CHAPTER NO – IV CHALLENGES IN SURROGACY IMPLEMENTATION
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Almost in all the countries across the world, including the advanced countries like the U.S., the Governments have not established a clear policy on the issues and challenges associated with surrogacy implementation. The laws are not standardized within a country, i.e., the laws on this topic change from a state to state, and similarly from a country to a country. In several countries and some states across the world, surrogacy is prohibited. In a few countries or states, surrogacy is allowed with conditions like existence of genetic reasons that do not allow other modes to get pregnant, or like, surrogacy is allowed strictly for married couples alone. This technology is fully allowed only in very few states.

As the technology of surrogacy had kept of advancing over a period of time, the satisfaction to the parents has also changed. In next few 2 or 4 decades, it is expected that surrogacy will change further and to an extent that it will be totally different from the current scenario of surrogacy. All this is with a warning that there should be strict watch; the technology should not lead to unwanted results for the society and mankind at large.

Challenges – Physical

The surrogacy treatment raises and creates various issues i.e. physical, social, psychological, emotional, economical and ethical. This creates some issues in surrogacy treatment. The surrogacy is the biggest gift of the medical to the common people. Though surrogacy has some positive points like it gives new life to the childless family, one child smile gives new birth to the parents. Surrogacy should face some issues and problems relating in separate issues. One major challenge of Indian doctors is to implant more than one embryo. This is done to increase the chances of getting pregnant and hence successful in becoming pregnant. The outcome was, couples bring home more than one child. In Australia, a couple brought home 4 children. In fact, they wanted only one to two. In such a situation, the doctors and parents had to take tough decisions, of reducing the number of fertilized eggs or termination. This leads to consuming time. This also creates and psychological complications and physical stress and is like a type of torture to the couple and the surrogate mother.
Steps for Becoming a Gestational Surrogate

A series of tests are conducted on the person who wants to be surrogate mother. These series of test are conducted before the fertilized egg or sperm is implanted. Some of these tests are as given below:

1. Tests that ascertain that there is no contagious disease.
2. The length of uterus is checked to find out the distance at which the embryo could be implanted.
3. The test to determine the fallopian tubes are clear and the size and shape of the uterus, called as HCG or Hysteroscopy
4. A test that studies the reaction of uterus linings to change in hormones (oestrogens)
5. To ensure that there are no challenges in the surrogate in carrying the baby, a physical test is done for confirming the physiological barrier.
6. To know the commitment, attitudes, motivations and mentality, psychological tests are conducted on the surrogate.
7. To check healthy uterus, Pap smear test is done.

When the above mentioned procedure is once finished then the birth control tables are served to the surrogate and/or the donor of an egg. This is done with the attention to synchronize the natural periodical cycles the woman had to pass. After having taken the controlling pills, as suggested earlier, then is a subcutaneous injection of a steroid named as Lupron is given to the surrogate woman. This injection stops the production of the hormones necessary to control the menstrual cycles. Now is the condition that the whole process guarantees about the uterus of a lady under the treatment of surrogacy is now ready to accept the embryo.

The cycle of surrogacy is kept ahead of the Egg Donor, so that the uterus is ready and fresh to accept the embryo. As the process begins, the injecting of Lupron dose is slowly minimized and then is estrogens as a replacement to it. Third day after the person being injected, the donor of an egg is served with hormones for fertilization, so that her ovaries produce relatively more eggs. A dose of HCG including a (LH) luteinizing hormone is administered, so that the eggs reach maturity at great speed. The served medicines help in production of more eggs than required even it is for lonely implantation.
After thirty-six hours have finished, the eggs are taken aback and also fertilized with the waiting sperm. These eggs that are fertilized are then incubated at a suitable temperature for about 2-5 days. When the fertilized egg is properly developed, and then comes the special syringe into picture. It is with a stretchy catheter and is injected into the uterus. 3 or 2 days old embryo are used for this and rest are frozen. Minimum of 3 days bed rest is told to the patient.

First the pregnancy is confirmed and then ultrasound sonography is done. The heartbeat of the baby is checked at 6 weeks. After 12 weeks the surrogate is released to regular OB/GYN. Check-ups are done at regular intervals to ensure proper levels of hormones. As the placenta takes over, the hormone doses are discontinued.

The Reviewers of surrogacy state that the abuse may be happening to the surrogates is true in international surrogacy engagements. The surrogates are mostly poverty stricken. Due to surrogacy, women can earn a ten times or more than her male counterpart in a given year, so there are chances of pressurizing the lady right through her family itself. Sometimes the husband even can give easy permission for doing so. Most of the surrogates belong to the below poverty line community or from a poor background. There are so many incidents of giving consent to surrogacy. The major reasons for earning through these methods are the family medical bills to be paid or fulfillment of the child education expenses or making available the home for living. The question rises about is the consent to surrogacy is by will and free choice, or is due to poverty and desire to earn more. Misuse or exploitation by the family members and relatives increases due to the amount of money involved in all these processes. Even the surrogate, her family members, the surrogacy clinics, and the couples who want to be parents, starts with the negotiation among the rich, in need of surrogate child, and the surrogate herself. It is observed that all of the people involved here lack a deep knowledge of legal and medical arena, the surrogates, the surrogate clinics, the couples wanting baby and the family members of the surrogates.

In traditional surrogacy the cases are very less. The cases of commercial surrogacy are more than all kinds of surrogacy. The commercial means the women carries the baby of the couple only for the monetary purpose. When there is the issue of economic advantages the people wants more and more. The women who want to become rich in limited time they select this way of the earning very easy and without any investment. The women who chooses this way
they became surrogate mother. According to the guidelines of the Medical Research the surrogate mother could become surrogate mother one or two time in all over her life time, but due to want of more and more income women become surrogate mother more and more time. In some cases for earning more and more money family members force the women became surrogate mother frequently, and this increases the physical problems of women because after a particular period nature speaks. In normal pregnancy also after the delivery of the child women should take at least 5 month rest and then at least 3 years no next pregnancy, but in surrogacy many cases of U.P. gives the example of the number of surrogacy which done again and again and frequently without taking proper pregnancy and after pregnancy care and rest. They have made women only a way of earning and nothing else. The biological couples are most of from foreign countries, and they cannot stay in India for a long time so, they pay the expenses of pregnancy and the expenses of the food of the surrogate to the family of the surrogate mother but if the family members are making surrogacy only for the earning purpose then they don’t concentrate on the health of the surrogate mother and also the child in the womb, because they do not have any kinds of the emotional attachment with the child.

So they spend all this money for satisfying their personal needs. In some cases the surrogate mother is being kept in the surrogacy centre and all the expenditures done by hospitals or institutions and doctors takes their commission for all this treatment it includes the pregnancy expenditure also but it is not directly paid to the surrogate mother because all cost of their living, food, other health expenditures are done by hospitals so surrogate mother do not get the actual knowledge of the expenditures actually paid by the biological parents.

The biological parents pays only the charges during the pregnancy but what about the after care expenses? The frequent pregnancy creates many health issues. In some cases frequent pregnancy creates the problems for conceiving the own child of the lady ready for surrogacy. Treatment of Gestational surrogacy, the lady had gone through from various steps which are not that much easy In cases when the child is totally of the biological parents then comparably the treatment process is very easy but if the lady getting surrogated seems to be the biological mother then the process became so complicated for the surrogate mother to tackle and bear then also due to some reasons she takes this steps So. This force we to think over the severity of the physical issues related with the surrogacy treatment.
In this way not only in traditional but also in gestational and commercial surrogacy, this treatment increases more and more issues.

**Psychological Issues**

There is another issue relating with the surrogacy treatment. Emotional and psychological issues are the main issues concern with the surrogacy and mainly with the commercial surrogacy and gestational surrogacy. There are mainly three types viz. Traditional, Gestational and commercial. Traditional surrogacy, the surrogate mother is biological mother of the child. The gestational surrogacy, the surrogate mother is not the biological mother. The Commercial surrogacy, more concentration is given on the psychological factor of the surrogacy and moreover for a surrogate mother, she can be the biological mother.

If we look towards the surrogacy as a psychological and emotional manner, it is not easy for a woman to give the delivery and of the custody of the child to the couple. Though in surrogacy treatment the surrogate mother is already known with the concept that the child in her womb is of another woman and she is only carrier of the child and nothing else. The surrogate woman should be prepared for this concept. We call surrogate lady as a surrogate mother and where the word mother is just out of the psychological emotions bound within both. In India, there is lots of importance has been given to motherhood and fatherhood. So, it is not easy for woman to bear the children into her womb for about nine months and after delivery hand over the child to different couple. The child lives in the womb of the mother for nine months and it is not a short journey but the very long journey.

The surrogacy treatment is not very regular medical treatment; it is rare and done in only extreme cases. The medical treatment for surrogacy is not much easy it is very much long process. In starting of surrogacy period the women who are becoming surrogate mother at the first time, they are not aware of those facts and circumstances arise from the treatment. If they are staying in the surrogacy center then they should prepared for these conditions to live far from the family and face all the society who is not prepared or know this concept perfectly. The surrogate mother is not emotionally ready for all these changes that are coming in their life. In some cases the doctors does not tell surrogate mother that she and her family members should prepared for these changes.
The psychiatric treatment is not giving to the surrogate mother. In another case if that surrogate mother is living in her own home then it created many other issues also like, if the surrogacy is traditional then she faces very less problems because she made this surrogacy for her family members so she has full support of her family but if the surrogacy is gestational then she faces more and more health issues of family and other members in society. We give more and more importance to the society so, it affect adversely on the health of the surrogate mother if society reacts adversely or not understood the facts that there is no physical relationship is there in surrogacy treatment, it is only the medical treatment and pregnancy is conceived through the medical treatment.

The illiterate people or the people who do not have clear cut idea of surrogacy make some ethical as well as the physical issues regarding surrogate mother. In case of the commercial surrogacy, much more issues are there to be faced by the surrogated lady herself. The commercial surrogate mothers and their personal condition is worse than the other types of surrogates. The other types of surrogates are become surrogates mostly for the love and affection of the family members but the commercial surrogates become surrogates for the earning purpose, so society looks towards them as a different angle which is not easy to bear for longer time.

There are many problems associated with surrogacy and the most discussed is surrogacy treatment and its association with emotions of surrogates. The surrogate mother is also a human being with lots of emotional bindings in and around her is not able to transfer the baby to the intended couple. There are two main reasons; the first one is due to the women developing a bond and attachment with the baby they are carrying. The major reasons may be that the biological association between the surrogate mother and her surrogated child. Generally this comes to picture when the surrogate mother has provided her own egg for the pregnancy, due to physical inability of the female from the intended couple. The second reason for the surrogate mothers to refuse to handover their baby is that the surrogate is only the gestational carrier of the baby. The sperm and egg are both donated here by the couples wanting the baby and not from the surrogate.
The chances of this problem can be reduced by two methods, first is using legal contracts, and the second method is conducting psychological screenings for potential surrogates. But both of these methods do not totally eliminate the chances of this problem occurring.

These issues arise about the surrogate mothers but we should also think about the child born out of surrogacy. The main two issues are there. The first one the child knows about the secret of his birth. If the child is born through the way of traditional surrogacy the biological mother is from the intended couple but if the child is born through the way of gestational surrogacy then when the child will grown up and he/she want to meet their biological mother and start avoiding their original parents or he/she increase their interest in finding their original parents. Then though legally they are parents of the child but child could not be emotionally attached with them. Most of in traditional and gestational surrogacy the family members become the surrogate mother so, after knowing the fact child could be attract towards the surrogate mother and then it will create the emotional issues for the biological or legal mother.

Secondly, if the child is born through the commercial surrogacy the child does not know about the actual mother or according to rule the information is kept very much confidential and not opened to the common public. When child is aware of this thing, it could create bad effect on the mental condition of the child. This thing could not be hiding for a longer time from child and from the society also. If we look towards the psychology of the mother from the intended couple, if she knows that she is not the biological mother of the child, then it will create an adverse effect while growing the child. And in addition with that if she conceives her own child after the surrogacy treatment then it will create the partiality between two children in their upbringing. So, the surrogacy treatment with in nation or in international manner the psychological effect is same in all manners.

Other than the above mentioned issues, legal issues, the socio-psychological problems about a child’s right to know its biological parents cannot be ignored by willing couple-parents who are making engagements. At many places, there is a complex regime for surrogacy engagements and they do not have any provision for those children on becoming adult to known of their actual biological parentage. There are very few cases in which the child seeks to establish their ancestry, towards the surrogate child, but it is found that the donor or surrogate mother has no scope or rights even to trace and try to find them. After the commercial agencies
have employed the lady for surrogacy they are made to live in the isolated places like hostels or surrogacy center for the entire gestation period on the pretext of pre-delivery care.

Apart from guarding them at these isolated places, the real intention is to keep their rights safe and secure additionally avoid any of social happenings. For the whole period of gestation the lady surrogated thinks more about relationships with the house members and children. They are strictly restricted from moving out of the isolated place they are living. Only for a few special visits they are allowed to move out. They are also allowed to meet their family only once a week, or on any special occasions.

Career oriented ladies, or successful women who do not want to take the risk or problem of bearing their own pregnancy, so they hire surrogate mothers. There are so many ethical and moral issues about surrogacy. This is into the formation of a commercial surrogacy racket. Hence it suggests us to have an ethical code of conduct and a law to be implemented for both the parties – the parents and the surrogate mother and no-doubt for the ART clinics also. Year 2002, the research study by the Family and Child Psychology Research Centre at City University, London, UK, reported that surrogate mothers hardly ever have problem in surrendering the beneficiaries to a surrogate child. On the same facts, the anthropological study research had analyzed that surrogate had to go through different stages for the whole period of surrogate pregnancy. The various techniques used during the gestation period help them in creating an emotional distance from the child. Practically stating the concern surrogates do not get emotionally and psychologically attached with the baby child. Surrogates are inspired and trained to get emotionally detached by the agency and hospitals so that emotional detachment becomes easier for the surrogate mother from the foetus prior to giving birth.

In majority cases, the most usually expected does not happen, surrogates do not feel troubled or abandoned, a large percentage of the surrogate mothers feel empowered as they become mother during this special experience of surrogacy. As surrogate mothers feel to be satisfied with their own incident, there are several examples in which they are not involved in unmet expectations. Because the surrogate mothers know that unmet expectations will lead to dissatisfaction, after surrogacy engagements. Some surrogate mothers did not feel a closeness and attachment with the willing couple-parent, and other surrogate mothers did not feel respected by the willing couple-parent. Emotional support lagging throughout the surrogate process, a few
surrogate mothers feel emotionally low and disturbed in the process of becoming surrogate mothers; while the other surrogate mothers feel emotional and psychological reactions like depression, misery or refusal to handover the child to the willing parent-couple. In 2011, a study from the Centre for Family Research from the University of Cambridge concluded that surrogacy does not have any negative impact on the surrogate's own children. The surrogate mother adopted this treatment from her own children and for her personal profit. So the issues of psychological disturbances are comparably very less.

**Economical Issues**

India is a developing country, as we all know that the economic standard of people is very much low. Some people could not satisfy their basic need also. Though people are developing economic differences are much more. Some people are becoming more and richer and the poor are becoming more and poorer. For the earning purpose many people lives their life very complicatedly. For the earning people leaves their motherland and go to another place. Just like that our army officers, carpenters, businessman, job holders always fight for livelihood. Every day comes with the new adventures and new struggle so; they always fight to fulfill their basic needs. If we compare the India with the other developed countries, the need of the people are very much high in India. They want their present strong, future secure not only of themselves but also their children, children’s children etc. There are no limits of the wishes of people. But in foreign countries more importance is being given to the present economic condition only. They always lives in present tense only and therefore they do not struggle for much more money and extra earning. If we look towards the economic factor of the surrogacy, in traditional and gestational surrogacy most of the surrogacy is done for the love and affection of the family members. The gestational surrogacy involves the embryos the surrogate mother. This surrogacy mostly involves the family adjustment. So, no economic issues are there.

In commercial surrogacy, the commercial surrogate mother accepts this way only to earn money. There is no personal relationship between surrogate mother and biological parents. This way of earning creating lots of issues in society. In India culture is very much important. Then also women are becoming surrogate mother, why? Is the question. If the earning member of family is ill, or cannot make any income, then this source is choose by the women her or forced
by her family members for surrogacy. In some cases it is called as poor women are only attracting towards the surrogacy. This is because the surrogacy is the fastest and easiest way to get more and more income in short period of a time. For one surrogacy surrogate mother gets laths of rupees. It is also depends upon the party i.e. intended couple. If the party is rich then it could be pay more money for the surrogacy. All things come to end with the issue of economic problems. Nobody can make any drama about their economic conditions like other things. So the economic conditions matters in all cases.

The costs involved in the surrogacy process are very high, so the childless couples wanting a baby must be very rich enough to spend for the engagement. They pay for the medical costs of the surrogate mother throughout the entire period of engagement with surrogate mother. They even need to commission huge amount as fee to the hospitals against the service provided by them for surrogacy.

In surrogacy treatment the cost is different from country to country and hospital to hospital. If we compare the cost of surrogacy country to country the cost in India is very low. The currency of the India is also very low. The commercialization of surrogacy has been legalized in India. This has increased the number of surrogacy clinics in India. The economic reason is very much important.

The report suggests from the Delhi & Mumbai based respondents that poverty and child education are the main factors that inspires lady to undergo surrogacy because it compensate them with large amount of funds. About 73.77% of the surrogate mothers, from cities like Delhi and Mumbai answered that the main media through which they get informed about the need of surrogates is the agents. There is a lot of emotional and financial investment to become parent through surrogacy. But the cost of surrogacy in India is very low compared many other parts of the world, especially the European countries. The latest amenities, technology and treatment by renowned doctors, aided by latest tools and machines, team of experts and well trained clinic staff are available in India. So India has become a favourable and spot of choice for medical tourism for surrogacy engagements.

The situation of surrogate of mothers is unethical and their problems are worst. Poverty, illiteracy and exploitation by husband and his family, agents or the middlemen, for the easy money are the major issues of surrogacy. These women give their consent to be surrogate
mothers against their own will and do not have choice to take decision about their own life or body. Psychological screening and legal counselling does not happen in India. These steps are compulsory in developed countries like USA. Cost is another major issue, when compared to USA. The reason for high cost of surrogacy is due to involvement of so many professionals like psychologists, lawyers, doctors, facilitators, and others. Hence the cost reaches up to a hundred thousand dollars, which includes all the expenses, including insurance premium. So now the question is about the responsibility of the person who will pay these expenses or bills.

**Legal Issues**

In surrogacy treatment the lots of legal issues are there. Not only in India but also in other foreign countries also lots of surrogacy issues are there. In case of surrogacy three situations are there. Firstly, human rights of surrogate mother, biological couple and surrogate child. There is no harmonization in the laws and regulations of the surrogacy in India and in foreign countries also. In some countries traditional and gestational surrogacy are illegal and commercial surrogacy is illegal. In some countries the surrogacy is totally ban. In some countries only traditional surrogacy is allowed and gestational and commercial surrogacy is ban. In India total surrogacy treatment is allowed and commercial surrogacy is allowed. In his way all having their own rules and regulations. Not only in the also countries but hospitals also having their rules and regulations. No any harmonization in hospital rules neither they are having any laws. For the protection of surrogate mother no legislation is available. The law does not protect any of the party of the surrogacy treatment. No any kind of the special legislation is there that strongly protect the all the parties involve. In India only guidelines of I.C.M.R are there which are not having any strict background of the legislation, if any fraud is committed by either party.

This arrangement may be the only way compared to the process of adoption for intended couple/couples child has genetically possession. Few of the ladies don’t have any problem in conceiving the baby but does have problem in carrying the same. This might be because of her body incapable due to some physical problems for the full gestation period. Hence, a couple chooses to follow the treatment of surrogacy and in-vitro fertilization. The process actually is the mixing of the sperm and egg with the help of medical treatment in a clinic. This is then is followed by the embryo implantation into the womb of surrogate mother. The other side, few
couples there are infertility in the male of female partner of the couple. Hence, they need to replace the partner’s contribution to pregnancy like sperm or egg. Hence they cannot have their own baby. They receive the sperm or egg from other person. This is not the possibility with traditional procedure of adoption. Thus in case of adoption, the child is not attached to the parents genetically, while in surrogacy, the child is attached to at least either of the parent or both. Traditionally, a mother is defined by legally and biologically that the one who gives birth to the child or otherwise the second method is the one who adopts the child. Adoption is only possible when the child’s parents have abandoned the child.

At places where there is no law for the surrogacy, the genetic or biological parents and the surrogate mother proceed to go for surrogacy arrangements without any intervention form the law. The surrogate mother gives birth to the child and then transfers the child to the genetic parents. The surrogacy related laws are complicated to understand. There are a few companies, where surrogacy is abandoned by law. This is due to local social norms and law of that land. In such lands, the surrogacy issues are complicated due to various laws existing in those lands. In many European countries like Germany, Italy and France, and also in China or Japan, there is a ban on surrogacy, even if the commercial aspect is not involved. Even if surrogacy is engaged in those countries, the couple-parents and the surrogate mother along with the clinical staff and the surrogate mother’s family members will be involved in legal action, financially or legally actions. During one of such cases in Quebec, the law left the child without any mother.

Hence in international cases, the law bans the parents in their motherland and criminal actions are involved. Secondly, some countries parents are prohibited only in commercial surrogacy in which financial terms are involved and unselfish surrogacy is allowed. When the surrogacy is legally prohibited, then there is no hope for happiness or satisfaction. If a surrogate wants to keep the child with herself, then intended parents do not claim for the child. Even if the amount they are reimbursed to the treatment of surrogacy. On the other hand, if the intended couple of surrogate child change their wish and refuse the child, after they conceive their own the surrogate, then the surrogate mother is not reimbursed for the related expenses, or even if for any committed funds. Finally the surrogate mother is given the legal custody of the child after giving birth to the child. So there are many problems at international level of surrogacy about their legal relationship about the surrogate child. Another area of concern is that if the child is recognized legally of the biological parents and whether that parental status of the couple-parents
will be recognized in other countries. There is problem of surrogacy may result in being prosecuted for a surrogacy criminal offence. The court rules on a legal parenthood for custody of a baby child. The orders passed usually needs the permission of all parties engaged in the surrogacy engagements. Most of the courts only provide for a post-birth order, during unwillingness to force the surrogate mother who may be the biological mother to handover the baby to the couple wanting to be parents. Some courts also give pre-birth orders. This is only for some special cases where the surrogate mother is not hierarchically in relation with the expected surrogate child. Some courts focuses on different needs for issuing the birth orders like the intended couple are married and heterosexually linked with each other. Due to absence of international standards, rules or regulation, legal aspects, serious child protection concerns there are many problems into existence. In the Huddleston case (Huddleston vs Infertility Centre of America Inc. 700 A.D 453 (Pa. Super. Ct. 1997)) in Pennsylvania, here the surrogate mother was artificially inseminated with the sperm of intended father. Finally the surrogate mother transferred the child to the genetic father. The same child died only after six weeks because of the repeated physical abuses.

Demands of surrogate mother to enter surrogacy agreement are the other important issue to be discussed. Child born through surrogacy arrangement is often born with uncertain nationality or parentage status. This is specialty true in international surrogacy. Lack of standard laws in almost all the countries lead to confliction between legal rules and courts. This is especially on the factors like parentage, citizenship and surrogacy. Paternity and maternity relations do have three parts viz. willingness to have a child, genetic problems faced by intended parents and the parenthood in relation with the surrogated child. Surrogacy may be divided into 2-3 mothers and 1-2 fathers meaning there are multiple mothers and fathers involved in the process of surrogacy. It becomes difficult now about who are the legal parents of the surrogated child. This difficulty is even faced by different courts. Generally the surrogated child has the citizenship of the country from where the parents are or of the birth place nation.

Many countries ban commercial surrogacy, also traditional and gestational surrogacy are banned. Such intending parents come to India and then matters are made worse. As a result, the laws that guide us to parentage and citizenship are usually made on the convenience eliminating intending couple. Adoption is of –course not an emergency escape to this issue. This is with the reason that the relative laws frequently works over strict, complex and complicated needs like
reimbursement and information about the surrogate mother. These two factors are mainly prohibited during process of international adoption.

Intending parents or the genetic parents are mostly not aware of the involved legal problems. This has many subjects to look over. The US based websites on surrogacy gives less information on legalities, immigration and transfer associated with international surrogacy. The Indian governments’ rules and laws in the year 2008 finally framed as ARTR regulation of the draft bill 2010. The practical status is that the bill is still pending and is yet to be debated in the Parliament House. The proposed law still has not been implemented has taken into account of various legal aspects including intensions of the biological parents and surrogate mothers. The ready drafted bill is yet to have debate in the house of parliament.

Many developed countries, including the US, have no national policies ruling the assisted reproductive technology and including surrogacy. The relative laws also have versatile structure from state to state especially in the country of US. Many states prohibit surrogacy, or accept surrogacy declaring all such engagements void and unenforceable as a subject of public policy or international policy. In a few states, surrogacy is a severe crime if any money or payment is involved, and also lay down a punishment. A few states allow it but restrict its use to single couples or to cases in which at least one of the interested parents has a genetic link.

**Contract**

There are incidents of surrogacy contracts are not enforceable in relation to establishing the relationship of parenthood. The issue is whether the same will be implemented in other scenarios or otherwise. Some known and well-known incidents of international surrogacy are as mentioned ahead. One surrogate mother had denied handing over the baby child born through her womb to the intended parents. This might be because of the huge amount of money spent and there shall not be any kind of genetic relationship with it.

In the Balaz case, the lower court in India ruled with the exception that the system usually appears to be unenthusiastic and unwilling to give Indian citizenship to the child born through surrogacy. The Supreme Court despite looking over the stated rules and regulations towards the surrogacy had agreed that the commercial surrogacy is legal. The result was, the
freedom of contract rules are made available in the Indian Contract Act 1872. This may be allowed for a surrogacy agreement and only in the situation where the surrogate mother denies handling the child to the intended parents. Other issue is, during the execution of contract signed for surrogacy, the couple is forcibly demanding to take care of the child. If in case the intending parents are not in condition to reimburse the amount declared in the contract then the child will be kept away by the intending couple. But now, who will take care of the surrogate baby?

In India, international surrogacy arrangements are high than the national surrogacy arrangement. No rules and regulations are there to control on surrogacy arrangements. Only contract is the way to make control on commercial surrogacy arrangements. No law is there to regulate surrogacy arrangements. The result of this there is increase in the cross-border surrogacy in India.

Social Issues

In this technically ahead time, The Government of India is working more over promoting India as the cost-effective and quality based destination for medical tourism especially when the issue of surrogacy is exposed. India is also surveying over the number of women ready for surrogacy just because of their poor status. This is when compared with the other nations; we find the readiness of surrogates is at a very less amount. The current report reads that there is large growth in the numbers of couples travelling to India in search of the surrogates. They are mostly from the western countries. When we try to estimate the turnover of the Indian reproductive tourism industry then the number rises nearly to USD 500 million and that too only with 2,00,000 clinics practically operating throughout the country. The ART clinics working generally extend their services right from medical treatment to arranging the surrogacy. During this whole process they have to cross many obstacles but then they have solution to every problem. The marketing part of the ART clinics generally concentrates on attracting either infertile couples or gay couples. Sometimes they do approach an individual seeking to have a
USD 25,000 is the general amount mend for the treatment of surrogacy. This includes expenses for travelling and medicines and the compensation.

Surrogates are the women who deliver child hand it over to the intended parents against satisfying fund that is taken from the commissioning parents. This amount is much more than the annual salary earned by some persons. This amount can help you in buying a house or can complete the child education, etc. The lady under the treatment of surrogacy stays at the clinic. These women are very sharply supervised for the full term of pregnancy.

Commercial surrogacy is totally taken on the legal side in India. While in the commercial surrogacy treatment most of the surrogates spend their natural term of 9 months either in clinics or at hostels. Anand, a famous town in Gujrat, has a typical surrogate hostel where the surrogates stay keeping themselves away from their family members and communities. Surrogates always wants keep ‘this’ as secret because socially speaking the reproduction is considerably acceptable only in the marital conditions. There are one liners given to commercial surrogacy viz. ‘dirty work’, ‘baby-selling’ or ‘womb-renting’. These attitudinal thoughts make some persons to believe that altruistic surrogacy is more acceptable than commercial surrogacy. This doesn’t mean that the altruistic surrogacy is with no any controversial debate.

By now India has become the most trustworthy and faithful nation and moreover very common location for the commercial surrogacy. The other nations that can be enlisted here with are Panama and Thailand. Equally, there is flexibility to the government regimes in Ukraine and Russia.

Surrogacy when compared with socio-psychological problems then it has fully loaded variety. The period of pregnancy has a typical peculiarity in pain bearing by the concern lady. There is large emotional attachment between the surrogate and the child she carries. The lady surrogate has feelings of motherhood and after having hand over the baby to the intended parents she might face psychological, emotional and biological problems. It is because of the simple thought of bearing a child for some other woman with whom no biological attachment of the surrogate mother is there. So we can explain it as nothing but the exploitation of a poor woman. This is because we tempt her to sell the womb on the financial basis.

Surrogacy is growing as passion in the world of fame and fashion. There is big increase in the couple seeking for surrogacy in India. The inspiration is also because of the success rate of
surrogacy treatment. Naming some metro cities like Pune, Nashik, Delhi and Mumbai and Anand with a different specialty, attract more number of people from foreign countries. We can name some more cities like Surat, Jamnagar, Bhopal and Indore that are also on the verge of growing centers for surrogacy.

Dr Archana Dhawan Bajaj, Consultant Obstetrician, Gynecologist, Fertility & IVF Expert, The Nurture Clinic comments especially on the celebrities that are indirectly becoming the advertiser of the concept of surrogacy. She informs us about the bollywood stars like Aamir Khan, Saroj Khan and many others and in the current market even Shahrukh Khan is a part of this concept of surrogacy. These celebrity names have inspired more public and thoughtfully are getting attracted to it. She quotes, “Since the news of Shahrukh and Gauri Khan opting for surrogacy came to light and had published between public a number of couples have got influenced with the decision of the celebrity couple. I have got about 15-17 queries about IVF surrogacy arrangement. Celebrities are role models for public and their every action has a great impact on public thinking. Aamir Khan, Satish Kaushik and now Shahrukh Khan’s attempts have helped and create to shed the social stigma related to surrogacy. Therefore, Indian couples' perception has changed about surrogacy.” Social media is the great and the famous way of the publicity. Social impact on surrogacy minds a lot for the surrogate mother and surrogate child. All laws and medical treatments should not be against the social stigma. These points should also include in the surrogacy treatments and making surrogacy arrangements.

**Ethical Issues**

Another issue of surrogacy is ethical issues. In India and in another countries also. In India more importance has been given to the ethics more than any other country. Culture, our norms our values are our strength and our power. The women are treated as a goddess and her shame is her more than her life. Our society will never accept the shameless women, prostitutions, call girls are treated differently and they have different place in the society.

Surrogacy treatment is different treatment than the usual ones. Surrogacy is very much ethical and emotional issue. It is belongs to the very personal issue of the woman. In India women are being kept in Parda System. Most of traditions keep women far from freely moving in society. They not allowed to woman to speak also to somebody else. These people have
majority in India though India is becoming the fast developing country. These people will not accept at all that one woman is carrying the baby of another men. Is it ethically right or wrong whether educated or uneducated nobody would allow it? If the person is of backward thinking then this person will not allow that one woman is carrying baby of another man and after making the delivery the woman is going to deliver the custody of that child to the another family . This is against the rules of the motherhood and ethics of Indian culture.

A possible surrogacy commoditization of women that happens when the woman’s reproductive capacity is placed into the commercial market place is a matter of growing concern. This may be called as “renting” wombs and undermining the nature’s gift of childbearing capacity of woman. There are chances that this commercial surrogacy is inspiring the prostitute because of the large funds involved in it. Some person argues stating that commercialization exists only during the time when anything is devalued and converted only for the monetary benefits. It can be commented that all the commercial surrogacy could be entitled as commoditization or commercialization. The women are denied to make a choice make decisions about their own reproductive capabilities. Other people views towards surrogacy is an engagements that affect on the reproductive capacity and create a separation of social, gestational, genetic, and other parts of the parenthood. Many others may argue that there is a changing trend in the objectives for giving birth to child. As per them and also it is practically true that the children conceived through surrogacy is not for the benefit of the child born but for benefit of others either monitory or physically. Very recently, there is fast and inspirational growth in the industry of commercial surrogacy. This growth is making experts to concentrate on the issue raising different ethical, emotional and social issues. Surrogacy is seen as a methodology for gestating a child for others by the use of different assisted reproductive technologies (ARTs) available in medical sciences. Current situation of medical market suggests India as the best fertility industry. This is helping India to grow over the medical tourism. The poor woman gets more than enough quick money for being surrogate women while the willing and intending parents get a child. This article is focused on bringing the feminist and social health angle to bear the practices of gestational and commercial surrogacy in India. There are problems defined as the ethical, emotional, economic and political. These common problems are either personal or social. The lady ready for surrogacy, body is their financial resource which is very important for them in their lives in complicated ways.
A few ethical issues about commercial surrogacy are as given below:

Ethics in the backdrop of commercial surrogacy is helpful for those women who are not capable to give birth to the child, naturally and not in a position to become a mother. Ethical challenges that have been raised with regards to surrogacy include:

- There is a very thin line of demarcation that decides the extent to which the concerned had an exploitation, modulation, commoditization, or coercion. Especially when the women are being paid.
- The level to which it is right for status and atmosphere of society so that she can be permitted to make contracts.
- The level to which a human right for woman contracts regarding the use of her body and her motherhood.
- This is an ethical dilemma; surrogacy contracting is similar to the option i. e. contracting person for employment and labour or contracting for purpose of prostitution or contracting for slavery.
- Which of the options given above about contracts should be implemented in India, and ethically importance?
- Can the government enforce the contract on a woman to carry out "specific performance".
- How motherhood be defined?
- What are the relationships and consequences between genetic motherhood, gestational motherhood and commercial or social motherhood?
- Should a child born via surrogacy have the right to know their parents or all of them involved in the process of surrogacy.

Other Issues

Besides these issues many other issues are there. That issues could not be comes under any title or head. What are the adverse psychological effects on the child? What identity crisis shall ensue the secret of child birth?
Will surrogate arrangements be used by infertile couples or by single men or women or after birth of the child he could be the child exploitation? Should the surrogate be paid for giving womb for the selling?

What will happen to the child if in case no any party agrees to take the handicapped newborn and even if the child born physically unfit? Should the couple and surrogate remain unknown to each other? Should the child be told about his births secret?

What methodological records should be maintained? Should the child or other family members have sufficient access to them? What kind of medical and psychological screening should be provided to all parties before going for surrogacy treatment? These are some issues which has been arisen due to problems arise in surrogacy treatment due to misbehave by either party or breaking the contract. Breach of contract only provides some compensation to the party. In surrogacy treatment most of the customers are from the foreign countries specially from the after making surrogacy treatment when the surrogate mother became pregnant they went to their own country and then it become very complicated to take legal action against the any intended parents. Doctors are also that much not so cooperative to the surrogate mother because mostly surrogate mothers are from poor family and economically backward. So, these are semi legal and economical issues of surrogacy in India.

The situation at the end is very satisfying because the doctor in search of patients, reach them, the couple without child get them and the lady under the surrogacy get enough fundings. This means all the three faces have smiles.

There are few stories brought out by the media that makes us think over the smiles created on the three faces in relation with the surrogacy arrangements. Year 2007, the couple from Japan visited India's well known “Surrogacy Queen" Dr. Nayna Patel, (founder of the Akansha Infertility Clinic, Gujrat). The two persons basically needed for surrogacy i.e. an egg donor and the surrogate mother was found by agents or hospitals. The concern embryo was transferred to the womb of the surrogate. Well before the delivery of the surrogated child the couple got divorced and they mentioned about need of the child just because it was not owned by her on the biological terms. The male could not adopt the child because of the Indian colonial-era law that forbids single men from adopting girl child. Non availability of the legal laws made the baby named Manji to be the India's first “surrogate orphan”. After the Supreme Court though
over this issues and permitted the father to carry baby to his native nation Japan. We have similar case involved with the nations named Israel, French and German, etc. The heavy disastorous situation in such cased is experienced mainly by the surrogate mothers. While in the period of surrogate pregnancy, they are often need to stay at the isolated place, away from there nearers and dearers.

There is one more case of an upper-class Indian woman; she hired one lady as surrogate to carry her child. While in the period of pregnancy she asked the surrogate to stay at her home. As the period passed, the women accused the surrogate for stealing ornaments and other items and kicked her off the house and informed her about her dont want any more services from her.

Government of India had initited to work on to regulate the surrogate industry. An Assisted Reproductive Technology Bill is ready on the drafted side but has to undergo the debate at the house of Parliament and then it will be legally passed and implemented. "Surrogacy — Exploiting the Poor? was one of the theme of a very popular, Oprah Winfrey-sequel talk show on India's NDTV channel has been telecasted. Prof. Mohan Rao, works at the Jawaharlal Nehru University, quoted that the country India by now was only witnessing "reproductive trafficking," referring to the fact that most cash-strapped surrogate mothers are from rural and economically backward India. They travel to cosmopolitan cities at the ART centers and deal with the business of the surrogacy”.

This appeal to modern ideals of self-determination makes healthy sense to members of the "new India" like Dr. Malpani and his clients. Alan Greenspan writes that "India is fast developing and becoming two entities: a rising kernel of world-class and famous modernity within a historic culture that has been for the most interesting part stagnating and tackling for all generations."

The several problems faced by the surrogacy industry will hardly be stopping the phenomena of surrogacy treatment in India. It will not spread awareness and so will not extend. India is moving towards an economical approach through surrogacy and its successful practice. Call centers and fertility clinics are encouraging the clients from the foreign by informing the cheaper and more efficient way of fertility.

The needed benefits of surrogacy are generally created by the rich community and the capitalist with developed patriarchal society. Truthness with the agreement is that the ywo parties
involved can not have the same way of necessarial ideology with the surrogacy arrangement. The woman giving egg more than one for to gestate a child as an important difference of the gender. With this limitation the contract is always bifurcated favoring more towards the financially strong and secure male and female. The arbitration of rights hides central social and class issues, which makes surrogacy contracts possible.

Many interviewed surrogates had no inner will to answer the question flowing on the relinquishing of the child to the others.

The amount paid to the surrogate doesn’t come under any rule or regulation so this amount is generally fixed by the concern ART clinics. The lady getting under the surrogacy arrangement have no any comment to pass over this matter of funds because it is nowhere protected by the law.

Connection within surrogate mother and the commissioning parents is always remains dangerous caring with some distance. As per the thoughts of the surrogates, involvement of the commissioning or biological parents during the total period of pregnancy is under many restrictions and limitations. Currently, India has only the ICMR guidelines as the legislation governing body for the surrogacy treatment.

The structural workshop cum study was organized by Centre for Social Research (under the Ministry of Women and Child Development - 2011-12) on the topic, 'Surrogacy Motherhood: Ethical or Commercial surrogacy'. This had declared that, the women agreeing to be surrogate mothers at their level is paid only 1% or 2% of the total budget estimated. The remaining 98% to 99% is distributed among the fertility clinics, doctors, nursing homes, middlemen and agents.

Conclusion

Difficult and complicated issues are related to surrogate motherhood in terms of ethical, social and economic aspects, and the worst part are, that they are not answered. A thorough analysis is required well before writing any policy about surrogacy. There is no research study done on the subject of surrogacy because that may cause a problem for Government bodies. The Government takes an initiative on the written legal provisions and always ready to take worthy action against those found guilty. Hence, the Centre for Social Research (CSR) had organized the
study on the problems faced by surrogacy (2010). This is done specially in the areas of Anand, Surat and Jamnagar in Gujarat.

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