

Can Surrogacy Consider as a Social Business

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ABSTRACT

Surrogacy is considered as an alternative method to have children who cannot use their own womb to produce a child. Thus, the technology and use of surrogacy has been sky-rocketed within past 20 years. However, people have shown keen interest to create debates whether “the surrogacy is right or wrong”. The facts were analyzed using a detailed literature review of the subject and a conclusion is drawn as obviously a case of situation. It is also found that people thinks that adoption is more ethical as richer people help poorer child to be adopted. Further, surrogacy can be accepted when it comes to a purely social business which may reflect ethical concerns. Hence, surrogacy as a pure business is unethical and wrong, while if the case is come to private and liberty of the people without giving any social burden, it is a right and ethical business. However, it is recommended to conduct a future research to test these conclusions by conducting number of interviews using health people, surrogate mothers and all stakeholders involved.

Keywords: surrogacy, social business, adoption, liberty of the people

INTRODUCTION

The percentage of international Infertility is recorded as 17% showing every woman out of 6 has experienced delay in conception. This value is actually varied with the country/region and some countries such as Nigeria shown 25% of women are infertile even, they are in reproductive age group (Ajayi and Dibosa-Osador, 2011). The causes for this situation are due to various reasons in the society and in the region. Some poverty issues are among this. Also, there are many other cases other than infertility of a women or men which may cause to have difficulties for having babies. As mentioned in above, it was found that surrogacy requirement in the society can be aroused due to other personal reasons such as able woman who has fertility, good health and strong however not wish to have own pregnancy to deliver a child (Allen, 1990). Also, Gay marriages, unwillingness of mother to undergo for her own pregnancy due to health reasons are among them. Therefore, parents are looking for alternative technologies to have an own baby or genetic baby to their family.

Surrogacy is considered as an alternative method to have children who cannot use their own womb to produce a child. Thus, the technology and use of surrogacy has been sky-rocketed within past 20 years (Bennett, 2013). Further by definition, “surrogate” mother is not usually described as a pregnant person, however merely a person who acts as a mechanical womb for another person (Shanner, 1994). Alternatively, surrogate mother can be considered as a baby

machine. Further, surrogacy can also be characterized as selling babies or giving services to needy women. In law, several court cases are being reported that how to identify the surrogacy contracts legal status and enforceability (Allen, 1990).

The aim of this paper is to discuss the surrogacy is right or wrong and to give a direction to the general people who has a concern on this subjective matter, and to discuss briefly about the cases whether to decide the surrogacy is **right or wrong or becoming a social business**.

LITERATURE REVIEW

Mechanism of Surrogacy Arrangements

In order to decide, the rightness or wrongness, it is worth to see the mechanism of surrogacy; and who are involved with this process. There are three main parties involve in surrogacy arrangements. 1) Intended parent or parents; they are the parents who wish to become legal parents under the surrogacy contract. 2) The egg/sperm donor who is essentially named as the genetic donor; and 3) “career” or usually the surrogate mother uses her own eggs.

When above three are bonded in a way of a contract, it can be called as the arrangement for surrogacy is ready. In some cases, there are arrangements made traditionally to give birth to a child on behalf of a relative, mostly not economically bounded contract for the same. However, a commercial surrogacy contract is essentially having a feature that “financially get paid clauses” for the arrangements and all expenses will be borne by the legal parents (Bennett, 2013). Especially, in this case the surrogate mother surrenders to the intended parents and must hand over newly born baby, even though surrogate mother may have emotional feelings.

The key stakeholders of surrogacy arrangements as above will be the keys to prove surrogacy is wrong or right. Thoughts and real purpose of being into this mechanism, way of participating with surrogacy arrangements, commercial nature and deciding factors to be commercialized, social concerns on born baby or product and country law can be considered as real factors that can help audience to make their decisions on surrogacy.

Arguments that Support Surrogacy is Right and Having Ethics

There are some key arguments which can support surrogacy, the reason still surrogacy is being practiced even as a business.

Case of no fertility: If some woman has no fertility, this can be defined as an illness. As a treatment option, there are some methods in medicine which can try to enhance woman’s fertility. However, if it cannot be done, should the woman ignore her will to have a baby? As per the WHO, health is defined as “the total wellbeing of an individual from the physical, mental, psycho-social, religious and cultural perspectives” and it is not just the absence of disease or infirmity. Thus, any human being has his/her own right to develop own mental health. Also, if any disable woman needs to be a parent, and when this is impossible due to infirmity or detention with wheelchairs, which consider reasonable to give the role of producing a baby by a surrogate mother. This is a positive ethic for surrogacy and also a very strong argument for surrogacy arrangements (Allen, 1990).

Considering people's freedom: The arguments which supports surrogacy claims that the issue is private and related to liberties & according to country's constitution etc., (Allen, 1990). Some constitutions in the word concern about the libertines and privacy, especially in EU & USA, like western countries. Most of them can consider surrogacy is just a private issue and any must can have a liberty to decide about the concerns, thus even can support from country's constitution assuring a liberty to have a baby using any technology.

As a Service: Especially pro-surrogacy advocators claimed that surrogacy as a service, and hence it is not wrong to get a service from any service provider who is willing to give the service (Wilson, 2004). In these situations, the pro-surrogacy advocators claim, just as a contract between service provider and a buyer.

Right of the genetic father: If we consider the case Baby. M, there are some arguments that genetic father has a right to adopt his own child, and not ethical to argue that legal parents buy a child. This is because of the real owner is genetic father. Therefore, it can be considered a lawful deal (Radin, 1994). These arguments are also considering some characteristics of just "a service", and legal ownership is with genetic father.

Market liberation concern: There is another argument that surrogacy is right considering market liberation arguments. This is usually, market is dominated by men, and if woman has something to demand which men cannot do, this can be considered as valid and a right thing to do. In this case, woman has the liberty to decide what to sell thus this kind of surrogacy is acceptable (Radin, 1994). This argument can be even supported by country constitutional point of view, and again can fall into the category of a service provided by women. Further, if you consider people's freedom of having a contract, there is nothing wrong with surrogacy contracts (Shanner, 1994).

As a help to other people: In order to help other people, some woman can get a decision that she is willingly become a surrogate. In this case, there is no such specific obligation to undergo surrogacy arrangements as the sole purpose is to help other human who cannot achieve his/her target by alone. However, in practicality of this there is an implication of access to surrogate mothers; that is poorer people have to wait & search a surrogacy arrangement with less financial involvements while richer can buy the service at a high cost. Therefore, this argument has two faces, if try to divide surrogacy arrangements between rich & poor people.

Arguments that surrogacy is wrong and unethical

This section picks some key issues which can be clearly identified which has clear reasons that the surrogacy can be stated as "unlawful" or having "no ethics".

Slavery issues: Baby selling is a form of a commercial human trafficking. Further, "womb renting", "autonomy sharing", are features of slavery thus consider the surrogacy as a slavery job (Allen, 1990). The word slavery is actually, lack of self-ownership. Surrogate mothers also having no ownership to legal child. Hence, it is ethical enough to describe the incident of surrogacy as unethical or slavery. Further, as a common characteristic of a slave mother, the child has no right to stay with mother and child can be sold to another master, and those slave mother give birth to children by knowing that her children will be owned by else (Allen, 1990). Also, it has been reported that in USA, some black women have been forced to become surrogate mothers on behalf of slave owners (Allen, 1990). Therefore, surrogacy is

unlawful and unethical considering above slavery nature of the arrangements.

Legal mother & ownership concerns: This is obvious, as the birth mother is the legal mother of the child. Due to this reason, United Kingdom says that it is not ethical to enforce any surrogacy arrangements on behalf of another woman's health (Ajayi and Dibosa-Osador, 2011).

When surrogate gives a birth to a handicapped child: Situations such as birth to a handicapped child by a surrogate mother give a clue that surrogacy should not be admitted and practiced. In this case, this is very emotional may be finally surrogate mother has to take care the child, as legal parents may refuse to have such a disable person. If the child is both physically and mentally handicapped, both surrogate mother and real parents can take this as just a commodity and try to abandon the child. This case is having a real danger in society. In long term, government has to care and give the protection to child through the country law and need to spend lot of national income to maintain them (Areen, 1987).

Emotionally unethical: Surrogate mother is also a human who is having feelings and emotions. If some mother carries a weight, feed and give birth to a child who is healthy, and mentally fir, also beautiful with skin and giving an extra attachment to the real mother, it is obviously very difficult to stop having any emotions when the Child is being transferred to a third party or legal parents. However, in many cases surrogacy is a money-oriented deal, even though the surrogacy contracts are not allowed surrogate mother to emotionally attach to the child, it has been reported that many cases are opposite; thus, this surrogacy is emotionally unethical. Thus, this case can be another legal point of violating any human rights, also unethical to control emotions of the real mother.

Circumstance that can put the society into a risk: In other case, such as birth to a child having social diseases like HIV may be a problem. In 1986, there was a case that one sister became a surrogate for her own sister, and she did not have any idea that the surrogate mother had been drug addicted and HIV effected, finally gave birth to a child having HIV by born (Areen, 1987).

Monetary vulnerability reasons: The case of "womb rental" is unethical, as usually the surrogate mothers are becoming to this state due to monetary vulnerability; thus, in order to make money those mothers sell her womb, even though emotionally not good. Also, those women actually need to care her own child; however, she cannot care her own child due to poorness. Then, this case she even can make a baby will not do so as she loves and expects a good life for her own child, then avoiding making a baby. However, when surrogate become the mother just do for money and give birth to a child and sell. Even though, the surrogate mother emotionally wants to keep, she will not do due to monetary weakness. This case is unethical and can cause for creating social stress. This is exactly like a property rental for living (Areen, 1987).

Becoming surrogate for able woman: Some physically and mentally fit woman seeks surrogate mothers just to give a birth to a child only because of she does not want to pass the pregnancy period, keeping a weight in her womb. Also, the woman afraid of her life during pregnancy period and due to any risk of giving birth to a child even though having a minor danger and painful period of 10 months. This can be considered as unethical and civil society will not easily accept these concerns. Further, the concern is now to sell emotions and feelings, pains to another woman called surrogate mother (Areen, 1987). Thus, surrogacy

when involve with unnecessary commercial level may not be acceptable.

DISCUSSIONS AND CONCLUSIONS

As described in above sections, some key concerns on surrogacy arrangements. There are many court cases in order to clear problems aroused due to surrogacy arrangements. The results from such a case also give us some clues to decide the “surrogacy is wrong or right”.

During many courts’ decisions, court basically considered three main issues and concerns. They are 1). Gestational motherhood, 2). Genetic relationship, and 3). Intent- base. By definition, gestational mother is giving the traditional meaning of “mother”, thus legal mother is defined as actual mother or gestational mother, while Genetic relationship describe the person who provide genetic materials to the carrier or surrogate mother. In this case, genetic providers have the right to be the legal parents and Ohio court has given such a conclusion in one court case (Bennett, 2013). Intent based considerations are to consider the legal parents based on initiation of surrogacy arrangements. This standard applies in court especially when there are two mothers, legal and surrogate when legal parents are giving egg & sperm to the surrogate mother or carrier. There was a case in California, that surrogate mother refused to give the child to legal parents and then under the law, legal parents were eligible to be the owner of child based on the argument that child would not exist unless the intended parents were not there (Bennett, 2013). In this case, the refusal by the mother is due to emotional matters. However, court has not taken any consideration on such issues except the contractual bindings, and cause to make a child.

If you have any idea about the famous Baby M.case in New Jersey ; that a couple had a contract with a surrogate mother to have a baby due to the illness of the woman, At the end , surrogate mother refused to give the baby to the couple ending up with a court case. However at first the court decision was that the contract was invalid, and it made many debates on surrogacy, and ethical concerns etc. (Radin, 1994). Finally, there were arguments that there was no clue to get this as a baby selling, as genetic father is the owner.

In reality, surrogacy is one of New Reproductive Technology (NRT) in the world, and there are many arguments on those NRTs whether right or wrong, and to measure any consequences which might be happened due to such technologies (Shanner, 1994). Therefore, it is common that to happen many debates on new things when come to practice and society starts thinking whether to accept or not. Two British Physicians who achieved the worlds’ first (Fertilization in vitro) IVF baby had to face some ethical issues and they have responded in 1970 to people as follows; “I had no doubts about the morals and ethics of our work. I accepted the right of our patients to find their family, to have their own children... The Declaration of Human Rights made by the United Nations includes the right to establish a family” (Shanner, 1994). In similar way, Australian pioneer has responded stressing the Hippocrates codes of medicine “doctor’s duty is to relieve the suffering and also quoted the UN Human right passed in 1948, Geneva assuring the right of everyone to have a family”. Also, there were many debates on this and conclusions are mainly that surrogacy is unethical, but adoption is acceptable. However, there are some arguments that commissioning couple, child and surrogate mother should be protected in the society with individual rights (Ajayi & Dibosa-Osador, 2011). Further to the debate about surrogacy, many arguments are there for the surrogacy is ethical when the case is done to prevent any disease such as HIV. Commercial surrogacy can be argued as a business and unethical.

Surrogate parenting is one of key topic in the society when infertile, disable or problems of female sterility. Even though, there are many debates on the subject of surrogacy, in the recent years, it has been reported that many contracts are signed to become surrogate mothers to give a birth to a child exchanging parental rights to a reward such as money. Such mothers have shown their will to give up sacred parental rights (Allen, 1990). Further, there are several considerations with surrogacy that reflect the idea with thee is nothing to consider the surrogacy be wrong or legal concerns with surrogacy contracts (Areen, 1987). However, many arguments are to discourage surrogacy contracts & refusing to honor surrogacy. Considering many court cases from USA, Pennsylvania cases are full of indications that unclerness of such surrogacy issues and strong public oppose to surrogacy (Bennett, 2013). Also, there are many controversial topics s in family law today (Wilson, 2004) and generally it is difficult to give an answer that surrogacy is exactly right or wrong. Some surveys also have been conducted to get the opinion about surrogacy revealed that there is a risk on the surrogate mother to be rejected from the society. This concern has been proven by a survey done by National Infertility Association of US, and results showed that only 13% of US citizens approved surrogacy while 66% approve adopting a child (Wilson, 2004).

Considering all above facts and cases reported, it is now obviously a case of situation. Even the result from above survey, people thinks that adoption is more ethical as richer people help poorer child to be adopted. However, the same survey gives a clue that surrogacy can be accepted when it comes to a purely social business which may reflect ethical concerns. Hence, surrogacy as a pure business is unethical and wrong, while if the case is come to private and liberty of the people without giving any social burden, it is a right and ethical business.

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