ISSN 2349-7807

International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

Womb on Rent: Surrogacy Tourism in India- Ethical or Commercial

Poonam Pariya

Department of Management Pranithi Degree College, A.P. India

Abstract: **Commercial Surrogacy, which is the act of selling a woman's ability to give birth to a child with another man strictly for business purposes, is a rapidly growing industry in today's societies that permit it. It is also an issue that has many moral and ethical implications. It compromises many moral principles and values and therefore raises many questions to consider whether or not commercial surrogacy is moral. Examples of these moral implications include questions such as whether or not it is ethical to put monetary value on the creation of life, how does commercial surrogacy affect women's rights in countries such as India where we see a particular vast growth in this industry, where women may not necessarily be fully protected by law and may be forced by their families who live in poverty to perform this act for financial necessity. Due to the fact that this is a very modern, as well as rapidly growing issue, it is very important to discuss and raise awareness that it is a very real issue that creates a lot of moral dilemma so that it can be changed and perhaps banned in countries that currently allow it, if deemed immoral. To examine this issue, the situation of commercial surrogacy in India, which has grown into a multibillion dollar industry and is therefore, deemed the worldwide capital of surrogacy. The statistics such as the projected net worth of commercial surrogacy as an industry in 2012 will be analysed as well as different things such as families in India who have experienced commercial surrogacy. 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 Obligations of Parties to a Surrogacy."**

Keywords: **Surrogacy, gestational surrogacy, traditional surrogacy, Commercial surrogacy, constitution, law commission, process, Destinations.**

I. INTRODUCTION

Commercial surrogacy has been legal in India since 2002. India is emerging as a leader in international surrogacy. Indian surrogates have been increasingly popular with infertile couples in industrialized nations because of the relatively low cost. Indian clinics are at the same time becoming more competitive, not just in the pricing, but in the hiring and retention of Indian females as surrogates as well as in providing high quality treatment to patients and in quality outcomes. Surrogacy in India is much simpler and cost effective than anywhere else in the world. There is an increasing amount of Intended Parents who choose India as their surrogacy destination. The main reason for this increase is the less costlier surrogacy and better flexible laws. In 2008, the Supreme Court of India has held that commercial surrogacy is permitted in India. That has again increased the international confidence in going in for surrogacy in India.

Intended Parents from all over the world come down to India with great dreams and hopes for attaining the joy of parenthood by opting surrogacy. Intended parents contact hospitals over the internet mainly and to come across hospitals/ agencies which do not provide complete information about the surrogacy procedures, time factors and more importantly the cost factor.

ISSN 2349-7807

International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

II. SURROGATE MOTHER - LEGAL DEFINITION

Surrogate mother, as defined by the Collins English dictionary is, "a woman who bears a child on behalf of a couple unable to have a child, either by artificial insemination from the man or implantation of an embryo from the woman"10 The Oxford dictionary defines surrogate mother as, "a woman who bears a child on behalf of another woman, either from her own egg fertilized by the other woman's partner, or from the implantation in her womb of a fertilized egg from the other woman."11 The ART Regulation Bill, 2010 defines the —surrogate mother‖ as, a woman who is a citizen of India and is resident in India, who agrees to have an embryo generated from the sperm of a man who is not her husband and the oocyte of another woman, implanted in her to carry the pregnancy to viability and deliver the child to the couple/individual that had asked for surrogacy.

"A surrogate mother is a woman who carries a child for someone else, usually a infertile couple

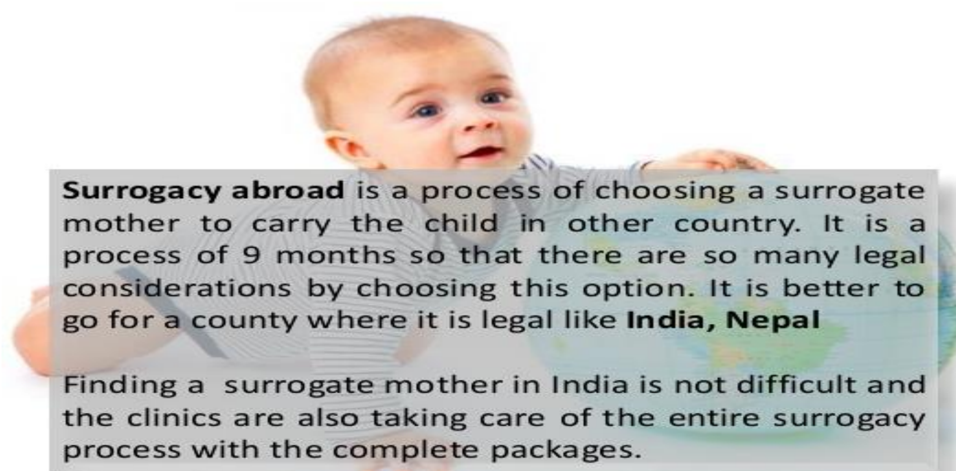

Figure 1

III. REVIEW OF LITERATURE

In 1984 the world saw the first successful birth through gestational surrogacy. Ten years later, in Chennai, this happened for the first time in India. Three years after that, in 1997, an Indian acted as a gestational carrier, and got paid for it, in order to obtain medical treatment for her paralyzed husband. In the past couple of years, the number of births through surrogacy doubled with estimates ranging from 200 up to 350 in 2008 alone (Lal, 2008). As briefly addressed before, India is rapidly becoming the most popular country for _fertility tourists', which is due to a number of interrelated factors (Smerdon, 2008). In 2002, the Confederation of Indian Industry (CII) published a study on the potential India has to develop a medical tourism sector. This was picked up on by the then Finance Minister of India who wanted India to become a global health destination. In order to stimulate this development he came up with measures to facilitate a medical tourism industry, including infrastructural improvements (Chinai & Goswami, 2007). Also, hospitals that treat foreign patients were to receive financial incentives including low interest rates on loans and low import duties on medical equipment. In addition, the Ministry of External Affairs introduced a medical visa, which allowed patients and their family members to stay in India for a maximum of 12 months. The tourism departments Surrogate Motherhood-Ethical or Commercial 23 Centre for Social Research (CSR) teamed up with hospitals to attract foreign patients, and not without success: the number of medical tourists increased from 150,000 in 2005 to 450,000 in 2008 (Chinai & Goswami, 2008). During these years, fertility tourism has also increased in popularity. The reproductive segment of the Indian medical tourism market is valued at more than $450 million a year (Ramesh, 2006). These fertility tourists do not all come from Western countries; India is also a popular destination for medical tourists from Sri Lanka, Pakistan, Bangladesh, Thailand and Singapore. At the moment there are over 600 fertility clinics established in both rural and urban areas in almost all states of India.

1930s – In the U.S., pharmaceutical companies Schering-Kahlbaum and Parke-Davis started the mass production of estrogen.

ISSN 2349-7807
International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

- **1944** – Harvard Medical School professor John Rock broke ground by becoming the first person to fertilize human ovary outside the uterus.
- **1953** – Researchers successfully performed the first cryopreservation of sperm.
- **1971** – The first commercial sperm bank opened in New York, which spurred the growth of this type of business into a highly profitable venture.
- **1978** – Louise Brown, the first test-tube baby, was born in England. She was the product of the first successful IVF procedure.
- **1980** – Michigan lawyer Noel Keane wrote the first surrogacy contract. He continued his work with surrogacy through his Infertility Centre, through which he created the contract leading to the Baby M case.[6]
- **1985** – A woman carried the first successful gestational surrogate pregnancy.
- **1986** – Melissa Stern, otherwise known as "Baby M," was born in the U.S. The surrogate and biological mother, Mary Beth Whitehead, refused to cede custody of Melissa to the couple with whom she made the surrogacy agreement. The courts of New Jersey found that Whitehead was the child's legal mother and declared contracts for surrogate motherhood illegal and invalid. However, the court found it in the best interest of the infant to award custody of Melissa to the child's biological father, William Stern, and his wife Elizabeth Stern, rather than to Whitehead, the surrogate mother.
- **1990** – In California, gestational carrier Anna Johnson refused to give up the baby to intended parents Mark and Crispina Calvert. The couple sued her for custody (*Calvert v. Johnson*), and the court upheld their parental rights. In doing so, it legally defined the true mother as the woman who, according to the surrogacy agreement, intends to create and raise a child.
- **1994-**
- Latin American fertility specialists convened in Chile to discuss assisted reproduction and its ethical and legal status.
- The Chinese Ministry of Health banned gestational surrogacy because of the legal complications of defining true parenthood and possible refusal by surrogates to relinquish a baby.
- **2009** – The Chinese government increased enforcement of the gestational-surrogacy ban, and Chinese women began coming forth with complaints of forced abortions.

Surrogacy has the potential for various kinds of clash between surrogate mothers and intended parents. For instance, the intended parents of the foetus may ask for an abortion when complications arise and the surrogate mother may oppose the abortion.

IV. INDIA- COMMERCIAL SURROGACY IN INDIA

India is a main destination for surrogacy. Indian surrogates have been increasingly popular with intended parents in industrialized nations because of the relatively low cost. Indian clinics are at the same time becoming more competitive, not just in the pricing, but in the hiring and retention of Indian females as surrogates. Clinics charge patients between $10,000 and $28,000 for the complete package, including fertilization, the surrogate's fee, and delivery of the baby at a hospital. Including the costs of flight tickets, medical procedures and hotels, it comes to roughly a third of the price compared with going through the procedure in the UK.

Surrogacy in India is of low cost and the laws are flexible. In 2008, the Supreme Court of India in the Manji's case (Japanese Baby) has held that commercial surrogacy is permitted in India. That has again increased the international confidence in going in for surrogacy in India. But as of 2014, a surrogacy ban was placed on homosexual couples and single parents.

There is an upcoming Assisted Reproductive Technology Bill, aiming to regulate the surrogacy business. However, it is expected to increase the confidence in clinics by sorting out dubious practitioners, and in this way stimulates the practice.

V. OBJECTIVES

- conduct a situational analysis of surrogacy cases in the three study areas and the issues involved
- examine the existing social and health protection rights ensured to the surrogate mother
- analyse the rights of the child in surrogacy arrangements
- study the rights and issues pertaining to commissioning parents
- suggest policy recommendations for protection of rights through legal provisions of surrogate mother, child and the commissioning parents based on the study
- to create awareness about the issues about surrogate motherhood
- to expand our perceptions on the issue of surrogate motherhood
- to review on the pros and cons of surrogate motherhood
- to analyse and review critically about surrogate motherhood

VI. HYDERABAD TURNS HUB FOR SURROGATE MOMS-(CRADLE OF THE WORLD)

The Asian Age: (Syed Akbar/Hyderabad: "I signed up for surrogacy five times," claimed a young woman from the city in her post on a website, offering to rent her womb for the sixth time to infertile couples. Another young woman described in detail her physical and health traits while volunteering to bear someone's child for the fourthtime. A number of medical tourism firms in the USA, Europe and Australia promote India as the best and the most economical destination for surrogacy.

A casual browse of the Internet reveals a list of dozens of women from Hyderabad ready to become surrogate moms. No wonder, Hyderabad is fast turning into a global hub of surrogate pregnancies. Infertile couples from at least three dozen countries including the USA, the UK and Australia have engaged surrogate mothers in the city. Fertility experts pointed out that the high success rate coupled with affordable costs and easy legal documentation has made India the favourite destination for infertile couples from foreign countries. Surrogacy is 15 to 20 times cheaper in India than in developed nations. While countries like the USA, UK and Australia have stringent laws that make it difficult or impossible to hire surrogate mothers, India does not have clear-cut laws on womb rentals. The guidelines of the Indian Council of Medical Research allow voluntary surrogacy on condition that hospitals should not hire prospective surrogate mothers or advertise about surrogacy.

However, many hospitals do not follow these rules. Ideally a woman should not volunteer for surrogacy more than three times. But multiple surrogate pregnancies are quite common in India. Sources said that about 500 foreign couples engage surrogate mothers every year in Hyderabad alone. The success rate (delivery of live babies) in the city is between 25 and 30 per cent, which means about 125 babies are delivered. The surrogacy market in India is now pegged at Rs. 14,000 crore, including the costs paid to surrogates. Senior fertility expert Dr Roya Rozati said that surrogate mothers in Hyderabad charge between Rs. 4.5 lakh and Rs. 6 lakh. "For infertile couples in developed countries, this is affordable. Moreover, the surrogacy costs in developed countries are prohibitive," she pointed out. Another reason why India has been attracting infertile couples is that Indian laws recognise surrogacy, which means a surrogate mother is not the legal mother of the child, Dr Roya Rozati said. The couple, which hires the surrogate mothers, gets the legal parents' rights. But in the many countries, the surrogate mother is the legal mother, which makes matters worse for the intending parents.

VII. CHECKLIST FOR DOCUMENTS REQUIRED

1. Baby's Indian birth certificate
2. Baby's certificate of citizenship or official letter from Consulate confirming the citizenship of the child
3. Baby's passport
4. Letter from consulate general to FRRO

ISSN 2349-7807
International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

5. Letter from the Treating Obstetrician on the hospital's letter head
6. No Dues letter from the Hospital where the child is delivered
7. Letter from Clinic or Centre
8. No Dues letter (NOC) from our Centre
9. Letter from IVF lab
10. Doctor's Degree Certificate copy
11. 4 passport size photographs of the baby
12. Gestational Surrogacy agreement copy
13. Copy of confirmed tickets / printout (baby's name should be there on the ticket)
14. Passport and Visa copies of the baby and intended parents
15. Hotel Bills or stay period mentioned on the Hotel letterhead
16. Notarized Declaration of Intent signed by the Surrogate Mother

VIII. METHODOLOGY

The methodology adopted for the study was exploratory research of situational analysis study through the means of a survey. It was carried out in the three prominent areas of APstate where well-known ART clinics are operating and a high incidence of surrogacy is reported. Hyderabad in AP is quoted as the _cradle of the world'. Similar technology is also available in Guntur and vizaq .Due to the high demand in the Hyderabad clinics, couples who do not want wait for long head to the other two cities. The sample size consisted of one hundred surrogate mothers and fifty commissioning parents and their families in three cities of Hyderabad.

Both primary and secondary data was collected .Survey aims to highlight the major findings and suggests recommendations for future policy implications. The tools included structured questionnaires with 75% close ended and 25% open ended questions. The gender aspect has been kept in focus as personal observation and interviews included the husbands of surrogate mothers and the male counterpart of the commissioning parents wherever possible. The questionnaires were field-tested prior and then stakeholders included: the ART clinics, the doctors and the nurses carrying out the procedure, the immediate society and community members, family members, agents including travel agents who arrange for commissioning parents arrival, stay, passport and departure with the child and guest house/hotel owners where foreign couples stay during the whole procedure and the maternity homes/shelter homes where surrogate mothers sometimes stay to ensure secrecy.

Focus Group Discussions (FGDs) were conducted with surrogate mothers, stakeholders and community members. The universe of the study were surrogate mothers, their families, commissioning parents, the clinics conducting surrogacy, families where such cases happened within those cities, agents who facilitate such procedures including travel agents who arrange for passports and other documents, other stakeholders like the community members, owners/care takers of shelter homes/ guest houses, etc. Since, no research study has been done previously addressing issues pertaining to surrogacy so far, a first-hand study has found out the field-level realities, which will be dealt in detail in the subsequent chapters.

IX. INCIDENTS RELATED TO SURROGACY

Baby M:

A couple decided due to the wife's illness not to have children. Instead of conceiving children the natural way, the husband entered a surrogacy agreement with another woman. He donated his sperm and asked her to deliver the child. However, the deal broke down and the surrogate mother wanted to keep the child. Eventually the case went to the New Jersey Supreme Court. The court ruled that Surrogate Motherhood- Ethical or Commercial 20 Centre for Social Research (CSR) the surrogacy contract was invalid because, among other things, it violated the New Jersey law against exchange relating to obtaining a child.

ISSN 2349-7807

International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

Baby Manji:

Baby Manji is a child born to an Indian surrogate. Her commissioning parents were a couple from Japan, who filled for divorce shortly before the child was born. The father, still wanting to take care of the child, faced severe legal issues as the Indian law prohibits single men to adopt. Neither the intended mother nor the surrogated mother wanted to take custody of baby Manji. The baby was eventually permitted to leave for Japan after the Japanese government issued a one-year visa to her on humanitarian grounds. However her grandmother needed to accompany her, because she was temporarily given custody over the baby. As a result of this case the debate within India about surrogacy has intensified. In the controversy that followed, several infirmities in the arrangement came to light including the absence of a legal contract between the parties, a fact that many saw as a worrying reminder of the potential for exploitation of native surrogates. These problems exist because surrogacy contracts are often not clear and hold no legal value. Furthermore, some countries lack specific surrogacy legislation. Those that do have these laws often fail to implement or enforce them. An explanation for this lies probably in the assumption that up until now, medical technology, especially reproductive technology, needed no justification. Its 'benevolent' nature was taken for granted. However with the commercialization of surrogacy, social, demographic, ethical, legal and philosophical issues have been raised. As the debates have shown, these developments have the ability to alter not only the face, but the very soul of human civilization. It might bring about the restructuring of society on lines of a 'reproductive brothel model' in which ‗women can sell reproductive capacities the same way old time prostitutes sold sexual ones‘ (Ravindra, 1992). Currently, in the US, due to the fact that few states have developed legislation, disputes over surrogate parenting often go to court (Markens, 2007). Therefore, clear and enforceable laws should be implemented.

News Paper article on Surrogacy-DC-7Jan 2015

Sadhvi Niranjan Jyoti, whose hate speech had kicked up a controversy, gets VIP security

DECCAN CHRONICLE

Break for surrogate moms

Kerala HC okays maternity leave for surrogate moms

DC CORRESPONDENT
KOCHI, JAN. 6

The court held that there cannot be any discrimination between genetic and surrogate mother. Genetic mother is required to be placed on the same pedestal as the biological mother.

The Livestock Development Board contended that at present there was no law to mandate surrogacy and that the Board had given the petitioner extraordinary leave of [illegible] days.

[illegible]

Figure 2

X. LEGAL ISSUES

Nowadays, a parent‘s surrender of a child for a fee, known as baby selling, is a crime all over the world. In addition, many countries have regulations limiting or prohibiting compensation of intermediaries related to the transfer of a child (Field, 1990). Although gestational surrogacy is (partially) legal in several countries around the globe, in most jurisdictions it is not. Surrogate Motherhood- Ethical or Commercial 21 Centre for Social Research (CSR) going to another country to avoid local prohibitions is not always an option. Sometimes the nation‘s provisions apply only to that country‘s residents. People who want to take advantage of the laws in that particular country must therefore first establish residency there. The surrogacy map of the world is enclosed here to give a better understanding of the legal provisions across the globe. The countries marked in red shows nations that (partially) allow surrogacy agreements. The different (sub) continents are discussed below

North America - An estimated 25,000 surrogate babies were born in the US from 1976 to 2007. A typical payment for a surrogate ranges from between US$ 20,000 and US$25,000. States that allow but regulate surrogacy are: California, Arkansas, Florida, Illinois, Nevada, New Hampshire, Texas, Utah and Virginia. Commercial surrogacy in Canada has been illegal since 2004, although altruistic surrogacy is allowed.

Western Europe-Although surrogacy is legal in the United Kingdom, no commercial arrangements are allowed and the surrogate mother can only receive expenses – in thousands of pounds through the Surrogacy Arrangement Act – for medical and pregnancy related expenses. Most women become surrogate mothers for altruistic reasons. Only married couples can participate in a surrogacy agreement. Countries in the European Union who have banned all forms of surrogacy include Germany, Sweden, Norway and Italy.

South Asia- When the Indian parliament passes the Assisted Reproductive Technology (Regulation) Bill & Rules, 2008, surrogate mothers may receive money for carrying the child and as well as all their expenses paid during the pregnancy.

South East Asia Unclear laws regulating assisted reproductive services make Thailand, Malaysia and Philippines an ideal option for foreigners seeking surrogacy services in this part of the world. However, all forms of surrogacy are banned in Singapore.

East Asia In Japan, there is no law to regulate surrogate births. Medical councils, including the Japan Society of Obstetrics and Gynaecology as well as the Science council of Japan have called for surrogacy to Surrogate Motherhood-Ethical or Commercial 22 Centre for Social Research (CSR) be banned. In 2008, it is reported that more than 100 Japanese couples have used surrogates to have children in the United States. Meanwhile, a law to regulate surrogacy is being studied. Last year, media reported on a 61-year-old Japanese woman who became a surrogate mother to her own grandchild – possibly the oldest surrogate mother in Japan. Gestational surrogacy is banned in China.

Oceania- In Australia, the state of Queensland bans all forms of surrogacy. In the other Australian states such as Victoria, the Australian Capital Territory, Tasmania, and South Australia commercial surrogacy is prohibited, except altruistic surrogacy. Commercial surrogacy is banned in New Zealand.

Eastern Europe Russia and Ukraine are the only European countries where surrogacy is fully legalised. Foreign couples are allowed to pursue surrogacy arrangements in both countries.

XI. JURISDICTION IN INDIA

ICMR guidelines in 2006, the Indian Council of Medical Research (ICMR) published guidelines for accreditation, supervision and regulation of ART clinics in India. Below are the main points from these guidelines: DNA tests are compulsory to determine that the intended parents are indeed the genetic parents. If this is not the case the child must be adopted instead. Surrogacy should normally only be an option for patients for whom it would be physically or medically impossible/ undesirable to carry a baby to term. The payments received by the surrogate mothers should be documented and cover all genuine expenses associated with the pregnancy. The responsibility of finding a surrogate mother should rest with the couple, or a semen bank, not the clinic. A surrogate mother should not be over 45 years of age. The ART clinic should ensure possible surrogate woman satisfies all the testable criteria to go through a successful full-term pregnancy. No woman may act as a surrogate more than three times in her lifetime. The surrogate mother must declare that she will not use drugs intravenously, and not undergo blood transfusion excepting of blood obtained through a

ISSN 2349-7807

International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

certified blood bank. A relative, a known person, as well as a person unknown to the couple may act as a surrogate mother for the couple.

XII. TYPES OF SURROGACY

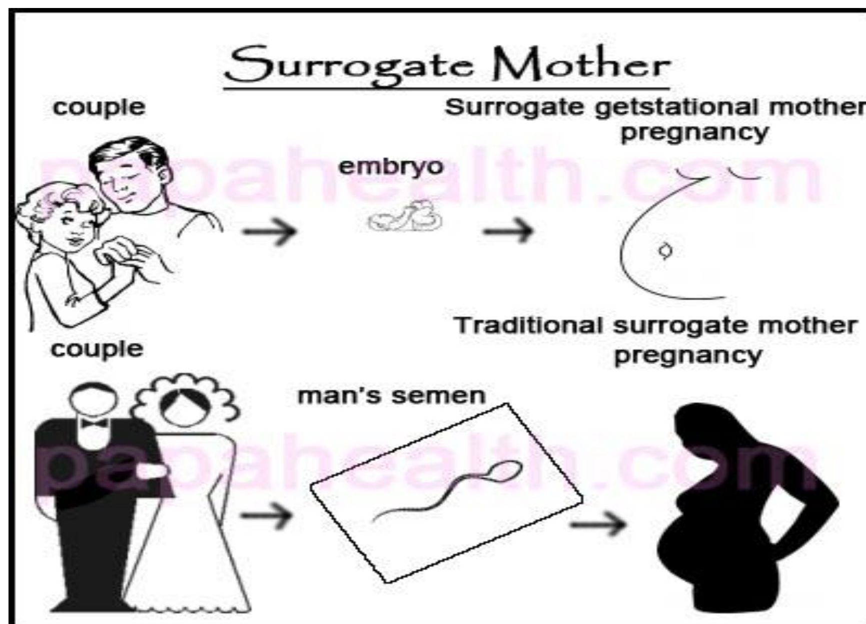

Figure 3

There are two forms of surrogacy. In traditional surrogacy, the surrogate mother's egg is used, making her the genetic mother. In gestational surrogacy, the egg is provided by the intended mother or a donor. The egg is fertilised through in vitro fertilisation (IVF) and then placed inside the surrogate mother.

Traditional Surrogacy:

In traditional surrogacy, the surrogate mother is artificially inseminated with the sperm of the intended father or sperm donor. The surrogate's own egg will be used, thus she will be the genetic mother of the resulting child. Usually, the intended father's name is put directly on the birth certificate and the intended mother will need to do a step-parent adoption, however, laws regarding this issue vary from state to state. Consult a lawyer who is knowledgeable about surrogacy laws in your state to learn more. In vitro fertilization (IVF) is a necessary part of this arrangement because eggs from one woman are used to create an embryo implanted in another. In IVF, fertilization occurs after eggs and sperm are combined in a laboratory. The resulting embryo or embryos are then transferred to the gestational surrogate's uterus.

Gestational Surrogacy:

Gestational surrogacy is an arrangement in which a woman carries and delivers a baby for someone else. The woman who carries the baby is the gestational surrogate or gestational carrier. The parents-to-be are known as the "intended parents" and are involved in the pregnancy, are present at the birth, and become the child's parents after the baby is born.

In gestational surrogacy, the baby isn't genetically related to the gestational surrogate – the egg usually comes from the intended mother and the sperm comes from the intended father (though donor eggs, donor embryos, or donor sperm are sometimes used)In a gestational surrogacy, the surrogate mother is not genetically related to the child. Eggs are extracted from the intended mother or egg donor and mixed with sperm from the intended father or sperm donor in vitro. The embryos are then transferred into the surrogate's uterus. Embryos which are not transferred may be frozen and used for transfer at a later time if the first transfer does not result in pregnancy. In many areas, the intended parents may petition the court during the third trimester of pregnancy to have both of their names placed directly on the birth certificate; however, laws regarding this issue vary from state to state. Consult a lawyer who is knowledgeable about surrogacy laws in your state to learn more.

ISSN 2349-7807
International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

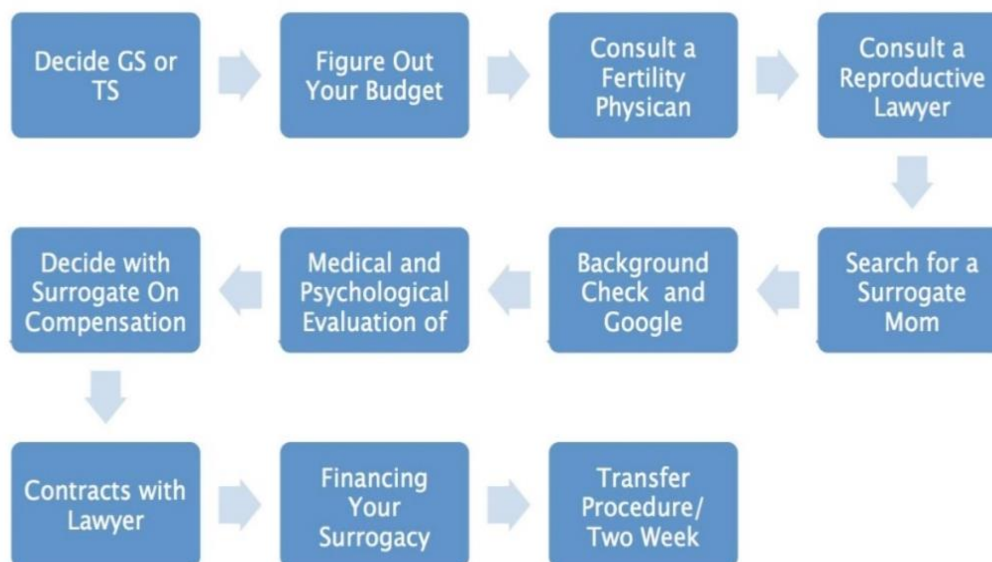

Figure 4

XIII. SURROGACY PROCESS

Once the legal contract is in place, the surrogate and her intended parents can begin the medical aspect of surrogacy. This can be confusing for first-timers – a good understanding of how these procedures work might give useful insights into what to expect in the surrogacy process.

1. Once the surrogate mother has been matched with her intended parents, she will undergo a full medical examination with a fertility doctor. She'll have blood drawn to evaluate her hormone levels, and to see if she might have any infectious diseases.

She'll also undergo a sonohysterogram, which allows the doctor to evaluate the capability of her uterus to carry a pregnancy to term. If the doctor finds cysts, fibroids or endometriosis in her uterus, the process with that particular surrogate may be delayed or cancelled.

2. after all of the results have been assessed and they have met the required standards, the In Vitro Fertilization process can begin. The surrogate mother and intended parent will consult with a fertility doctor, who will guide them through this process.

The intended mother and the surrogate will receive medications – some oral, some injected – that will synchronize their menstrual cycles, stimulate the intended mother's eggs and prepare the surrogate's uterine lining to receive the embryos.

3. The eggs are conveyed from the intended mother in a procedure called 'egg retrieval.' She's usually sedated for about an hour while the eggs are harvested.

The eggs are then taken to an embryologist, who combines them with the intended father's sperm in a laboratory. These new embryos are then cultivated for three to five days.

4. Using a very fine catheter, the cultivated embryos are then transferred into the surrogate's uterus. The surrogate is awake for this procedure, which isn't painful. Medications that the surrogate has taken will cause the lining of her uterus to thicken, in order to accept the transferred embryos.

5. The surrogate mother may be advised to rest for approximately 24-72 hours following the embryo transfer, in order to ensure the best opportunity for the embryos to implant in her uterine lining.

ISSN 2349-7807
International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

6. Ten days later, the surrogate will have a blood test to determine whether pregnancy has been achieved. If the tests are positive, the surrogate will be advised about what further medication or hormone support she'll need, if any.

7. Once the fertility doctor considers the pregnancy stable – usually after 12 weeks – the surrogate will be referred to her preferred obstetrician for the remainder of the pregnancy and the birth.

8. Until she delivers the baby, the surrogate's pregnancy will be monitored by an obstetrician. She'll undergo regular hormone monitoring and ultrasounds to check on the status of her pregnancy.

These are the typical stages in a surrogacy, although it's important to remember that every journey is different and these steps are only a representative example.

Figure 5

XIV. COST OF SURROGACY

It varies from country to country. Countries such as France, Germany, Italy, Spain, Portugal and Bulgaria prohibit all forms of surrogacy. In countries including the UK, Ireland, Denmark and Belgium, surrogacy is allowed where the surrogate mother is not paid, or only paid for reasonable expenses. Paying the mother a fee (known as commercial surrogacy) is prohibited. Commercial surrogacy is legal in some US states, and countries including India, Russia and Ukraine.

People who want to be parents may go abroad if their home country does not allow surrogacy, or if they cannot find a surrogate.

However, even here, the laws may vary. For example, some Australian states have criminalised going to another country for commercial surrogacy, while others permit it.

Experts say that countries popular with parents for surrogacy arrangements are the US, India, Thailand, Ukraine and Russia.

Mexico, Nepal, Poland and Georgia are also among the countries described as possibilities for surrogacy arrangements.

Costs vary significantly from country to country, and also depend on the number of IVF cycles needed, and whether health insurance is required. Families through Surrogacy, an international non-profit surrogacy organisation, has estimated the approximate average costs in different countries:

- US - $200,000
- India - $30,000

ISSN 2349-7807

International Journal of Recent Research in Commerce Economics and Management (IJRRCEM)
Vol. 2, Issue 4, pp: (194-205), Month: October - December 2015, Available at: www.paperpublications.org

- Thailand - $45,000
- Ukraine - $60,000
- Georgia - $50,000

There are no two ways that India is the world leader in attracting patients from across the borders for medical treatment in India like Surrogacy, IVF, and Gestational Surrogacy India.

XV. SAMPLE SURROGACY AGREEMENT/CONTRACT PAPER

Figure 6

This is a Rs. 50/- bond paper. Often, the surrogate mother is unable to read or write, hence, she and her husband are told about the contract by the hospital/clinic authorities in suitable language and terms, which the surrogate mother cannot verify by any means. She has to sign the agreement as she is already 4 months pregnant and being poor has great financial expectations exaggerated by the hospital/clinic authorities/doctors. In such a way, there is a need of legal provisions relating to surrogacy arrangements. It should be mentioned that due to the absence of such a law the surrogate mother suffers most as she is exploited not only physically, but also emotionally.

XVI. CONCLUSION

The majority of the commissioning parents are well educated, fully employed and coming from the higher strata of the society. Most of the commissioning mothers had already tried to get naturally pregnant, but their all their attempts failed. The surrogacy agents from the clinic claim that most of the commissioning mothers had missing uterus. However, other reasons for the commissioning parents to opt for surrogacy includes long term illness like diabetes, dysfunctional sexual organ etc. The contract is signed between the surrogate mother and the commissioning parents, so the clinics can skip any legal hassle. Surrogate the commissioning parents come to India for surrogacy, first of all, because it is illegal in their own country and secondly, in India the entire surrogacy process is far cheaper than in other countries of the West. In most of the cases the surrogate mother is unknown to the commissioning parents and it is decided in the clinic which surrogate mother should match the particular intended parents.

Most of the commissioning parents come from nuclear families with apparently equal opportunity for the women in decision-making process. In most of the cases the commissioning parents are desperate to have a baby and they do not have any preference for children of a certain sex. Moreover, some of them even do not hesitate to accept the child with deformities. However, such claims are made by the commissioning parents before the child is born; once a deformed child is born and the process of handing over the baby is about to happen, it is not certain whether the intended parents accept the baby or not. The decision to opt for surrogacy is jointly taken by the commissioning couple; most of the time the extended family members cannot interfere in this matter, because the majority of the commissioning parents belong to

nuclear family set up. Hence, very often intended parents'friends'opinion counts even more than their family members. However, the final decision is made by the commissioning parents and they are free to choose. Media coverage of surrogacy in general and advertisements by the surrogacy clinics seems to be the important factor influencing commissioning parents' decision making in Gujarat. The contract signed between the commissioning parents and the surrogate mother does not mention anything about any insurance or emergency needs that the surrogate mother may require during the pregnancy; neither has it mentioned anything about her future after relinquishing the baby. Though most of the commissioning parents claim that the sex of the child is not important, on the other hand, they asking for getting the sex determination tests done in almost all cases. This may indicate the tendency of female feticide occurring in the clinics in the name of surrogacy. The commissioning parents 'desperation to have a baby leads them to trust blindly the surrogacy arrangements that the clinics offer. Moreover, they are not concerned about the needs and conditions of surrogate mother other than her pregnancy related needs and hence, they do not develop any significant bonding with the surrogate mothers. The commissioning parents seem to be satisfied with the clinics 'performance in conducting and supervising the entire process of surrogacy. It is mainly the clinic and the commissioning parents who decide between themselves when to relinquish the baby after childbirth, whereas the surrogate mother does not seem to be having any say in this matter at all. The commissioning parents have fear of what if the surrogate mother changes her mind and refuses to relinquish the baby. Since the rights of the surrogate mother are not protected and regulated by law in India it is easy to exploit her and hence, seems to be a matter of grave concern

REFERENCES

[1] http://www.webmd.com/infertility-and-reproduction/features/womb-rent-surrogate-mothers-india?page=2

[2] http://www.surrogacygujarat.com/

[3] http://www.surromomsonline.com/articles/define

[4] http://surrogacypennsylvania.com/8-important-medical-procedures-involved-in-surrogacy/ Johnson, Mark A, Checklist on the Law of Surrogacy. 1996. 44p.

[5] Shannon, Thomas A, Surrogate Motherhood: The Ethics of Using Human Beings, 1988

[6] Sharpe, R, Case of Baby M, the: & the Facts of Life, 1989. Prentice Hall

Websites:

[7] http://childbirthsolutions.com/articles/traditional-versus-gestational-surrogacy/

[8] http://www.suite101.com/article.cfm/surrogacy_new/64753

[9] http://new.findseniorhomes.com/about/gestational-surrogacy

[10] www.heal-india.com/sites/default/files/sep-oct.pdf

[11] http://heinonline.org/HOL/Page?handle=hein.journals/flr70&div=16&g_sent=1

[12] www.fk.uwks.ac.id/.../Cambridge.University.Press.Ethical.Issues.in.Maternal.- .fetal.Medicine.1st.ed.2002.pdf

[13] www.sagepub.com/gabbidonstudy/articles/Baker.pdf- https://litigationessentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=6+Minn.+J.+Global+Trade+329&srctype=smi&srcid=3B15&key=d54b229d8ce15b1d0d6dd91688 8d1503

[14] www.jstor.org/stable/1600134

[15] http://humrep.oxfordjournals.org/content/18/10/2196.full

[16] http://muse.jhu.edu/login?uri=/journals/kennedy_institute_of_ethics_journal/v011/11.3holland.html

[17] http://www.princeton.edu/~lawjourn/Fall97/II1ferraro.html

[18] www.cwds.ac.in/library/collection/.../rt_new-reproductive_technologies.pdf

[19] www6.wittenberg.edu/cgi-bin/lib/honors/brittany_cravens_10.pdf 18.http://lalqila.wordpress.com/2010/06/25/inside-india's-rent-a-womb-business-gestationaldormitories-routine-c-sections-quintuple-embryo-implants-brave-new-world-nope-surrogacytourism-by-scott-carney/