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An Overview of Ethical Issues involved in Surrogacy

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Surrogacy is the process in which a woman, the surrogate, gives birth to a child but relinquishes parental rights to intended parents. Surrogacy can be defined as traditional or gestational. Traditional surrogacy involves naturally or artificially inseminating the surrogate mother with the intended father’s sperm. The surrogate mother provides the egg, meaning that the resulting child is biologically related to her. In gestational surrogacy, the egg and sperm are provided by the intended parents or donors other than the surrogate. In this case, the surrogate is not related to the child and is merely a carrier. Surrogacy can also be classified in terms of compensation. Commercial surrogacy involves financial compensation of the surrogate while altruistic surrogacy does not.

Commercial surrogacy is legal in India, Ukraine, Georgia and California. Many states in the United States, Canada, England and Australia, recognize only altruistic surrogacy. Germany, France, and Italy, consider both commercial and altruistic surrogacy to be illegal or do not recognize any surrogacy agreements. Greece, Israel and South Africa make surrogacy legally available to people based on factors such as religion, sexual orientation, or nationality.

As stated above, certain countries allow surrogacy based on factors such as age of the intended mother, the sexual orientation of the intended parents or the religion of the intended parents. Do governments have the right to essentially regulate people’s reproductive lives? Moreover, who decides or has the right to decide who can become a parent?

In the case of commercial surrogacy, the financial compensation of the surrogate mother lead some to regard the child as a purchasable commodity. This is perhaps the most contentious feature of surrogacy. Some governments have perhaps addressed this issue by only recognize altruistic surrogacy.

There is a lack of studies on the harms and benefits of surrogacy. The stricter definition of surrogacy and higher costs in western countries will continue to force hopeful parents to seek a surrogate in surrogate friendly countries. The safe guarding of ethics may then fall to these countries willing to allow surrogacy. In India, ‘the surrogate capital of the world’, the disparity in how well compensated surrogate mothers are or the care they receive from the ART clinics while pregnant can be alleviated by regulating ART clinics in India in regards to ethics, rights and counseling offered to surrogate mothers. However, the ethics of the definition of who can be parents and who can define parenthood remains unclear.