

Facts of Surrogacy: Necessity or Amenity, Regulation and Rights

Surrogacy started as necessity for those couples where woman was not able to carry pregnancy due to uterus problem or serious health risk to woman in case she gets pregnant. Affording couple hires a woman (surrogate) for using her uterus. As with advent of IVF, embryo of intended couple can be developed in vitro and transferred to uterus of surrogate woman. Thus couple can have their biological baby. In India necessity got converted in amenity for few, India became the hub of surrogacy and many couples including even from other countries started getting babies through surrogacy. It led to exploitation of Indian poor woman. With the result, enormous medical, legal and social problems emerged out of surrogacy. To circumvent all this, new surrogacy (regulation) Act December 2021 is implemented in India. New legislation aims to clean up India hitherto unregulated surrogacy industry.



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Surrogacy Regulations: 2021

Formation of surrogacy boards and registry

Surrogacy is allowed only in registered centre, commercial Surrogacy is absolutely prohibited.

Eligible certificate is required for couple, certificate of recommendation from board.

Intending couple eligibility criterias

Both should be Indian, residing in India, married, female age 25-50, male 26-55, no previous baby by any means, infertility for 5 years proven medical indication necessitating gestational surrogacy.

Surrogate eligibility criterias

Age 25-35 year, married with one previous baby, allowed only once for surrogacy.

No single person can opt for surrogacy.

For man it may be a difficult situation if he does not want to get married but wants a biological child

Myth or truth of surrogacy

Three connections are there between mother and developing fetus, Genetic, emotional and nutritional (uterine environment)

Fact is that intending mother is genetic mother. Surrogate is gestational mother but has no genetic connection. As far as emotional connection is concerned, difficult to prove scientifically. Subconscious mind of mother may be connected to developing fetus as our old Hindu Vedic religion believes. I did one survey on planned and unwanted pregnancies where women who wanted to abort but continued, found lesser bonding in them but difficult to say exactly. It requires a large and long study which is difficult to conduct. But we have to remember about nutrition and hormones supply from mother to fetus. Uterine milieu is an important component for initial fetal metabolism, "Theory of fetal origin of adult disease". Epigenome, functioning of gene, not only gene itself, plays a very important role in fetal development and so the offspring.

Hence considering all pros and cons of surrogacy, doctor should suggest and couple should opt for surrogacy.