

Ethical Dilemmas of Surrogacy

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Abstract

This paper critically examines the ethical dilemmas surrounding surrogacy as a contemporary reproductive practice situated at the intersection of medicine, ethics, law, and human rights. Surrogacy has emerged as an important alternative for individuals and couples who are unable to conceive due to infertility, medical conditions, or other reproductive challenges, particularly with the advancement of assisted reproductive technologies such as in vitro fertilization (IVF). The study first explains the concept and forms of surrogacy and then analyses the principal ethical arguments both in favour of and against the practice. Arguments supporting surrogacy emphasize reproductive autonomy, the right to parenthood, women's bodily autonomy, individual freedom, and its potential economic benefits for surrogate mothers. It is also viewed as an alternative to adoption for intended parents seeking a genetic connection with their child. Conversely, the paper highlights significant ethical concerns, including the exploitation of economically vulnerable women, the commodification of motherhood and children, emotional and psychological distress experienced by surrogate mothers, health risks associated with pregnancy, and the increasing commercialization of human reproduction. The paper also discusses emerging trends in surrogacy arrangements designed to minimize emotional attachment between surrogate mothers and intended parents and evaluates the ethical implications of such practices. It concludes that surrogacy should neither be unconditionally accepted nor entirely rejected. Instead, it advocates a balanced ethical approach supported by informed consent, psychological counselling, strict legal regulation, and robust safeguards to protect the dignity, rights, and welfare of surrogate mothers, intended parents, and children.

Keywords: Surrogacy; Bioethics; Reproductive Rights; Women's Autonomy; Commercial Surrogacy; Commodification; Medical Ethics.

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Introduction

Organic creation is one of the biological processes that helps in the continuation of life on Earth. From little plants and animals to humans, every species in this world undergoes reproduction, which helps in transferring one generation to another. It even secures the survival, growth and continuity of every species.

Reproduction may vary; it may include one parent {Asexual Reproduction}, while on the other hand there include two parents {sexual reproduction}. In humans, male and female intercourse; the male cell (sperm) fertilizes the female cell (egg). The fertilized egg grows inside the mother's womb for about 9 months; after conceiving, the nurturing of the baby is done by the family. In India, the birth of a child is considered a source of happiness and a way to pursue the family lineage.

However, not every woman is able to conceive a baby, or does not want to conceive but wants a baby. In such conditions there are various options to find a baby; some include scientific processes like In-Vitro fertilization {IVF} or Test tube baby technique. Other than that, adoption and surrogacy are also considered as an Option.

Meaning and definition for surrogacy

The word surrogacy is derived from the Latin word *surrogatus* meaning "substituted" or "appointed in place of another" ¹

It was first used in 1810-1811. The modern meaning of surrogate mother in relation to pregnancy was first recorded around 1978, after the development of assisted reproductive technologies such as In-Vitro fertilization (IVF) ²

Among these, surrogacy has emerged as a debated reproductive practice in the contemporary era.

Surrogacy is a process where a woman carries and gives birth to a baby of another person or couple. In simple words, bearing another person's child in one's own womb is surrogacy. Surrogacy is often described as a "rental womb".

Here are some definitions:

World Health Organization – 2001

"Surrogacy is a method of assisted reproduction in which a woman carries and delivers a child for another person or couple." ³

American College of Obstetricians and Gynaecologists-2016

"Surrogacy is an arrangement in which a woman becomes pregnant and gives birth to a child for intended parents." ⁴

Indian Council of Medical Research – 2005

"Surrogacy is an arrangement in which a woman agrees to carry and give birth to a child for another person or couple through assisted reproductive techniques." ⁵

This simply explains surrogacy as a reproductive technique used to help an individual who is unable to conceive a baby or who does not want to conceive but wants a baby. In this, surrogate mothers carry the baby and conceive the baby, later giving it to the intended parents.

In traditional surrogacy, the surrogate mother uses her own egg, which means she is genetically and biologically involved in the process of making a child. In some cases, in the past, conception was also achieved through natural intercourse between the surrogate mother and the intended father. However, such practises are no longer used in modern legal surrogacy arrangements. Today, Traditional surrogacy is generally

carried out through medical procedures such as artificial insemination, whereas gestational surrogacy through like In-Vitro fertilization is more commonly practiced.

Ethical concerns for surrogacy'

Surrogacy has led deep impact in human's mind which resulted rising several concerns related to the ethical point of view. Some stand in favour of surrogacy, while on the other hand some stand against it. The ethical concerns for and against surrogacy are as follows:

Right to Parenthood

According to John A. Robertson (1994), individuals should have the right to use reproductive technologies to fulfil their desire for parenthood.⁶

Mostly couple have dream to have baby, though due to some medical complications like infertility, genetic disorders, hormonal problems, or even miscarriages, they are unable to conceive a baby. But Surrogacy emerges as an option as any individual's / couples have right to become a Parent.

Women's Autonomy

One of the important arguments in favour of surrogacy is Women's Autonomy.

Autonomy to liberals, every woman has the right to decide how to use her body; if any woman willingly wants to become a surrogate, society must respect her choice and freedom. If anybody restricts her from becoming a surrogate, this is limiting her freedom and independence.

Economic Benefits

For many women facing severe financial difficulties, surrogacy can emerge as a valuable source of economic support. In today's world, the rising cost of living has made it increasingly challenging for economically disadvantaged families to meet their basic needs.

Surrogacy may provide an opportunity to earn financial compensation that significantly improves their family's standard of living.

Choice or Freedom

Liberal ethical theory is based on the principle of freedom, autonomy and individual liberty. It holds that every individual has the right and autonomy to make personal decisions regarding their own life. Similarly, a surrogate mother or women also possess the freedom and autonomy to make decisions concerning her own body without the interference of others.

In this context, John Stuart Mill made a significant contribution through his principle of liberty. Individuals are free to pursue their own happiness and make their own choices, provided that their actions do not harm others.⁶

Alternative to Adoption

Surrogacy is often considered a better option than abortion in situations where intended parents wish to have a child but are unable to carry a pregnancy themselves. It is also preferred by some over adoption because, in adoption, the child's genetic background, inherited medical conditions, or future health issues may not always be fully known.

In gestational surrogacy, the embryo is created through the egg and sperm of the Intended parents through In-Vitro fertilization {IVF} which is then transferred to the surrogate's womb. This led to an emotional connection and a sense of genetics in the intended parents towards that baby.

The Recent Trends in Surrogacy

A recent trend has also been observed in surrogacy, wherein the intended parents provide financial support to the surrogate throughout the entire pregnancy. They fulfil all her essential requirements and ensure that everything necessary is provided until the final stage of the pregnancy. A doctor acts as the mediator between the two parties. In such arrangements, it prevents the intended mother from being emotionally affected. Furthermore, during the delivery, the surrogate's face is covered with a towel so that neither she can see the intended parents nor can the intended parents see her. This helps prevent the development of a natural emotional attachment. Owing to advancements in medical technology, breast milk is no longer considered essential, as doctors recommend appropriate alternatives. Consequently, the child receives adequate nutrition and remains healthy.

Ethical concerns against surrogacy

Women exploitation

One of the major ethical arguments we face is women's exploitation, especially those women who may be economically weaker sections of society.

Critiques argues that many poor women may agree to become surrogate mothers just to get money, not out of their genuine choice, because some women undergo financial pressure, poverty, unemployment or social inequality; this lead her chose commercial surrogacy. Somehow, commercial surrogacy built a power imbalance between wealthy intended parents and a surrogate mother.

Commodification of motherhood

Commodification simply means something that can be bought and sold, which has social, moral, and emotional values.

In Commercial surrogacy, critics argue that motherhood is associated with love, bonding, care, and emotional attachment and rather than surrogacy becomes a part of a contract-based business arrangement.

Commercial surrogacy somehow reduces to women's body and just led an instrument of business. This raises concerns to humans' dignity and human values.

Commodification of child

One of the critiques faced by commercial surrogacy is the commodification of the child. Every child possesses dignity and has an intrinsic value; commercial surrogacy has led this to become a part of business Transactions. Moreover, the time when financial contracts may try to dominate reproduction, there is a risk that human reproduction may be commercialized and this will lead to a dangerous impact to our society. This has led down the moral and emotional understanding of parenthood by treating childhood as a business rather than a human relationship that is based on care, love and affection.

Emotional Impact

One concern that we also observe in surrogacy is that, in many cases, during those nine months, the surrogate mother develops a strong bond with the unborn child. She experiences physical changes, hormonal changes, and the little moments of the baby's growth and movement, which create an emotional connection with the child. However, once the baby is born, the surrogacy contract comes to an end, and the child is handed over to the intended parents. Some women find it difficult to cope with this situation, which may lead to feelings of sadness, grief, anxiety, and emotional distress.

Health Risk

Many women who belong to economically weaker sections view surrogacy as an opportunity because it provides significant financial support, especially for single mothers and widows. With the rising cost of living, surrogacy may help them improve their financial condition, escape poverty, and provide their children with proper education, food, electricity, housing, hygiene, and other necessities. However, the concern is that these women often put their own health and lives at risk in the process of giving birth to a child for someone else. Pregnancy is a complex process that lasts for nine months, and women may face numerous physical and emotional challenges throughout this period. Even during childbirth, there can be serious complications such as high blood pressure, excessive bleeding, infections, miscarriages, and gestational diabetes.

Arguments against the Recent Trends in Surrogacy

Arguments have been raised that this practice reflects increasing professionalism, which may ultimately lead to dehumanisation. If such an approach continues to expand, it could result in the gradual decline of human values. It is widely acknowledged that human values play a significant role in society.

Conclusion

Surrogacy is a complex and controversial issue in the contemporary medical world. It lies at the intersection of medicine, law, morality, human rights, and reproductive technology. Surrogacy has emerged as a vital solution for individuals and couples who are unable to conceive, those who do not want to, or are unable to carry a pregnancy due to infertility, medical conditions, or other reproductive challenges. Through advances in reproductive technologies such as In-Vitro Fertilization (IVF), surrogacy has provided hope to countless people who wish to experience parenthood and continue their family lineage.

The ethical debate surrounding surrogacy reveals that there are valid arguments both in favour of and against this. Supporters of surrogacy emphasize the principles of autonomy, reproductive freedom, and individual choice. However, despite these benefits, surrogacy raises serious ethical concerns that cannot be ignored.

Critics argue that commercial surrogacy may exploit women, commercial surrogacy may lead to the commodification of child and motherhood and may also lead to health risks, as pregnancy is a very complex process.

The principle of "My Body, My Choice" is based on the idea that every individual has autonomy over their own body and has the right to make personal decisions without unnecessary interference from others. Some argue that if a woman voluntarily chooses to become a surrogate, she would fully understand the medical, emotional, and legal implications; her decision should be respected!

But it raises an ethical question: "To what extent is the surrogate mother's decision truly voluntary? Does she agree to it under any pressure? Or is she under poverty conditions?"

Therefore, rather than completely supporting or completely rejecting surrogacy, the focus should be towards the solution. The focus should be on ensuring that the choice is genuinely free and she must be informed of her rights. It is too subjective, personal and sentimental that we cannot have any kind of objective parameters for who will be the mother?

Critiques argues that some women undergo emotional distress in order to reduce this, there must be counselling prior to the contract she is signing in, during the pregnancy and post-pregnancy.

On the other hand, if we see that commercial surrogacy is increasing day by day, this will inevitably have some impact on the institution we call the family.

Another issue arises when the child is fully raised; if he/she gets to know about her surrogate mother, it will somehow create a conflict of interest.

A recent trend has also been observed in surrogacy, wherein the intended parents provide financial support to the surrogate throughout the entire pregnancy. They fulfil her essential requirements and ensure that many thing necessary is provided until the final stage of the pregnancy. However, the surrogate does not meet the intended parents, nor do the intended parents meet the surrogate. A doctor acts as the mediator between the two parties.

This practice gives rise to arguments both in favour of and against it. In its favour, it may be argued that such an arrangement prevents the intended mother from being emotionally affected. Furthermore, during the delivery, the surrogate's face is covered with a towel so that neither she can see the intended parents nor can the intended parents see her. This helps prevent the development of a natural emotional attachment. Owing to advancements in medical technology, breast milk is no longer considered essential, as doctors recommend appropriate alternatives. Consequently, the child receives adequate nutrition and remains healthy.

On the other hand, it may be argued that this practice reflects increasing professionalism, which may ultimately lead to dehumanisation. If such an approach continues to expand, it could result in the gradual decline of human values. It is widely acknowledged that human values play a significant role in society.

Last but not least, surrogacy is not a bad option in itself, but there may be better alternatives available, such as adoption. It should not be viewed as entirely wrong or entirely right, as both perspectives have valid arguments.

Therefore, surrogacy should be considered only in rare and exceptional circumstances, particularly when other alternatives are not suitable or feasible. In such cases, it should be practiced under strict ethical and legal Safeguards to protect the interests of all parties involved.

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