

PREFACE

With changing times, the development of medical science and technology on human reproduction has transforming the concept of family from traditional to modern in the society through the way of procreation. Procreation of a child is the primary biological function of a marriage and it is the family ensures the continuity of human race. It is an intrinsic element of marriage and this concept is accepted throughout the world. The concept of human rights has also acknowledged Right to have children as a fundamental human right and incorporated it as right to procreation and protected under various International documents. However, in relation to procreation, infertility is considered as problems, which have been resulting into multiple socio-economic and religious hardships to persons and family.

To deals with undesirable problem of infertility, the medical science and human reproductive technology has come forward to assist such childless couple through various methods of Assisted Reproductive Technology (ART). The globalizations of ARTs have overwhelmingly transformed women's reproductive lives and motherhood itself. It has brought women's reproductive bodies into the public techno-scientific domain and bringing not only pregnancy and delivery, but also conception.

Presently, infertile couple have the prospect of selecting from a number of option including AI, ICSI, IVF, surrogacy etc. Among all these, surrogacy is considered as a boon for infertile couple(s), individual(s), who wishes to have

genetically related children with the help of third party. In surrogacy practice, a woman agreed to carry a pregnancy and give birth to a child for another motivated either by love and affection or by monetary compensation.

Very significantly, India has emerged as a favourable destination for 'Reproductive Tourism' for Indian and as well as for foreign couples due to low costs, lack of legal regulation except the 2005 National Guidelines of Indian Council of Medical Research and the 228th Report of the Law Commission of India. Commercial propositions of surrogacy disintegrate the earlier concept of altruistic surrogacy, which one was basically motivated by love, concern and affection and has raised various issues such as ethical, social, legal, economical, medical etc.

The issue of surrogacy is a trouble of the whole world because the laws and regulations on surrogacy are different in different nations. It requires formation of laws universally.

To deal with all those challenges created by surrogacy in India, the judiciary have set a platform for the commencement of laws in parliament. Following what, Indian Government has been consistently working since 2008. Lately, on 26 February 2020, the Union Cabinet has approved the Surrogacy (Regulation) Bill, 2020, which seeks to regulate commercial surrogacy by allowing altruistic surrogacy in India. Hence, it is need of the hour to discuss how surrogacy is currently practiced in India, whether prohibiting and criminalizing of commercial surrogacy is a good step for a welfare state like India, which may deprive a large section of the society from a basic human right i.e. right to procreation.

. This research work is an attempt to study the need and importance of surrogacy practice, social and legal issue raised in present times. And also to study critically the adequacy of the proposed policy of altruistic surrogacy is acceptable from socio-legal perspective and attempts to provide pragmatic solutions for regulating surrogacy without compromising the interests of the parties concerned.

The present study is consists of eight (8) chapters. Chapter I unfolds the theme of the thesis by highlighting the key concept of Assisted Reproductive Technologies and the picture of surrogacy in India. Chapter II deals with historical development of surrogacy. The study is carried out in two parts, i.e. Indian Perspective and International Perspective.

Chapter III seeks to elucidates the need for a child as a basic human right and its incorporation as right to procreation including right to use ART at international as well as national level. It also focuses on constitutional and various existing legislative provisions applicable to surrogacy in India.

Chapter IV deals with different types of surrogacy arrangements, scientific techniques of surrogacy and procedure used for surrogacy. Chapter V conducts a comprehensive study on altruistic surrogacy and commercial surrogacy. It focuses on socio-legal issues involved in altruistic surrogacy and commercial surrogacy and especially issues involved in international gestational commercial surrogacy arrangements.

Chapter VI makes an effort to study various judicial findings relating to surrogacy of various jurisdictions. Chapter VII is very pivotal for the study, which

critically discusses all foregoing chapters. It discusses how lack of comprehensive legislation on surrogacy has lead to socio-economic exploitation of the surrogate mother and commodification of the surrogate children. It also discusses the legality of the Surrogacy (Regulation) Bill, 2020 and how far altruistic surrogacy is acceptable in the proposed form. Chapter

VIII is the last but not the least chapter of the thesis. The concluding chapter devotes attention to made reasonable attempts to emphasize that the ART is to be considered as necessity for the modern society. It also further contains the findings of the present study and provide suitable recommendations thereof for minimizing the problems associated with surrogacy.

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