adoption laws vary concerning same-gender couples, which places more difficulty on such couples choosing surrogacy when many places consider surrogacy and adoption to be very similar. However, surrogacy is an attractive alternative for gay and lesbian couples because it allows at least one of the potential parents to have a biological connection with the child.

5.4 Ethical Issues

Although some people view surrogacy as baby-selling and look down on a woman who is a surrogate, in recent years surrogacy has become more of an accepted practice. Still the ethical question remains as to whether a woman who is being paid for her surrogacy is exploiting infertile couples and entering the contract for money. Others see the infertile couple as exploiting the surrogate's body and taking advantage of a woman who needs money. Yet despite the many ethical issues at stake, statistics show that there has been a rise in the numbers of women who act as surrogates. In 2006, the Society for Assisted Reproductive Technology estimated about 260 surrogate births.8

However, the number of surrogacy’s each year is likely to be more, as many fertility clinics do not report to SART. There are also couples who enter private agreements with a surrogate in which agencies are not involved.

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• What are the pros and cons of using unused embryos for medical research?9

• Is there anything wrong with disposal of unused embryos? leaving them on the counter to unthaw and degenerate?

• What if the surrogate decides to maintain her privacy?

• What if the surrogate and the spouse violate the abstention clause?

• What if the surrogate decides to keep the baby?

• What if the surrogate with genetic ties demands to visit her child?

• Is there anything wrong with a surrogate giving her unused embryos to someone else?

• Who should make a decision to unthaw frozen embryos?10

• Is handing over a child after delivery for a fee baby-selling?

• Do women participate in surrogacy to save their marriage?

• Is it wrong for a surrogate to abort?

• What is the degree of stress on the couple and especially on the surrogate mother?

While there are many religious organizations that frown upon the process of surrogacy, this concept is oftentimes the only option for some individuals to start a family. It is for this reason that some highly controversial and key ethical issues be addressed.

• Attachment with the Gestational Mother – In a surrogate situation, the gestational mother is the woman who carries the baby to term. This can be a very taxing process both physically and emotionally – and unique in that after the surrogate mother physically carries the baby throughout the pregnancy, she needs to physically and emotionally detach herself from the child once it is born.


10 http://www.yale.edu/ynhti/curriculum/units/2000/7/00.07.05.x.html retrieved on dated 10-Jun-16 11:05:58 AM
• Involvement with the Gestational Mother – Because the gestational mother will not likely be the child's primary caretaker, there could be legal questions that arise in terms of what – if any – involvement she will have with the child once born.

• Identity of the Child – There are also ethical considerations that are brought to mind in terms of informing the child of his or her surrogate mother, as doing so may have an effect on the child's self-identity.

In addition to the above issues, there is also the factor of surrogate mother compensation. It is typically expected that the intended parents of the child will reimburse the surrogate mother for her medical and other related expenses. This can include a dollar amount for her hospitalization as well as incidentals such as her maternity clothing, meals, and other similar costs that she may be out during her time of pregnancy.

There are also surrogate situations where the individual or couple who are the intended parents will pay a fee to the surrogate mother for carrying their baby. With this in mind, it is thought by some that surrogacy could be thought of as being a luxury that is only available to the wealthy – and in some cases it could even be thought of as pregnancy-for-hire.

In any case, however, the process that allows for a loving individual or parents to have a child of their own can allow intended parents to follow through on their intentions of starting a family, regardless of any medical or other factors that would otherwise prevent them from being able to do so.  

- Many people still consider surrogacy as a baby selling process and a surrogate mother is still looked down upon.
- Many people also take it as a chance to take advantage of a needy woman.
- Parents are often found to be indecisive about whether they should allow their child (if he/she was born via surrogacy) to know the identity of the people involved in his/her conception and delivery.

11 modern family surrogacy center privacy policy
To what extent should society be concerned about exploitation, commodification, and/or coercion when women are paid to be pregnant and deliver babies, especially in cases where there are large wealth and power differentials between intended parents and surrogates?

To what extent is it right for society to permit women to make contracts about the use of their bodies?
  - To what extent is it a woman's human right to make contracts regarding the use of her body?
  - Is contracting for surrogacy more like contracting for employment/labor, or more like contracting for prostitution, or more like contracting for slavery?
  - Which, if any, of these kinds of contracts should be enforceable?
  - Should the state be able to force a woman to carry out "specific performance" of her contract if that requires her to give birth to an embryo she would like to abort, or to abort an embryo she would like to carry to term?
  - What does motherhood mean?
  - What is the relationship between genetic motherhood, gestational motherhood, and social motherhood?
  - Is it possible to socially or legally conceive of multiple modes of motherhood and/or the recognition of multiple mothers?
  - Should a child born via surrogacy have the right to know the identity of any/all of the people involved in that child's conception and delivery?

The clearest argument for supporting surrogacy is that it allows couples who want a family, but who were prevented from having one by infertility, to have a child. Another argument is that people should be allowed to make personal arrangements with a surrogate as long as this arrangement does not harm others. Supporters claim that the child's rights can be protected if legal provisions are adequate and enforced. Supporters also argue that if a couple would go to such lengths to have a child, this child would very much be wanted and loved. Finally, proponents of surrogacy believe that most surrogate mothers are motivated by altruistic concerns for other women to
have children, and that even if receiving payment, most entered the industry on the grounds of helping others.

The arguments against surrogacy include a consideration of the interests of the surrogate mother and the rights of the child. Some issues include:

- What happens if the surrogate mother or commissioning couple change their mind?
- What happens in the case of miscarriage or multiple births?
- What happens if the child has serious disabilities?
- What are the rights of the child?
- Should payment be involved?\(^\text{12}\)

Surrogacy arrangements involve not only the couple and the surrogate mother, but the child as well. Therefore, some argue that society has a right to prohibit surrogacy in order to prevent the child from undesirable circumstances. There has also been some religious opposition to surrogacy. For example, the Vatican issued a statement rejecting surrogate motherhood, finding that it is not morally licit because it is contrary to unity of marriage and the dignity of procreation of the human person.

In general, the ethics behind the commercial surrogacy is that it is helpful for those women who are naturally not in a position to become a mother. It helps them to enjoy the motherhood. At the same time, those families which are having the problem of lack of peace due to absence of child can overcome the said quandary and for achieving this goal commercial surrogacy is no doubt a way out. But the point is what the ethical issues are as to commercial surrogacy. Many argue that surrogate arrangements depersonalize reproduction and create a separation of genetic, gestational, and social parenthood. Others argue that there is a change in motives for creating children. According to them children are not conceived for their own sakes, but for another’s benefit.

\(^{12}\) http://www.newworldencyclopedia.org/entry/Surrogacy retrieved on dated 10-Jun-16 11:06:51 AM
In short, following are some of the ethical issues as to commercial surrogacy:

- What is the degree of stress on the couple and especially on the surrogate mother?
- Can true informed consent ever be given by the surrogate, and can anyone predict the emotions associated with relinquishing a child?
- What are the possible adverse psychological effects on the child? What identity crisis might ensue, and will there be a desire on the part of the child to know his/her gestational mother?
- Will surrogate arrangements be used not only by infertile couples but also for the sake of convenience, or by single men or women?
- Should the surrogate be paid?
- Would this lead to commercialization of surrogacy and expose the surrogate mother to possible exploitation?
- What happens when no one wants a handicapped newborn?
- Should the couple and surrogate remain unknown to each other?
- Should the child be told?
- What kinds of records should be kept, and should the child have access to them?
- What kind of medical and psychological screening should be provided to all parties?

Actually, the entire idea of a child created in a test tube and carried by an unrelated woman is enough to drive fear into the hearts of many while questioning the ethics of surrogacy. The reason behind this is that so far the practical scenario is concerned, it is clear like crystal that reproductive scientists are able to accurately tell if a created embryo might carry a specific disease, or even to tell its gender. Soon we may also have the technology to determine hair and eye color, or even skills or hobbies of our potential children. Even we may see in our lifetimes that scientists are able to
successfully clone a human being. Albeit, it can be mentioned that once organ transplant was considered science fiction but now it is commonplace, so commonplace that one is asked to designate on their driver’s license if they would like to donate their organs at death. Do we examine the ethics of those decisions?\textsuperscript{13}

5.5 Religious issues

Surrogacy is a complex and contentious moral and ethical issue across global cultures. Religions naturally have views on procreation, because the spiritual laws guiding human life are their domain. Religious views on surrogacy vary from complete prohibition to acceptance. The rise of Westerners using Indian surrogate mothers has added a political dimension to the religious and legal debate.

5.5.1 Christian religion.

When individuals or couples are unable to naturally bear children, they have several other alternatives in starting a family. Certainly, while adoption is one choice, there are many who wish to see a child through conception, pregnancy, birth, and rearing. For some, there is also the issue of having a true biological connection with that child.

Oftentimes these individuals will choose the surrogacy process in order to accomplish their goal of having a child. In this situation, a third party, referred to as the surrogate mother, will carry the embryo throughout the pregnancy, giving up the baby to its intended parents at the time of birth.

While this procedure has become much more accepted over the years, there are many religious groups and organizations that frown upon it, stating that it is not natural – with some even going so far as to call surrogacy "pregnancy-for-hire."

\textsuperscript{13}https://www.academia.edu/1955503/LEGAL_AND_ETHICAL_ISSUES_OF_COMMERCIAL_SURROGACY_IN_INDIA_AN_OVERVIEW retrieved on dated 10-Jun-16 11:07:17 AM
5.5.1.1 The Bible and the Process of Surrogacy

The use of a surrogate mother to bear children for couples who are unable to conceive for themselves is a process that is thousands of years old. This is proven in the writings of the Bible through the story of Abraham and his wife Sarah who was infertile. At this time in the earth's history, a woman who was childless was oftentimes shamed by her family and friends. Therefore, these women would offer their servants to act as "surrogates" for the purpose of bearing children for her.

While the Bible does not specifically forbid the process of surrogacy itself, it does raise the question of whether or not it is considered to be moral and/or ethical with regard to keeping children conceived out of love and born only of two individuals who are a married couple.

With this in mind, the Bible has also been interpreted as stating that children are a gift, not a right. Therefore, God will bless some people with children and others not. Yet, regardless of how these phrases are interpreted, it is oftentimes a devastating and heartbreaking experience when one discovers that they are unable to conceive and have a child of their own.

5.5.1.2 The Issue of Being a Surrogate Mother

In addition to the numerous issues that surround using a surrogate to assist with child conception and birth, there is also the ethical and moral question that some groups have with those who are actually acting as a surrogate mother herself.

Some feel that using a surrogate mother to help in child bearing is a privilege that is reserved only for the wealthy, as the cost may be prohibitive for most. There are, however, many surrogacy clinics that offer payment plans – and even refunds for unsuccessful pregnancy attempts – so the process may soon become much more mainstream.

5.5.1.3 The Bottom Line

While certainly moral issues are important to follow and abide by, it is difficult to judge anyone unless or until they "have walked a mile in the other person's shoes." This being the case, it is felt by many that infertility is a medical condition – and until anyone has actually faced the reality of not
being able to have a child, it is difficult to get a feel for how truly devastating this situation can be. With this in mind, those who act as surrogate mothers are performing a truly needed service to those whose lives will be forever changed when they are finally able to hold and love a child of their very own.

The command given to man was to be fruitful and multiply (Gen. 2:28). When looking at the role religion plays or has played in surrogate motherhood, we tend to look at the story of Abraham and Sarah. The moral and ethical issue surrounding the scenario was Sarah arranging for Abraham and Hagar to have them a child. It was the practice of her native country where there was no hope in bearing children for the spouse to give her maid to provide an heir for the family. This was one of the legal codes of Mesopotamia. Precisely the wife determined the rights of the offspring.

God did not condone the practice of surrogacy. Abraham was accused of following in the footsteps of Adam. They allowed their spouses to lead them astray instead of trusting and obeying. The outcome was suffering and disappointment. Scriptures also tells us that their imagined blessing proved to be a curse. Domestically there was a lot of tension, heartache, and hatred between the women.

The situation of the Egyptian maid could very well be mirrored today. Being a surrogate gave Hagar an elitist feeling and she became pompous and proud. Hagar would not consent to the plan to turn her child over to the mistress. Her question was, why should her child be passed off as the wife’s son? She had second thoughts and this still happens today. Biblically the very bitter dissension between the offspring’s of Sarah and Hagar is so intense until the repercussions are felt in the modern world today. Sarah’s descendants, the Jews, and Hagar’s descendants, the Arabs, are still contending for the possession of the Holy Land.

Considering all of the pain and heartache associated with surrogacy in the Bible the scenarios emphatically point out man choosing to be selfish. They made laws for self-aggrandizement. Some feel that the inability to conceive is a result of past sin and they are being punished.
It is the belief of many Christians that God has given man the freedom of choice. It is a common belief that the use of technology is a personal decision between a couple and God. Christians agree that a stable and supportive family benefits the child. This will limit the assisted reproductive technology to married couples only where one or both partners are unable to either produce eggs or sperm, or carry a pregnancy. This supports the principle that God is the moral Arbiter of the world who differentiates with absolute exactness, the moral from the immoral, and is also a loving and compassionate God.

In vitro fertilization can bring about the ethical issue of being able to pass on social and spiritual heritage to the offspring if the genetic make-up cannot be passed. Another issue to be considered is the number of ova that are fertilized with in vitro fertilization. Discarding the unused embryos does not follow Biblical principles. The availability of cryo-preservation or freezing is available to bring about some relief of this problem. This procedure can allow the couple to have more children in the future. Biblically, life starts at conception and all stages of development are important. In using the current technologies including in vitro fertilization there are chances of multiple births. In the case of multiple fetuses, severe prematurity and no survival of babies may occur. A solution to this problem may be selective termination of embryos in utero. This can raise moral issues. Is it right to intentionally take the life of a fetus to spare one or others? Should the pregnancy continue and possibly risk the survival of all the babies?

Another issue that should be considered in sperm or egg donations is the feelings of surrogate. How does the husband or wife feel about a third party being involved in the conception of their child? Is their privacy being invoked? When, if ever, will the recipient parent tell the child about the manner of his or her conception? Technology is expensive and certainly in the manner in which the couple will use their finances, both of them should be in agreement. Christians believe that God has given them the responsibility of being stewards. Therefore, how and for what money is spent is very important. Man’s knowledge is a gift and a blessing when used in the proper manner.
Adventist Protestants believe that medical technology has enhanced human procreation through such procedures as in vitro fertilization, (AI) artificial insemination, cloning and yes, surrogacy embryo transfer. In seeking to do God’s will, these options have raised serious ethical questions.

Christians agree that being barren (childless) weighs heavily upon couples, as we saw in the Abraham and Sarah scenario. Many are sad because of infertility and turn to reproductive technology for assistance. The question they ponder is when should assistance be used or if it should be used at all. This becomes a mind-boggling issue.

Adventists believe that God is concerned with all dimensions of human life and his principles should be followed. God gives the power to procreate. This gift should be used to glorify God. It is believed that:

- Procreation is God’s plan (Gen. 1:28); children are blessing from God, (Ps. 127:3, 113:9) medical technologies that aid infertility that does not venture from biblical principles is acceptable in good conscience.
- All developmental stages of life should be respected (Gen. 1:5, Ps. 139:13-16)
- The decision to use medical technology is a personal matter. There are acceptable reasons and forms of Christian service that may limit or refrain procreation (1 Cor. 7:32,33)
- Due to cost, Christian stewardship is a relative factor (Prov. 3:9)

As Christians apply these principles to their decision-making they can be confident that the Holy Spirit will be there to assist them. Infertile couples should always keep the door ajar, so if necessary they can fall back on adoption as an alternative. I am aware however, that there are some that do not exactly follow these beliefs. They may choose other logic to arrive at their desired goals. I am not saying that this is wrong, only let your research and conscience be your guide.
• Paragraph 2376 of the Catechism of the Catholic Church states

“Techniques that entail the dissociation of husband and wife, by the intrusion of a person other than the couple (read donation of sperm or ovum, surrogate uterus), are gravely immoral.”

Christians are not unanimous in their opinion about surrogacy. The Catholic Catechism states that a child is a gift not a right, and that surrogacy are "gravely immoral" because a third party comes between the "one flesh" principle that unites husband and wife. In 1987, the Donum Vitae congregation issued a statement on surrogacy, echoing the views of the Catechism and adding that it violates the dignity of the child. A further statement in 2008 through the Dignitas Personae congregation reinforced the teaching that conception should only be a product of conjugal love. The question of surrogacy is less cut and dry in Protestant denominations. In general, the churches falling under this umbrella have a more liberal attitude to infertility treatments and surrogacy, but point out the potential problems arising from it such as future psychological problems for the child and questions regarding who the child belongs to.

Almost all Christian bioethicists agree that most forms of surrogacy are theologically and morally problematic. The moral qualms generally concern the exploitation of women (e.g., “womb-renting”), the selling of children, the violation of the marital covenant, and the use of embryo-destructive reproductive technology.

5.5.1.4 Concerns about exploitation of women

In a commercial surrogacy arrangement in the U.S., the surrogate mother is typically paid $20,000 to $25,000, which averages to approximately $3.00 per hour for each hour she is pregnant, based on a pregnancy of 266 days or 6,384 hours. Few women who have the financial means are willing to undergo the pain, trauma, and grief of surrogacy for such low wages. Women who have low-income or a lack of financial resources are typically recruited to be surrogates.
In addition to being exploited for their wages, such women are rarely fully informed about the potential health risks associated with surrogacy (e.g., hormone injections) or with the emotional damage that can come from giving up a child. Many are unaware, for example, that during pregnancy, the female body is biologically, hormonally, and emotionally programmed to bond with the child.  

5.5.1.5 Selling of children

Children are a gift from God (Psalm 127:3) and not a commodity that can be bought and sold. Traditional surrogacy is always immoral if the mother gives up her child for payment. Likewise, gestational surrogacy is always immoral when the embryos or gametes used in the surrogacy are “purchased” for the purpose of implantation.

Many, if not most, Christian bioethicists and legal scholars would agree that commercial surrogacy is morally and legally problematic since it constitutes the sale of a child. Some even claim it is a form of human trafficking. The general consensus is that such arrangements violate the human dignity of the child and the gestational mother.

5.5.1.7 Violation of the marital covenant

As Scott B. Rae and Paul M. Cox explain, surrogacy violates the creation norm for marriage, family, and procreation, by introducing a third-party contributor, either in the form of a womb donor or a womb and an egg donor.


For instance, the use of donor gametes is an act that includes a third party in an event that was meant to remain strictly within the marriage covenant. It also prevents infertility from being a burden shared by both spouses. As Dawn McColley explains,

- Because of the special union in marriage, problems such as infertility are shared by both spouses and should be borne by both. Our traditional marriage vows say, ‘for better or worse, ... in sickness and in health.’ By using the gametes of a donor, the fertile spouse refuses to share the burden.

- This refusal to share burdens is not a Biblical response to God's will, nor is it the way Christian spouses ought to treat each other. Children are not the sole, sacred purpose of marriage. If God has chosen to withhold that blessing from one spouse, He necessarily chose to withhold it from the other.

5.5.1.8 General concerns about embryo-destructive reproductive technology

On average, only about 25 percent of embryos that are created by the use of IVF and transferred to the womb develop until birth. Because of this high failure rate, surrogacy often involves creating more embryos than will be implanted in the womb. The embryos are usually kept in a state of suspended animation (i.e., cryogenically frozen) until their death (which usually occurs in less than 10 years).

5.5.1.9 Several passages in the Bible strongly suggest that human life begins at conception

(Job 31:13-15; Ps. 51:5; 139:13-16; Matt. 1:20). The Bible is also clear about the taking of innocent life (Exod. 20:13; Deut. 5:17). For these reasons, Christians should not support any reproductive techniques that create embryos that will not be implanted in a womb.
5.5.1.10 Doesn’t the Bible mention surrogacy?

There are two cases of surrogacy mentioned in the Bible. In Genesis 16, Sarai tells Abram, “The Lord has kept me from having children. Go, sleep with my slave; perhaps I can build a family through her” (Gen. 16:2). In Genesis 30 very much the same scenario occurs but this time it was Rachel who said to her husband Jacob, “Here is Bilhah, my servant. Sleep with her so that she can bear children for me and I too can build a family through her” (Gen. 30: 3).

Neither of these accounts provides an example for Christians should act. Both cases illustrate the distortion of family relationships and society that result from breaking the marital bond in order to overcome infertility.17

5.5.1.11 Are there any forms of surrogacy that are ethical?

One surrogacy arrangement that many Christian bioethicists believe may at times be morally acceptable is "rescue surrogacy." In this situation, a surrogate mother volunteers her womb to save an IVF-created embryo that has been frozen and is destined for destruction. While concerns such as the violation of the marital bond are still applicable and should be taken into account, the rescue of an innocent child may be a morally justifiable overriding consideration.

Using a surrogate mother to bear children for a childless couple is as old as the story of Abraham and Sarah in Genesis chapter 16. Sarah could not bear children, so she sent her servant, Hagar, to Abraham so she could have his children. The Roman Catholic Church does not, however, advocate surrogacy. Their belief is what is known as 'natural law'. Natural law is the rule of conduct that is given to us by God in the constitution of the nature which God has endowed us. Roman Catholics believe that God intended for married couples to conceive and carry children naturally.

Children are believed to be a gift from God, not an object of desire. As Pope VI Paul stated in his encyclical Humanae Vitae, "The transmission of life is a most serious role in which married people collaborate freely and responsibly with the God serious role in which married people collaborate freely and responsibly with the God the creator." In addition to this, paragraph 2376 of the Catechism of the Catholic Church states that: "Techniques that entail the dissociation of husband and wife, by the intrusion of a person other than the couple (donation of sperm or ovum, surrogate uterus), are gravely immoral."

In both cases (Baby M and Liam Veitch), the Catholic Church would oppose of the events which occurred. Even though the parents and surrogate involved in the birth of Liam were happy, in the view of Catholics, this would not justify their actions

5.5.1.12 Christian arguments for IVF and AI

- It brings happiness to people who otherwise would not be able to have children.
- If life comes from God, anything that creates new life must be good.
- It can create loving families.
- God told Adam and Eve to “be fruitful and increased in number”. God wants us to have children.
- AGAPE: most loving action is to offer medical help and to use these God-given gifts of healing.
- Golden Rule – “Do to others as you would have them do to you.” If you were desperate for a child, wouldn’t you want someone to help you?

5.5.1.13 Christian views against IVF and AI:

Many Christians believe IVF and AI and other forms of fertility treatment are wrong because:
God chooses whether people have babies or not; if a couple is childless, it may be God’s will.

God may have chosen these people to devote their lives to other kinds of Christian work.

It goes against “natural law” to create a child in any way other than through sex.

5.5.1.14 Church positions on fertility treatment: IVF and AI

Roman Catholic Church

IVF and AI - acceptable, only if:

- NO “spare embryos” are created.
- No 3rd parties are used.
- They do not replace sex within a marriage.

AI - acceptable, only if the husband’s sperm is used.

AID - not acceptable. AI using a donor is wrong! It brings a 3rd party (another man) into the marriage.

In an address to Catholic doctors, Pope Pius XII condemned AID because a third person becoming involved in a marriage is like "mechanical adultery": the donor fathers a child (with his sperm) yet he has no responsibility to the child; and a process that isolates the sacred act of creating life from the marriage union is a violation of the marriage union (which alone is the way to create life). However, if the marriage act is preserved, then various clinical techniques designed to help create new life are not to be condemned."

Adapted from Modern Catholic Dictionary

"Any use whatsoever of any method that stops the natural power of sex to generate life is forbidden."

Pope Pius XI, 1930
5.5.1.15 Roman Catholic 1987 Report: “Respect for Human Life and the Dignity of Procreation”

This report gives guidelines for infertility treatment. Main points:

- Loving sexual relationships between husband and wife is the proper place for conceiving children.
- Children are a gift and a blessing from God. Although science makes some things possible, it does not make them right. Research must continue into the causes of infertility, but the morality of these should be carefully considered.
- All humans have the right to life from of conception. Infertility treatments must respect that.

5.5.1.16 Methodist Church

- Believes it is right for scientists to try to learn more about causes and cures of infertility.
- Accepts using “spare” embryos in medical research, but only up to 14 days after fertilization.

5.5.1.17 Church of England

- IVF is acceptable in all its forms, including the donation of eggs and sperm by third parties
- Experimenting on “spare” human embryos is acceptable up to 14 days after fertilization, because up to 14 days a foetus can split into 2 and form twins. Therefore, it is not really a human life until 14 days.

1984 Report “Human Fertilization and Embryology”

"We support the recommendation that research, under license, be permitted on embryos up to 14 days old and agree that embryos should not be created just for scientific research."

Anglican report - 1994
5.5.1.18 Surrogacy

All Churches agree that surrogacy is wrong because:

- It involves a 3rd party in a much bigger way than donated eggs and sperm.\(^{18}\)
- It strikes at the heart of the family.
- It can create massive problems for everyone concerned, including the child.

5.5.1.19 A biblical view of fertility and child bearing

God created humankind male and female, instituting the marriage bond for companionship and procreation. Some witty commentators have pointed out that God's command to 'be fruitful and increase in number' is the only one we willingly obey!

In Scripture children are seen as a blessing and a gift from God. They are neither a right nor a consumer object.

However, humankind's rebellion against the authority of God (the fall) affected all aspects of our being - spiritual, social, psychological and physical, including fertility and child bearing. Childlessness is a painful reality for many couples. Yet the fall does not nullify God's commands. We are still to 'fill the earth and subdue it'. Many Christians understand science as part of this subduing process. It is therefore good and right to use scientific means to aid fertility and help infertile couples, providing these means do not contravene any of God's laws. The end does not justify the means. We need to be sure that our use of science is in accordance with the ethical principles God has revealed in his word. This leads to the first question directly relating to surrogacy.

\(^{18}\)http://www.rsrevision.com/GCSE/shortcourse/medicaethics/fertilitytreatment.htm retrieved on dated 10-Jun-16 11:08:30 AM
5.5.1.20 Do the techniques used contravenes biblical ethics?

The conception of a surrogate pregnancy may involve IVF or the use of donor gametes. Are these processes that Christians should employ?

In each IVF cycle more embryos are 'created' than can be implanted into the uterus of the mother. The excess embryos are either frozen for later use, used in scientific research or discarded. Is this acceptable in the light of biblical understanding about the status of the human embryo? It seems from Scripture that there is a real sense of continuity between the adult person and the 'embryo person' from the time of conception. The Bible makes no distinction between a born and an unborn child as illustrated by the Greek word, brephos, used to describe both the intra-uterine baby Jesus (Lk 1:44) and the babe wrapped in swaddling clothes (Lk 2:12). Biologically we might also point out that what marks a human being as different from other living organisms is the possession of the human genome. An embryo is thus a human being with potential. Francis Collins, head of the US genome project, recently admitted his own inability 'scientifically, to be able to perceive a precise moment at which life begins other than the moment of conception'. Biologically and biblically there seems to be little doubt that the fetus is a human being.

Furthermore, surrogate pregnancies can also involve the use of donor gametes. Does this constitute a violation of the marriage bond? Some see it as breaking the 'one flesh' principle of Genesis 2:24 by introducing a third party into the marriage. By so doing it complicates family relationships, raises issues for the child about his/her genetic origins, leading to possible problems of attachment for the social but not genetic parent of the child.

A fuller discussion of these two issues, central to most of the ethical debates surrounding the beginning of life, can be found in past editions of Nucleus and other CMF publications. We need to be aware that our answers to these questions will reflect on our attitudes to surrogacy. We cannot view
surrogacy in ethical isolation from the reproductive technologies it often employs. But not all surrogate pregnancies use these techniques. What other ethical issues are involved?

5.5.2 An Islamic view

Gestational surrogacy as a treatment for infertility is being practiced in some well-known medical institutions in Tehran and some other cities in Iran. While the majority of Muslims in the world are Sunni, the majority of Iranians are Shiite. Most Sunni scholars do not permit surrogate motherhood, since it involves introducing the sperm of a man into the uterus of a woman to whom he is not married. Most Shiite scholars, however, have issued jurisprudential decrees (fatwas) that allow surrogate motherhood as a treatment for infertility, albeit only for legal couples. They regard this practice as transferring an embryo or fetus from one womb to another, which is not forbidden in Shiite jurisprudence. Nevertheless, there are some controversies concerning some issues such as kinship and inheritance. The main ethical concern of Iran’s experience with gestational surrogacy is the monetary relation between the intended couple and the surrogate mother. While monetary remuneration is practiced in Iran and allowed by religious authorities, it seems to suffer from ethical problems. This article proposes that this kind of monetary relation should be modified and limited to reimbursement of normal costs. Such modification requires new legislation and religious decrees.

Islam also has divided views on infertility treatments and surrogacy. Muslim scholars approach it from the perspective of shariah law. Some Muslim scholars claim it is akin to adultery, because it involves a woman who not the husband’s legal wife is carrying an egg fertilized by him.

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19 Surrogacy is prohibited in Islam Dr K Aramesh, Medical Ethics and History of Medicine Research Center, 4th Floor, No 23, 16 Azar Street, Tehran, Iran; kiarasharamesh@tums.ac.ir
It also means that the child has no legal lineage, making him or her illegitimate. Islamic arguments against it also point to the problems that arise if the surrogate refuses to give up the baby. However, other Muslim thinkers claim that surrogacy is permissible, because humans have a responsibility to preserve the human species and that it is in the public interest to allow surrogacy for infertile couples.

However, in Islam, the second largest followed religion in India, Surrogate motherhood is not allowed due to the fact that many evils may arise from this procedure. Islam considers it illegal and immoral to introduce into a woman the sperm of any man other than her husband’s. It will be Haraam (forbidden) to form the embryo by the fusion of a woman’s ovum with the sperm of a man other than her husband. It is also not lawful to implant into a woman sperm or/and an embryo into other woman’s womb.

According to Dr. ‘Abd al-‘Azeem al-Mat’ani of al-Azhaar University: ‘Renting wombs is one of the innovations of western civilization, which is a purely materialistic civilization which does not give any weight to moral values and principles. The issue is not things that may affect inherited characteristics or confuse lineage; that is not the point of the shar’i ruling. Whether that leads to any effect on inherited characteristics or not, whether that results in confusion of lineage or not, it does not matter, because the shar’i ruling forbidding this innovation is based on something else, which is that the womb is a part of a woman’s private parts and the private parts (i.e., sexual relations) are not permissible except through the shar’i contract whose conditions are fully met. So the womb is exclusively for the husband who is married to that woman according to a valid marriage contract, and no one else has any right to use it for an alien pregnancy. If the woman who rents out her womb is not married to that husband, then she is permitting her private parts and her womb to a man who is a stranger to her; she is not permissible for him and he is not permissible for her.

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20 Impact Factor:1.200 | Ranking: Women’s Studies 6 out of 39 | Sociology 38 out of 137
Source:2013 Journal Citation Reports® (Thomson Reuters, 2014)
Even if this is not full-scale zinaa (adultery), it is still definitely haraam because it is enabling a man who is a stranger to her (i.e., not married to her) to put his semen in her womb.’

Perhaps, the most compelling evidence supporting this view is the ayah (verse) in Surah al-Mujadalah (58: 2) where the Holy Qura’n says:

“…their mothers are only those who conceived them and gave birth to them (waladna hum).”

Islam is the largest religion in India. As we gives importance to the hound tradition that we should also gives the importance to the Muslim Tradition also. Surrogacy is ban in the Islamic tradition because the woman is bearing the child of the man and this is Haram in the Islamic culture and tradition. This procedure gives arise to the many of the evils and many evils could be born from this treatment. This is totally ban in the Islamic tradition.

If we really look over towards the concept of the surrogacy arrangement the sperms is being transferred to the Women womb. The sperm was the means sperms which is not at all the sperm of her husband. This concept could not be accepted so easily and the properly. The surrogacy is adopted by the two ways and it is mostly adopted by the gestation ally and in the rare case traditionally, but in the Islamic tradition the surrogacy is haram and the traditional surrogacy is not at all accepted by the thinkers of a Muslim Traditions. Surrogate motherhood is and not at all accepted in the tradition.

According to the Abd al-‘Azeem al-Mat’ani of al-Azhaar University renting the womb is not the new tradition or the new concept for the country. The surrogacy and the commercial surrogacy was took place due to the incapacity of the woman for giving the birth to their child. This is not the new concept this concept is really rare and the known to all the people. In many of the examples the science and technology is firstly introduces in India, and then in the other countries then also we are attracting towards the western culture but the fact is that they are following us and taking the references of the Indian culture and the tradition of the India.
The Shari has the great importance for the Muslim tradition the rules and regulations are strict of the Shari. The rules should be followed by each and every Muslim member. The Muslim tradition is very much strict tradition and there should not be any restrictions over the men but the women have many limitations for the day by day activities also. They always kept in the Parda system and not allow showing her face to any of the man outside to their house and their religion. Nobody knows the real face of the woman specifically deals with the given tradition and the culture.

For the surrogacy treatment very much delicate part is used for the insemination and for the pregnancy purpose it is very much delicate part as well as the used for the purpose of the sex, which is delicate and private also, it should not show to the all people and not other than the husband.

Keeping relationship with the other men is totally means as the adultery and also called as the adultery. Renting the womb is the ads like the adultery in the Muslim Tradition and culture. It is just like selling your body to the person and the private part is used for the husband only nobody except her husband have right to see her body and used it for the purpose of the sex and the keeping the physical relationship with the husband. So she do not have any right to use her body for any purpose other than to keeping sexual relationship with her husband. In the Holy Quran the mother is only one who bears the child for the 9 months in her womb taking all the stress for delivering the child. Sarah-al-Mujadalah says that nobody could compel the woman to give birth to the couples’ child by regular insemination or by the other gestational kind of surrogacy treatment or arrangement.

All kind of the surrogacy arrangements are Haram in the Muslim Tradition and the rules and regulation of the surrogacy arrangements involved in the surrogacy arrangements.

In the Muslim tradition it compel the evidences that support the ayah that means Sarah- al-Mujadalah that also holy kurgan says that it is not compulsory that the every couple should have children some could be childless also and it is not the sin it is called as the Waladna hum.
specifically concern with the uncertain terms of the history that also call the acknowledgement for these facts.

The male and female are in the hand of the god no could be should control on it all it happens with the consent of the god nod nothing else that in Muslim religion the Allah has the great importance they all are taking very much proud as well as the very much importance for the tradition and the sayings of the Allah and they also follows their tradition in a perfect way.

The heaven is being created by the earth and the god. Both have been made by the god. If he keeps you infertile then there must be some reason for it and therefore the woman who are infertile that is the wish of the god i.e. Allah. He is also made with the full of knowledge and courage which is called as the Sarah-al-Shura.

Halal is the medicine that is made for the keeping for the men and the women infertile. The god has made all the male and female on the equal basis and that has been shows the similarity in the human beings also. The human beings are really very much thankful to god that he has made the male and female on the equal basis and make the woman capable for giving birth to their child the traditional surrogacy. Which is not allowing?

In the Muslim community the first preference has been given to the structure which has been given details to the primary criteria of being infertile and also being the childless. The Halal is no doubt the medicine which has been created for the people who are infertile and cannot gives birth to their child. This was the only way for the infertility in the Muslim religion The Muslim religion did not gave permission for the traditional as well as for the gestational surrogacy kind of the surrogacy. The traditional surrogacy was not done according to the present patter of the medical advances the actual recorded ibis they and the directly insemination is done for the having baby the eggs are being used for the surrogacy treatment and the embryos are being used of the intended father for this purpose this was surrogacy is being attached for the called as the traditional surrogacy. The gestational surrogacy means the only the sperm is used and the egg is of the gestational mother and therefore the given data has been arises for the strategy of the surrogacy.
All kind of the surrogacy arrangements are Haram in the Muslim Tradition and the rules and regulation of the surrogacy arrangements involved in the surrogacy arrangements. In summary the conclusion wants to make that the In Muslim tradition the really thing is that the traditional and the gestational surrogacy is not permitted. All married couple should be enjoy the parenthood and this depression turns them towards the surrogacy treatment. This frustration turn towards them for the infertility and also for doing the sin of the All kind of the surrogacy arrangements are Haram in the Muslim Tradition and the rules and regulation of the surrogacy arrangements involved in the surrogacy arrangement. The Quran and Sharma did not accept the surrogacy concept and the treatment because the relationship of the surrogacy mother and the intended male part is the illegal and it is called as the Haram in the Muslim tradition and the religion.

Now days this law is not accepted by the people. People give more importance to the judiciary and the laws. The medical development of the technology is took the progress in this recent years and therefore the instant growth of the medical and the sciences has been given the decent way for the adoption of the surrogacy treatment. The surrogacy treatment is the way of the getting the solution over the infertility and this thing has been accepted by all the parties and all the concern relationships they have been made for this.21

5.5.3 According to Jewish law

Jewish law permits surrogacy only if it is a full gestational surrogacy. Also, the gametes of both intended parents should be included and in vitro fertilization should be the mode of fertilization followed.

Despite the different issues pertaining to surrogacy, statistics reveal that there has been a steady rise in the number of women donning the role of surrogates. In 2006 alone, the Society for Assisted Reproductive Technology or SART estimated about 260 surrogate deliveries, and since then the number has been on a constant rise.

Judaism also has a spectrum of attitudes toward surrogacy. Orthodox and Conservative rabbis take the view that using another person as an incubator is degrading and devalues motherhood. There is also concern that it accentuates economic differences, claiming that there is an inherent imbalance of power between wealthy parents and poor surrogates. However, there is also the view that infertility causes couples sadness and suffering. In Judaism there is an obligation to remove this suffering through surrogacy as long as nobody is harmed in the process.

5.5.4 Buddhism and Hinduism

Buddhism totally accepts surrogacy. This may be because Buddhism, unlike Christianity, Judaism and Islam, doesn't make procreation a moral duty. Couples are not under pressure to marry or have children, and there are no Buddhist teachings suggesting that infertility treatments or surrogacy are immoral. Hinduism allows infertility treatments in specific circumstances. Children are very important to Hindu families, and medical help is allowed if a couple can't conceive. Hindus permit artificial insemination using the husband's sperm, but not that of an unknown donor, because the child would not know its lineage. Surrogacy is rarely used by Hindus, but surrogacy clinics are a booming industry in India.

Buddhism completely accepts surrogacy. This may be because Buddhism, unlike Christianity, doesn't make procreation a moral obligation. Couples are not under pressure to marry or reproduce, and there are no Buddhist teachings which suggest that infertility treatments or surrogacy are immoral.22

Hinduism accepts infertility treatments in specific circumstances. Children are extremely important to Hindu families, and medical help is allowed if a couple can't conceive. Surrogacy is rarely used by Hindus, but surrogacy clinics are an extremely popular industry in India. It is seen as a medical treatment, rather than an infringement upon religious beliefs.

The case of Baby M would most likely not be viewed favorably, due to the negative consequences which arose. However, the case of Liam Veitch would most likely be seen as acceptable, as the outcome was positive and the infertility of the intended parents was solved without causing pain to another.

In India, Surrogacy was known and practiced from ancient times. As per Mahabharata, Gandhari, wife of king Dhritarashtra, conceived but the pregnancy went on for nearly two years; after which she delivered a mass (mole). Lord Vyasa found that there were 101 cells that were normal in the mass. These cells were put in a nutrient medium and were grown in vitro till full term. Of these, 100 developed into male children (Duryodhana, Duhshasana and other Kauravas) and one as a female child called (Duhsheela).

The Hindu mythology provides many examples like that of Sage Bharadwaj produced Drona, later to be the teacher of Pandavas and Kauravas. The story relating to the birth of Drishtadyumna and Draupadi is even more interesting and reflects the supernatural powers of the great Rishis. King Draupada had enmity with Dronacharya and desired to have a son strong enough to kill Drona. He was given medicine by Rishi and after collecting his semen, processed it and suggested that AIH should be done for his wife who, however, refused , The Rishi then put the semen in a Yajnakunda from which Dhrishtadyumna and Draupadi were born.

While the above are quoted as examples of IVF and parthenogenesis under Hindu belief, there is another story, which refers to embryo transfer. This was regarding the seventh pregnancy of Devaki, by the will of the Lord, the embryo was transferred to the womb of Rohini, the first wife of Vasudev, to prevent the baby being killed by baby Kamsa.23
‘Women’s Era’, most widely read magazine for women in India, contains advertisements on ‘Surrogate mothers’ very frequently. The magazine is said to be brought out by the follower of Arya Samajist Hindus. Hence, Hindu belief seems to be permitting surrogacy.

The Hindu religion is the most ancient religion as well as very much respectable religion from the ancient India. The some of the historical perspective could be getting from the previous Hindu religion. The some of the Hindu surrogacy examples are bleeding found when we go deep in that section. The historical and very much famous example of the ancient surrogacy is the surrogacy of the Gandhari that has been stated the example of the surrogacy in the time of the Mahabharat. She was the wife of the Dhritarashtra and with the help of the surrogacy treatment shoe gave broth to the 100 children with the help of the surrogacy treatment.

The lord visa also been stated the importance of that part of the situations that the temperature is that cells was being maintained like the temperature in the womb of the mother and the birth of the 100 Kauravas took place beyond the womb of the Gandhari because the birth of the 100 children was not possible from the womb of the Gandhari. These birth was took place outside the womb of the Gandhari. It was specifically mentioned in the Yajnivalkya and the Manu.

The important part of the arrangement is that this was being specifically mentioned in the history and we get the references at different stages of historical perspectives. Auras were the legal child of the lawfully wedded wife.

The name of the other sons are as follows that is Ksetraja, he was appoint ion and geed by her own husband for insemination for getting pregnant and gives birth to the child through the process of the traditional surrogacy. The name of the son was Gudhaja he was born from the man other than his father. Now days it called as an adultery. In this decade the adultery is a crime. This was done very much secretly and not knowing to any other person rather than the arrangers. There are many related definitions for the
surrogacy in the ancient period of the time. The first one is Kanina; it could be called as the son who is secretly born by the unmarried woman in her own fathers house means an illegal child of the woman.

Other important definition is Putrikaputra means the son born the daughter which is given to the bridegroom as a gift for the marriage ceremony. Sahodhaja means the men is getting married to the pregnant woman whether he was doing it knowingly or unknowingly that is not the question. Pounarbhava means the son who is born through the man or the woman who get timely married. Dattak means the son is born by the adoption. This was sometimes given as a gift from the other man in the cast. In Hindu traditions lots of examples are there to prove that the surrogacy is not the recent trend but it has some historical perspective also. Sage Bharadwaj produced the Drona, that the teacher of the Kauravas and Pandavas.

The birth of the Dhritarashtra and Draupadi was also very much interesting. And it is also interesting for the supernatural powers for the great Rishis of the Drona kills. The Dronacharya was having the strong son and so they suggested for the insemination for the men for giving birth to the strong son. Draupadi was born from this kind of treatment also. If they refused for the surrogacy treatment the ayurvedic treatment was giving to the woman and then Draupadi was born through the treatment. They were totally rejected to accept the surrogacy treatment. AIH treatment was given by the Yajnakunda was being made for the giving to the treatment. With the Dronacharya wanted the child who could kill the Drona himself. The Balram is also one of the examples of the surrogate child. The Indian gave now try to regulate the increasing trend of surrogacy specifically for the commercial surrogacy. It also states that there is really need of the instant ban on the commercial surrogacy. The Balram also the example of the surrogacy arrangement.

He was the elder brother of the Lord Krishna. The historical perspective state that the Balram was born through the way of the surrogacy treatment. The prophesy was being made for the Lord Krishna that the Devaki’s eight son will kill his uncle i.e. the King Kansa Hindu tradition says that the Lord Vishnu sit over the Shesha when they take the rest and therefore the According to the legend, King Kans ordered to the servants that the all the children of the Devaki should be killed by the servants. So there will be no
enemy left of the King Kans. He also kept the Devaki and Vasudeva in the same prison for the giving the birth to the child. At the time of the Devaki’s eight child the Vasudeva metrically transfer the baby in the womb to the womb of the Rohini who is the second wife of the Vasudeva. The Rohini wanted her own child and therefore she was firstly get upset to giving birth to the child but afterwards she gave birth to the Balram the elder brother of the Krishna. She saved that Balram from the entire cruel person especially from the uncle Kansa.

If we look towards it very scientifically then Vasudeva was the sperm donor and the Devaki was the egg Donor for giving birth to the Balrama.Rohini was playing the role of the gestational surrogate mother of the child Balram. So from these all examples it has been proves that the in the traditional Hinduism also there was some examples of the gestational as well as traditional surrogacy arrangements were took place.

5.5.5 In Jain religion

The Tactile and her son Mahaveer are like the pioneer of the join community and they are base of the Jainism and therefore the 24 th tirthankar is the Mahaveer. After many of the years of the bible the Jainism came into existence and therefore the Jainism community having the great importance in the tradition of India.Jainism community having the respect and long history in the decade. The principles of joins have been accepted by many people rather than the joins. If we look towards if scientifically then also the principles are the good and well and these are always welcome by the all people and thinkers.He one woman to the womb of the woman.

24 the tirthankar was born by the transferring the embryo from the womb of the one woman to the womb of the woman. This is really a truth we thought that the in the older age the surrogacy was not prevailed but in the Jainism we got some historical perspectives that the Jainism always think for the good will of the people it always teaches us how to live in the society and how to tackle the problems by peacefully and control over the anger.

The real truth of the birth of the Mahaveer is by surrogacy that is by the gestational surrogacy. The meaning of the Mahaveer is the great Hero so; Indian thinkers explained that the concept of surrogacy was totally accepted by the Jainism and the people of the Jainism community. In Sanskrit this meaning has been defined that the Mahaveer means the great hero. If the Jainism totally neglects the surrogacy and if the join people are against the concept of surrogacy then the people should be think twice for making the Mahaveer as the 24 th tirthankar that is really a very important responsibility and status.

So it is clear that from the ancient period not only in the Jainism but also Islam, Christian people also took the help of the surrogacy for overcome from their problems for the really great and the admirable people of the community and they also respect for the people who go for this treatment.

Only in Islam the concept of surrogacy was ban, but when all the circumstances changes it also change the thinking of the people also and this create the really a good and strong relationship between the all people and the surrogate mother. Now a day’s people do not looks towards the surrogacy as a bad profession and a bad thing . All people have been accepted this thing of the surrogacy.

There are mainly two types of the Jainism the first is the Digambara and the second one is the Swetambara the both are the sub relison of the Jainism community and both are the followers of the join principles. In the Digambara divisions the 16 auspicious dreams have been defined .The pregnant women should see that dreams and should be fulfill these dreams .It is just like the worship of the god Tirthankar and these dreams always concern about that day on which the surrogacy has been took place. The Trishala and
the Devananda are the first women who carries the baby of the another men in her womb. These dreams sure just like thanking giving top them for the boss Tirthankar.

Now a day’s lots of surrogate mothers are their but at that period no science was there and no modern technology also then also these kinds of the surrogacies was taking place that was the miracle. We think that the surrogacy is the foreign concept and we cannot accept it as it is so the surrogacy is the trend of Indians and the pioneer and base is the Indian, and then further study has been made from the foreign countries.

5.6 General Issues

5.6.1 Public Policy

In some states, the practice of surrogate motherhood is not clearly covered under existing law. There is a split among the states that have statutes. Some states prohibit surrogacy contracts or make them void and unenforceable, whereas others permit such agreements.

When a court is asked to decide a dispute regarding parental rights or custody of a child born as a result of a surrogacy arrangement, existing statutes may not prove adequate given the complexity of the problem. Courts faced with such decisions have given preference to different factors: the best interest of the child, the rights of the birth mother (as in adoption situations), the genetic link between the child and the genetic parents, and the intent of the couple who entered into a surrogacy contract to become parents. Often two or more of these factors conflict with each other, and there is not a consensus in the legal or ethical communities as to which factor should have priority.

The obstetrician–gynecologist who facilitates surrogacy arrangements should be aware of any statutes or court cases in the state in which he or she practices. In counseling individuals seeking a child through surrogacy or a woman who is considering surrogate gestation, the physician should encourage consideration of the possible consequences of a surrogacy arrangement, including potential legal complications.
You must also bear in mind that any pregnancy carries with it multiple risks – both for the parent and for the child. While the majority of babies are born happy and healthy there are any numbers of complications that can transpire throughout the pregnancy both minor and major. Even if everything goes smoothly, the process is of course highly unpleasant for 9 months resulting in lack of mobility, pain, discomfort, strain on relationships and permanent changes to the body. Usually a mother will happily take on these risks knowing that she is bringing her own child into the world that she will then be able to care for and be proud of. Taking this risk for someone else however is very different and a huge commitment – make sure you understand all the risks and all the trials involved with pregnancy before you agree and don't consider this decision lightly.
5.7 Emotional Issues of Surrogate Pregnancy

During this term of surrogacy, the couple who has decided to obtain the services of a woman who is willing to bear their child undergoes a whole lot of emotional upheavals. It often starts with frustration and culminates into agony. The wife may fail to come in terms with the fact that her husband is actually in seminating another woman. She might get psychologically stressed out in spite of the anticipation of becoming a mother.⁵ This can well create problems in her relationship with her spouse. The husband too might feel that he is lacking in faith in this process. The crushing disappointments in relationships are the usual follow thorough of surrogate pregnancy.⁵

Many emotional issues can arise in the course of a surrogate mother's term. The surrogate mother can become attached to the fetus and not want to give up the baby when she gives birth, as seen in the Baby M case. If the surrogate mother is cut off completely from the child, she may feel emotional distress at not being able to see the child develop and mature. There is also the debate concerning whether or not to tell the child, when they are old enough, of their situation, which can lead to stress between the parents and child.

5.7.1 Emotional Attachment

Developing an emotional bond with a baby during pregnancy knowing that you will soon hand her over to another woman can result in confusion, sadness or even anger. During the nine months of gestation, the biological mother bonds with and becomes emotionally attached to the baby growing inside her. For some women, giving the baby up after birth may present a loss too challenging to overcome without outside help. Professional counseling during and after the pregnancy can help to minimize the effect of such emotions.

5.7.2 All in the Family

Chances are that the surrogate isn't the only person other than the parents-to-be who is invested in this pregnancy. She may have a husband and children of her own. If so, they also can develop an emotional attachment to the unborn baby. Additionally, the surrogate's parents and extended family may become emotionally and psychologically involved. For example, psychotherapist Ellen Speyer on the American Fertility Association website, the surrogate's mother may feel that the baby should be her grandchild. Including the family in the surrogacy process or allowing the family alone time with the baby after birth can help to relieve some of these tensions.

5.7.2 Feelings and the Law

As if the tangled web of emotions that come along with surrogacy weren't complicated enough, legal issues can make the process even more of a struggle for mothers and families. While there's no doubt that carrying a baby for nine months and giving birth creates an emotional attachment, additional problems can arise if the surrogate has the legal option to keep the baby. Surrogacy is not equally enforceable in all states. This may mean that the intended parents have no legal right to claim the baby as their own. That may complicate the decision-making process for a surrogate who can't bear the thought of giving up the infant.

5.7.3 Love and Joy

While being a surrogate mother has potential for a flood of negative emotions, it can still be a joyous occasion. Bringing a child into the world for someone else is an experience with which there is no comparison. The surrogate mother who recognizes this is likely to feel happiness for the intended parents. “This feeling of helping another couple become parents -- something they’ve wanted to do for so long -- is indescribable. Next to having my own children, it’s my proudest moment, writes surrogate mother and author Sara Chinn in her article "I Gave Birth to Someone Else's Children -- What It's Like to be a Surrogate" on the "Women’s Health" magazine website. This can translate into love not just for the child but for the new parents as
well. In such a case, handing the baby over means the beginning of a new extended family and a close relationship instead of a tearful goodbye.  

5.7.4 Feelings toward pregnancy

- **Coercion to have no feeling to baby:**
  
  All participants stated that they tried to have no motherhood feeling to the child inside their womb. For instance, a participant said: "That baby would never belong to me. I only provided an appropriate environment for the baby in my womb to be born and delivered to his/her parents. That was the easiest type of a child nursing".

- **Fear and worry about being baby abnormal/baby health:**
  
  Fear and concern about the baby's abnormality was one of the unpleasant and annoying emotional experiences of uterus donors. For example, Zahra, one of the uterus donors, said: “I was always worried that this child would be retarded. My sister said that "don’t worry because your child is health" but, actually that was not my own child. That was child of someone else. I thought if the baby was abnormal, maybe his/her commissioning couple didn’t want him/her. Thereafter what could I do with a retarded baby.”

5.7.5. Relationship with family, relatives and the main parents of fetus

- **Fear of husbands reactions in marital relationship:**
  
  The fear of husband's reactions in marital relationship is one of the emotional experiences in uterus donors. As, one of the donors stated about her marital relationship: “The sexual relationship between my husband and I was in trouble.

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He didn't tell me anything, but I figured out that he wasn't willing to have intercourse with me because he thought that somebody else's baby was in my belly. I got very upset but I tried not to bug shim”

- **Doubt about informing her own children of the pregnancy type:**

  One participant stated: “I have a little girl who is very smart and understands many things so I did not know how to tell her. She frequently asked: ”Mom, do you want to bring me a brother or a sister?”. I could not really explain it to her. I did not know what to say.”

- **Worries and concerns about informing the relatives and friends:**

  The perception of the family members, relatives and friends of the surrogacy volunteers and also their responses about the issue of surrogacy were different. One participant stated that: “None of my family members and relatives did know that I had rented my uterus except my mother and sister. I was very worried. I did not know if my mother-in-law found out, how she would react. I had to undergo this action because my husband was in a bad financial situation but I did not know what should I say to others? ”

  Another participant said: “My husband and I did not want another child because we had financial problems. I did not know how to tell the others I was pregnant while we had money issues. My husband said: “tell them it was an accident”. I was always worried that if other people found out I got pregnant this way, what would they think about us? ”

5.7.6 Consequences of surrogacy

- **The complications of pregnancy**
Hospitalization due to threatened abortion Maryam, 29 years old participants said: "I was engaged in a terrible situation. In addition to emotional problems, I faced a medical problem too. I was hospitalized due to bleeding in early weeks. I was worry about my health. In addition, excessive worry of commissioning couple annoyed me too. Furthermore; I was concerned about my money because if the baby had been aborted I could not have received the agreed money".

5.7.7 The Religious and financial problems of surrogacy

- **Having no obvious religious legitimating and social acceptability** :

The fifth participant said: "At first my husband and I did not like anybody to get to know I was pregnant because we were not sure about its religious righteousness. Indeed, I was not completely sure that surrogacy was religiously right although they said that the baby was theirs and did not belong to me and I was just going to keep it. Anyway, I had to do that because my husband was jobless for a while".27

- **No enough payment for expenses by the main parents** :

One of the participants said: "It was very difficult for me to ask somebody else for money. My husband did not give me any money during the nine months of pregnancy because he believed that the baby was not his but belonged to somebody else so the main father had to pay for everything but It was really hard for me to frequently ask for money." She went on saying at the end: "

27 http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4126251/ retrieved on dated 10-Jun-16 11:12:02 AM
5.8 CONCLUSION

There are three types of mothers, the genetic mother (provides the egg and of the genetic code 23 chromosomes), the gestational mother (she carries the fetus inside her body), and the social mother (contributor to the raising and care of the child). Each is important for the well-being and development of the child.

Surrogacy is not a simple arrangement; it is extremely complex. The relationships can be stressful, overwhelming, and intense. Patience and perseverance are a must.

Both the surrogate and the infertile couple should obtain legal counsel before agreeing to and signing a contract. It is in their best interest to know how the law addresses certain aspects of surrogacy as it pertains to their particular interest.

Disclosure of the surrogate relationship should be limited so as to avoid unwarranted scrutiny.

Many ethical issues have risen out of this unit. The students are highly opinionated. You can be the judge after analyzing some of the facts. I strongly recommend resource intervention; i.e.: body shop, lawyer, psychologist, social work, etc.

It seems ironical that people are engaging in the practice of surrogacy when nearly 12 million Indian children are orphans. Adoption of a child in India is a complicated and a lengthy procedure for those childless couples who want to give a home to these children. Even 60 years of Independence have not given a comprehensive adoption law applicable to all its citizens, irrespective of the religion or the country they live in as Non-Resident Indians (NRIs), Persons of Indian Origin (PIOs) or Overseas Citizens of India (OCIs). As a result, they resort to the options of IVF or surrogacy. The Guardian and Wards Act, 1890 permits Guardianship and not adoption. The Hindu Adoption and Maintenance Act, 1956 does not permit non-Hindus to adopt a Hindu child, and requirements of immigration after adoption have further hurdles.
There is a strong need to modify and make the adoption procedure simple for all. This will bring down the rates of surrogacy. Altruistic and not commercial surrogacy should be promoted. Laws should be framed and implemented to cover the grey areas and to protect the rights of women and children.

In India, surrogacy is purely a contractual understanding between the parties so care has to be taken while drafting agreement so that it does not violate any of the laws like, e.g., points to be taken into consideration why does the intended parents opt for surrogacy, particulars of the surrogate, type of surrogacy, mentioning about paternity in the agreement, the creation of registry for biological father of children in an adoption cases, rules set forth on how and when genetic testing can be done to determine paternity, compensation clause, unexpected mishappenings to the surrogate mother, child's custody, regarding the jurisdiction for the disputes arising out of agreement.

Indian government has drafted legislation in 2008 and finally framed an ART regulation draft bill 2010. The bill is still pending and not presented in the parliament. The proposed law needs proper discussion and debate in the context of legal, social and medical aspects.

We conclude that the government must seriously consider enacting a law to regulate surrogacy in India in order to protect and guide couples seeking such options. Without a foolproof legal framework implementation couples will invariably be misled and the surrogates exploited.

In the culturally enriched country like India concerns about the overuse and inappropriate use of commercial surrogacy facilitated by unscrupulous fertility clinics are above all. Surrogacy is an alternative to other fertility treatments in a bid to expand the industry and make greater profits, and fears loom that surrogacy could spin out of control. In developing country like India where poverty is playing an important factor, women may be compelled by their husbands of in-laws to become surrogates. Instances like breach of contract either by surrogate mother or commissioning couple should not be neglected. Proper guidelines should be given to control following issues: In
absence of independent agency issues namely welfare of surrogate child is at stake. Refusal on part of surrogate mother to give a child to commissioning parents out of mental breakdown of mother. Several social and legal questions like whether it amounts to sale of child, breach of contract by denial of mother from handling over child, etc. should be settles. The Union Women and Child Development Ministry is clearly in favour of monetary compensation for the surrogate mothers. It’s high time to enact the laws otherwise India would be a tourism hub for surrogacy. Surrogacy carry social stigma in the society as it is equated with prostitution and by virtue of that it is argued that it should be disallowed on moral grounds. Surrogate mothers are kept in isolation from families and allowed to meet families in weekends, which are against the human rights. Hence, there are number of ethical, social, legal and psychological issues associated with surrogacy, which require urgent need for framing and implementation of law.

What then can we conclude on this complex and emotive issue? From Scripture several things seem clear:

- Infertility is a result of the fall and brings sadness to God as well as humankind.
- We can use the God given gift of science to try to restore fertility providing it does not contravene other ethical laws such as respect for the embryo as human life or violation of the marriage bond.
- Surrogacy on the face of it seems a loving response to the pain of childlessness. However, a closer look reveals that it may open the door to even greater pain for potential children, families and society.

The events of Genesis 16 and 30 bear this out.

- For some Christian couples infertility and childlessness will be a painful reality, one that cannot be changed without breaking God's moral code for life and for human relations.
- However, as Christians we have one further hope: that all things will work out for good, even childlessness. Whatever our situation, no matter how painful, whether we are married or single, have children or
are childless, were conceived naturally or by IVF, we are all equal before God. Each of us is equally in need of his grace and equally able to enjoy his rest and a relationship with him for eternity.

'Come to me, all you who are weary and burdened, and I will give you rest. Take my yoke upon you and learn from me, for I am gentle and humble in heart, and you will find rest for your souls. For my yoke is easy and my burden is light.

The purpose of this study was to assess the emotional experiences of surrogate mothers. The findings of this qualitative study were classified into two main themes and four sub-themes. The first theme was "the acquired experiences in pregnancy" that included two sub-themes: the feelings toward pregnancy and the relationship with family and relatives. The second theme was "the consequences of surrogacy" that included two sub-themes: the complications of pregnancy and the religious and financial problems of surrogacy.

Coercion to have no fooling to baby is the first code of the first sub-theme (feelings toward pregnancy) of the first main theme (experiences acquired in pregnancy). It seems that the separation from the newborn and handing the child over to the commissioning couple will be a distressing and painful experience for a surrogate mother. However; there is inconsistent and conflicting evidence about the emotional effects of uterus donation process on surrogate mothers. For example, in a study by Ciccarelli, fourteen surrogate mothers were asked to report their feelings or concerns about relinquishing the child. One mother reported emotional distress over the relinquishment and two others reported a strong instinctual urge to bond with the child. The remaining eleven did not feel bonded with the child, which may seem to indicate that for the majority of surrogates the issue of having to relinquish the child did not appear to be a problem. Ber concluded that pregnancy can be painful for surrogate mothers as much as infertile mothers.

Some evidence shows that baby transfer may lead to considerable distress and emotional problems in uterus of donor mothers. On the other
hand, there is a concern that lack of maternal attachment to the baby during the surrogacy process may be challenging for the health of both the mother and the baby. The important bond between mother and child, which derives from both biological and cognitive/psychological aspects of human nature, begins during pregnancy and continues after birth. Surrogacy ruptures this significant bond. The study accomplished in England by Jadva showed that all of the surrogate mothers in postpartum period, with no doubt, delivered the babies according to previous agreement. The follow up of those women showed that 32% of women had emotional and psychological problems for several weeks after losing the babies. After a few months, this rate decreased to 15% and continued until 1 year only in 6% of cases.

However; the rate of postpartum depression in surrogate women is not higher than the general population. Also, most of researches don’t report serious psychological problems for embryo host mothers. In contrast, some studies indicate negative effects and psychological problems following surrogacy. In general, the results of the studies show that despite some worries about host mother's emotional problems, these problems do not threaten their psychological health. However; it is recommended that more attention should be paid to choosing suitable hosting applicants with professional counseling before pregnancy.

In the current study, self-obligation to have no feeling to the child was the mothers' reaction to confront with this issue in 6 participants. The results of the Java’s study in 2003 showed that none of the surrogate mothers had any special problems after delivering the babies to the commissioning couples. This finding is similar to ours. Fear and worry about being baby abnormal/baby health as the second code of the first sub-theme (feelings toward pregnancy) of the first main theme (experiences acquired in pregnancy) is one of our findings. This finding has been reported in a few studies before.

Fear of husband reactions in marital relationship is the first code of the second sub-theme (relationship with family, relatives and the commissioning couples) of the first main theme (experiences acquired in pregnancy). In the
present study most of the women were concerned about their sexual relationships during the pregnancy and eventually disruption of family relationship. There were a few surrogate mothers that complained about an insignificant decrease in libido. Jadva in a study on marital satisfaction of women found that 16% of the surrogate mothers had low marital satisfaction, 4% had severe problems in marital relationship with their spouse, and 80% had moderate or high marital satisfaction. So we can say that the surrogacy phenomenon have no significantly negative impact on the marital relationships of couples. This difference may be related to cultural or religious differences between the Iranian and England communities.

Doubt about informing her own children of the pregnancy type as the second code of the second sub-theme (relationship with family, relatives and the commissioning couples) of the first main theme (experiences acquired in pregnancy), was one of the concerns expressed by mothers participating in this study. According to the recommendation of the Medical Council of the UK, if surrogate mothers have children, they should talk to them about this issue because the absence of the baby in the family after birth could be a cause of conflict in their children. The results of Women's study showed that 52% of uterus donor mothers by complete arrangement preferred to tell the truth about the kind of pregnancy to their children, while this rate decreased to 24% in genetic surrogacy.

Worries and concerns about informing the relatives and friends is the third code of the second sub-theme (relationship with family, relatives and the commissioning couples) of the first main theme (experiences acquired in pregnancy). One of the significant issues affecting the emotional health of surrogate mothers is the attitude of friends, colleagues, friends, and general public towards surrogacy. Lack of social support due to negative attitude of people can make surrogate mothers psychologically vulnerable.

Surrogate mothers maybe encounter annoying reactions of people. Jadva et al in a study on the experience of surrogate mothers in raising the issue to their families showed that in 7% of the cases, the family reaction was negative, in 48% was positive, and in 46% was neutral or mixed of negative
and positive. The follow up study showed that family feeling toward this issue was positive in 76% of cases and only 3% of the cases had a negative feeling one year after child delivery. Also, Blise believes that there is a risk that surrogate mothers be humiliated by their families or friends that affect the psychological health of surrogate mothers.

Another study in Greece showed negative attitude of most people towards this method. Shenfield believes that people attitude is mainly resulted from unawareness about various aspects of the subject that can be solved somewhat by giving appropriate information and awareness. They found that sometimes some of families, family members and friends initially had a negative attitude to surrogacy but later accepted it and took pride in the host-mothers. The most of host-mothers reported their husband's support and their children's positive reaction. None of them had faced a serious trouble. The results of current study show that despite positive attitude of surrogate mothers, they believe that there are not appropriate cultural circumstances in the community. This caused them to resolve the problem with solutions like attribution the pregnancies to their husband, announcement of neonate death to others, declaring that the pregnancy is unwanted; stopping relationships with relatives and friends until delivering the baby to the commissioning couple.

Some of them, according to their cultural circumstances made others aware of their decision. Husbands' awareness and consent, agreement of religious scholars with this method of pregnancy, religious legitimacy of embryos growing in their wombs and the altruistic aspect of surrogacy that helps to solve the problem of infertile couples were important factors that influence significantly on making decision of surrogate mothers and their husbands to inform others about the real cause of pregnancy.

Hospitalization due to threatened abortion and elevated blood sugar as the first code of the first sub-theme (the complications of pregnancy) of the second main theme (consequences of surrogacy) occurred in two cases. Although pregnancy is a natural process, it may induce some risks. When a woman decides to become pregnant, she is prepared to face the risks. In surrogacy, unfortunately, she bears the risks without the natural benefit of
motherhood. There is therefore a sense of futility if something goes wrong for her, which is especially the case if a woman becomes a surrogate merely for altruistic purposes. For example, the Daily Mail reported that a surrogate mother, aged 29 had died 90 minutes after giving birth due to aorta rupture following high blood pressure. Her mother Marilyn said: "Surrogacy caused Natasha's death. People must realize that childbirth isn't something you enter into lightly. It's still dangerous.

Natasha didn't want any more children herself but she comes from a big family and she felt for people who couldn't have children. Her children had brought her a lot of pleasure so she wanted other parents to share some of that joy". The literature regarding the medical risks associated with surrogate pregnancy is limited to a few case series. It remains to be determined if the obstetric risks are the same as those for any other pregnancy derived by in vitro fertilization with the same number of fetuses. Most case series report no increase in adverse events related to surrogate pregnancy; however, in a recent report, 2 of 9 surrogate mothers underwent postpartum hysterectomy: after giving birth to triplets with placenta accrete and after uterine rupture that occurred during delivery of a macrosomic infant.

A prenatal diagnosis of disability or perceived imperfection in surrogate mother could result in serious trouble with a surrogacy arrangement such as couple reneging. At least one such case has occurred in the US. In such cases, depending on the circumstances and severity, the option of abortion could be considered by the surrogate; however, differing moral perspectives on abortion have the potential to result in an irresolvable stalemate. The surrogate may still wish to proceed with the birth; however, the commissioning couple may no longer want the child. Alternatively, the surrogate may choose an abortion contrary to the wishes of the commissioning couple, but presumably the surrogate’s decision for abortion under law would prevail.

We did not have any cases like this among the participants of the current study. Having no obvious religious legitimating and social acceptability is the second code of the second sub-theme (religious and
financial problems of surrogacy) of the second main theme (consequences of surrogacy). Doubt about religious legitimacy was an unresolved problem. As an achieved theme of the present study that has not been reported in the related articles. Considering the fact that complete surrogacy is permitted by most of the Shia clerics and jurists, this problem can be somewhat resolved by improving public awareness. No enough payment for expenses by the commissioning couples is the third code of the second sub-theme (religious and financial problems of surrogacy) of the second main theme (consequences of surrogacy).

In our study, lack of a well-written documented contract between the surrogates and commissioning couples caused surrogate mothers to face some problems including financial problems during pregnancy and be worried about receiving the agreed payment prior to pregnancy in cases the baby probably would be lost or have abnormalities. Abbasi believes it is crucial for both commissioning couples and the surrogates to have a legal contract to define obviously the responsibilities and rights of both sides and guarantee the issues under the contract such as the payment of money so that the surrogate mothers could spend their pregnancy peacefully.