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Surrogacy- A Trade with Women's Body

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ABSTRACT

Women are subjected to many forms of violence in India. One among them is surrogacy. Surrogacy is a sort of agreement in which a woman accepts to bear and deliver a child of another person or couple for a fee. Pregnancy has become a multi-billion pound industry in India. Fertility clinics and ART banks are emerging as mushrooms in our country to cash the innocence of women folk in the name of surrogacy. Surrogacy business not only reinforces the gender stereotype that women are commodities, but also leads to the exploitation of surrogates who often do not understand what they are signing up for. It is time to understand that women's womb is not production machine. Hence this paper tries to analyze concept of Surrogacy in India, the ethical problems related to surrogacy and strategies to battle against the exploitation.

KEYWORDS : Surrogacy, ART, Rent a Womb

Violence against women in India is not a recent problem; it has deep traditional roots in the culture**.** Besides, the problem of violence against women is a result of a long standing power imbalance between men and women. Men have control over access to property and resources. There is also a sexual division of labour in India that results in female exploitation–physically, biologically, mentally, and commercially despite of many legal provisions.

The right against exploitation is one of the most vital fundamental rights given by the Indian Constitution. These rights aim at protecting citizens from being subjugated to environmental, domestic and work hazards. Articles 23 and 24 of the Indian Constitution safeguard women and children and others against exploitation of various forms. Many Women's Day celebrations are gone; many Human rights Days, National and International Girl child Days are being celebrated every year, even 25th November is particularly observed as the International Day for the Elimination of Violence against Women every year by the United Nations, including India. But unfortunately still we are not in a positing to say no or put an end to violence against women because in the developing nations violence against women has become an accepted custom. The following figures are evident from many studies that:

- A crime committed against women every two minutes
- A molestation case every 10 minutes
- A sexual harassment case every 30 minutes
- A kidnapping and abduction case every 30 minutes
- A rape case every 20 minutes

Not only that, there are many unknown forms of exploitations against women in the society. This paper tries to discuss about Surrogacy. Surrogacy is one of the most harmful and widespread practice of modern days, which fundamentally violates a women's right. It is a sort of agreement in which a woman accepts to bear and deliver a child of another person or couple for a fee. In this a previously formed embryo is transferred into her womb.

For instance, sometimes Surrogacy is a boon to childless couples and even for couples who already have children but cannot have more biological children because of one or other reason. Lesser known, but the reproductive industry in India has also been attracting infertile couples from all across the world owing to its low cost and relaxed laws. In India the complete process of surrogacy cost about $25,000 as compared to $100,000 in the US. (Ramandeep Kaur 2013)

Everything on the earth has become commercialized. No matter even if it is mother's womb. How pathetic it is. That is nothing but renting a womb. It is difficult to say the prevalence of this practice is due to poverty?, ignorance? Unemployment?, Disempowerment? or exploitation of women's body? May be the answer is above all. Globalization has created many avenues for the masses to earn their livelihood but the controversially sector over the last decade for outsourcing in India is pregnancy and childbirth.

Women are subjected to many forms of victimization. In Time Magazine, January 19, 1987 the Bishop of New Jersey has rightly commented, "Surrogacy exploits a child as a commodity and exploits a woman as a baby-maker.

As commercial surrogacy banned in nearly all nations, many are rushing to India, a country free of regulation and with top medical professionals and low costs , to hire the wombs of women in what is known as "surrogacy". Fertility clinics and ART banks are emerging as mushrooms in our country to cash the innocence of women folk in the name of surrogacy.

In some cases it is the surrogate, the woman who carries baby for others of the opinion that there is nothing wrong in this practice. Moreover, it is also a blessing to give people who have no children and the chance to be parents. Some women are justifying by saying that they are not selling babies, but actually helping each other as they give huge amount money that make their lives better. Even though the intention is good as surrogacy is an unselfish act which paves way for another woman's happiness by enabling motherhood for her, middlemen making it commercialized. But social activists say the surrogacy business not only reinforces the gender stereotype that women are commodities, but also leads to the exploitation of surrogates who often do not understand what they are signing up for. It is time to understand that women's womb is not production machine.

Surrogacy can be defined as a woman carrying a pregnancy and giving birth to a baby to another woman. This arrangement can be voluntary and gratuitous, as well as, paid as any commercial transaction according to the agreement between the commissioning couple and the woman who agrees to bear the child.

Another type of surrogacy is called altruistic surrogacy, where the surrogate receives no financial reward for bearing or surrendering the child. In India, all three types of surrogacy are permitted as per law.

Although commercial surrogacy was legalized in 2002 In India, but still it is unregulated as India does not have any legislation to control surrogacy. The first and the foremost question comes to most of us is about the attachment of surrogate mother to the child. Also many other concerns like claims made by surrogate mother to have a baby after birth if she is biologically connected to the child. Although the Indian Council of Medical Research (ICMR) has set National guideline**s** to regulate surrogacy, these are still simply guidelines. All that this means is that surrogate mothers need to sign a "contract" with the childless couple. There are no stipulations as to what will happen if this "contract' is violated. It is only after baby Manji's case, the Union Ministry of Health & Family Welfare initiated to draft a bill on surrogacy.

Baby Manji, was born to a surrogate mother through invitro fertilization using a Japanese man's sperm and an egg from an unknown donor at Anand in Gujarat. But the Japanese couple then divorced before the

baby was born, the wife rejected to take the baby saying that she is not genetically related to the baby. However, at the time, Japanese law didn't recognize surrogacy and Indian Law wouldn't allow a single man to adopt a baby child. Hence Baby Manji and her father caught between tow legal systems. So this case mounted public pressure in India for national comprehensive regulation of commercial surrogacy. Subsequent to this, the ART (Regulation) Bill 2010 was formulated by the Union Ministry of Health & Family Welfare, which is still awaiting enforcement. The ART Bill legalised commercial surrogacy by providing for payment as "monetary compensation" to the surrogate mother by the intending couple.

India has emerged as the main surrogacy destination since it legalized commercial surrogacy. And it is primarily for two reasons. One, surrogacy in India is low cost. The complete package costs just one-third of the total procedure cost in the United Kingdom and other developed countries. Secondly, the legal environment here is favourable.

So, it can be said that surrogacy is the only available option for parents who cannot give birth but wish to have a child that is biologically related to them. Hence, India is rising as a popular destination for surrogacy arrangements for many rich foreigners. Cheap medical facilities, advanced reproductive technological know-how, coupled with poor socio-economic conditions, and a lack of regulatory laws in India in this regard combine to make India an attractive option.

It is no surprise that surrogate mothers, who usually come from the lower strata of society, are exploited by being lured to carry out repeated pregnancies or forced to deliver through Caesarean section. Sometimes, they are not paid their due also. Even though guidelines are there, still some more questions are there to be answered.

Sometimes, it can be dangerous for the mother if complications arise during pregnancy. What happens if the mother (surrogate) decides that she cannot part with the baby and refuses to give the baby.

However, with the entry of financial arrangements in exchange of the surrogate child, surrogate motherhood has raised difficult ethical, philosophical, and social questions. What happens if suddenly there are no takers for the baby at all as has happened. What about the dilemmas that the child will face once he/she realizes the complicated issues around his/her identity. The economic conditions of a woman may lead her to reluctantly offer her body for surrogacy in exchange for money. It results to turning of a woman's body into a commercial service. Turning a human body into a mechanism for commercial service and that too creation of new life is deplorable. .Surrogate services are often advertised. Surrogates are recruited and operating agencies make large profits. Surrogacy degrades a baby to a product, mother to a machine.

Conclusion and Recommendations

As the author journalist of Origins of Love, Kishwar Desai said, the rent-a-womb practice has evolved into a thriving industry in India, which is estimated to be over $2 billion. More than 250,000 children are now born in India through surrogates; making the country a preferred destination for childless couples looking for surrogate mothers. Nearly half of these babies, born to surrogate mothers, are reported to be contracted by western couples. The issue is Controversial. Some people argue that this practice must be banned as no part of human body can be put on sale, lease or rent. It is also humiliating and ethical. If a couple is unable to conceive, they could adopt, or find some other humane solution. There are enough orphans today in India who needs parental support. But people are there who supports it saying that the practice is nothing but one woman helping another believing that there is no gain without pain.

However, an end needs to be put to the industry of surrogacy that reduces the female body to a container. It creates confusion in blood ties and even chances of undermining the institution of marriage and family life too. One must realize that there is a need for a concrete legal framework to monitor and regulate the existing surrogacy system.

Hence there is a need for a concrete legal framework to monitor and regulate the existing surrogacy system to safeguard the interests of surrogate mother and the child

- The government needs to supervise the surrogacy clinics; shelter homes and agencies to protect the rights of surrogate mothers
- Government should encourage more employment generation and poverty alleviation schemes, in order to avoid in these kinds of exploitations.
- Health education must be disseminated specially among rural poor

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