

Chapter-6

Health, Well-being and Reproductive Rights of Women- Surrogacy

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Abstract

Surrogacy should be rights-based and health-focused and should emphasize on the physical and psychological well-being of women involved. It explores medical risks associated with pregnancy and childbirth, emotional impacts, and the importance of informed consent and access to quality healthcare. It also includes concerns of exploitation, where socio-economic inequalities may pressure financially backward women into participation. Legal frameworks governing surrogacy are analyzed to assess how effectively they protect women's reproductive rights, dignity, and bodily autonomy. The study highlights the need for comprehensive regulations that prioritize women's health, ensure fair compensation, provide psychological support, and safeguard against coercion.

Key words: Health, dignity, self- respect, surrogacy.

Introduction

Health and well-being play an important role in humans' life and development. Nowadays, health is not limited to disease free life but it also includes mental stability, emotional balance, interpersonal relationships, decision making capacity, overall happiness and ability to make perfect choices for one's life. In this connection, a person should be aware about the basic laws and rights and what can be done if rights are violated. Health is a multi- dimensional concept which includes physical, mental, emotional and social well being and are interrelated. A disturbed mental health is often coupled with other health issues which brings social isolation and in turn affects the emotional status of the person. Physical well-being of an individual is very important to carry out day-day activities effectively. So proper functioning of the body can be achieved by maintaining a balanced diet, proper physical activities, enough mental and physical rest and easy and affordable access to healthcare services.

A person's ability to cope with day to day stress including all types of emotions and to maintain a positive attitude for his/her well being is very crucial. Emotional well-being is very important for building self-confidence. It directly influences a person's decision making ability, inter-personal relationships which directly affect academic and professional performance. Social well-being involves effective communication, a sense of responsibility, and social support. A human being is a social animal, so a social well-being is very important for overall happiness and peace.

Background information

Among all rights, reproductive rights are a fundamental part of human rights and are closely linked to bodily autonomy, dignity, equality, and freedom of choice. Among the many reproductive choices available to women today, surrogacy has emerged

as a controversial option. Surrogacy involves a woman carrying and giving birth to a child for another individual or couple, who wish to be parents. While surrogacy has enabled many people to experience parenthood. It also raises significant ethical, legal, and social questions especially concerning the reproductive rights of women who act as surrogates. To understand surrogacy, one should be completely aware of women's autonomy, health, associated rights and laws.

Reproductive Health

It is not gender specific but includes each and every person, their health, related problems, diseases, treatment, care and correct information of the same. It includes physical, mental and social aspects related to the reproductive system, its structure, physiology and functions. It directly reflects a person's overall health, availability of healthcare services and person's ability to make informed choices. It also includes information about human body, hygiene, causes, symptoms, treatment and prophylaxis of any disease. Physical, emotional changes in every physiological cycle of the body and according to the age are also included in it.

Access to reproductive healthcare services helps to prevent illness, detect health issues early, and promote long-term well-being. When reproductive health is neglected, an individual may face preventable health problems that affect the quality of life and future opportunities.

Reproductive Rights

These are one of the essential points in human rights. They include rights to make every individual informed about their health, voluntary decisions about their own body.

Reproductive rights include:

- The right to access accurate and reliable health information.
- The right to safe and appropriate healthcare services.
- The right to privacy and confidentiality.
- The right to make decisions without pressure, discrimination, or violence.

These rights allow individuals to have control over their present and future life, support personal autonomy and enable people to pursue education, employment, and personal goals without unnecessary barriers. They are closely linked to gender equality.

Reproductive rights contribute to social justice and equal opportunities for all.

Role of Education about health and reproductive rights-

Education plays a crucial role in promoting health, well-being, and reproductive rights. Health education helps individuals with knowledge about their own body, healthy habits, and available healthcare services. It supports people to recognize the importance of prevention, early care, diagnosis and responsible decision-making.

Education also helps to eradicate myths, misconceptions, and stigma related to health and reproduction. When individuals receive accurate, age-appropriate information, they are better prepared to protect their health and respect the rights of others and set their own boundaries. Education institutes, families, and communities play an important role in providing health education. A supportive learning environment encourages open discussion, critical thinking, and respect for diversity. Education empowers individuals to seek help when needed and to make choices that align with their values and well-being.

Reproductive rights refer to the legal and human rights that allow individuals, particularly women, to make free and informed decisions about their reproductive lives. These rights include access to healthcare, family planning, safe pregnancy and childbirth, freedom from compulsion or discrimination.

A woman should be able to control her body without any external force. In the context of surrogacy, reproductive rights raise important questions:

- Do women have the right to choose to become surrogates?
- Under what conditions is that choice truly free?
- How can societies protect women from exploitation while respecting their autonomy?

What is surrogacy?

It means renting a womb. It is the practice in which a woman carries and gives birth to a child for another individual or couple. It can be considered as one of the options for people who are suffering from infertility or whose uterus can not carry a weight of developing embryos or in gay couples. Simultaneously, it also involves certain challenges that are legal, ethical, emotional, social, and medical.

There are two main types of surrogacy:

- Traditional surrogacy- the surrogate uses her own egg, which makes her genetically related to the child.
- In gestational surrogacy- the surrogate carries an embryo formed by using the egg and sperm of the intended parents or donors. This means that she has no genetic connection to the child. It is more common today as it reduces legal and emotional complications.

In general, surrogacy places physical, emotional, and social pressure on the surrogate. It is necessary that a surrogate should thoroughly understand the process, related complications, laws, and her rights. Supporters of surrogacy claim that if a woman chooses to be a surrogate, by her own willingness, no one can prevent her from doing so. As this violates her reproductive freedom and she has a right to decide what to do with her body. This emphasizes respect for women's decision-making abilities.

A reproductive choice requires consent. In the beginning of the process, a woman must be given perfect, complete and accurate information about the process, including medical risks, emotional and financial challenges and legal aspects related to surrogacy. The consent can become challenging if there is no proper counselling for both parties and transparency in the process. Reproductive rights demand that a woman should not be misled, pressurized, or take a risk which may affect her health and life.

It has been observed that women from economically weaker sections become surrogate for wealthier parents due to family and financial pressure. This has become one of the serious concerns related to surrogacy. When society considers a woman's body as a tool rather than treating her as a person, then human rights and associated laws come into the picture. Many times it is observed that because of poverty, as a source of income, many women choose the option of surrogacy rather than a genuine desire. That is why there should be strong protection, compensation and alternative income opportunities for women.

There should be a clear legal framework for protection of reproductive rights. Surrogates should not be considered as service providers but they should be recognized as right-holders. If their rights are violated, then they should be legally protected, documents should be read, understood and signed properly.

Aspects of surrogacy

There are different conditions which should be taken into consideration before understanding surrogacy. Some of them are as follows-

Economic inequality and exploitation-

Women from economically poor backgrounds are generally chosen for surrogacy. They surrogate wealthier intended parents. In this condition, a financial need may pressure women to think of surrogacy. Here a choice is not taken voluntarily as a need for money limits options. When consent is influenced by need, rather than desire, there are chances of exploitation. In these cases women should be aware about her rights, protection, and fair compensation.

Health and medical rights of surrogates-

Health complications can be there during pregnancy, at the time of child birth including associated long term health effects. That is why a woman who surrogates should be provided with high-quality medical facilities before, during and after pregnancy. Her family should be properly taken care of. In addition to this, health insurance and psychological support is essential. She should be able to make a decision about prenatal care, medical procedures etc. All terms and conditions should be properly documented and signed by both parties.

Legal recognition and protection-

In every country, the legal status of surrogacy is different. Some countries have totally banned it, and some countries allow and regulate it. It has been commonly observed that, in the countries where surrogacy is banned or considered as illegal, women face increased risk of cheating in the process, including lack of legal protection if there are controversies or disputes.

Emotional and social dimensions-

Surrogacy includes carrying a child for nine months which can create an emotional bond during pregnancy, after delivery and during the time of breast feeding. So it is not only a physical process but also an emotional process. In some societies and cultures, surrogacy is not understood properly so the surrogate can be wrongly judged. It is a right of a surrogate mother to have emotional support and counseling throughout the process. Reproductive rights include the right of a woman to be treated with respect and without any discrimination.

Feminist perspectives-

Some feminists claim that surrogacy reinforces gender inequality by keeping reproductive labor on women, especially those who are poor or needy. In those cases, surrogacy turns women's reproductive capacity into a market commodity. Both perspectives contribute valuable insights, and reproductive rights should give empowerment along with protection.

The role of regulation and ethical practice

Ethical surrogacy requires thoughtful regulation of the process rather than completely banning it. Women will get justice when reproductive rights and laws ensure voluntary participation, informed consent, medical safety, fair compensation, and legal clarity. International guidelines and human rights play a significant role in protecting women involved in cross-border surrogacy, where legal and ethical challenges are often important and should be taken care of. Cooperation between governments is necessary to prevent exploitation while supporting reproductive freedom.

Social and cultural influences-

Social and cultural factors influence health and reproductive rights. Cultural beliefs, traditions, and social norms shape thinking towards health, well-being, making use of healthcare facilities and a person's awareness of basic human rights. In some cultures, religions, open discussions about reproductive health are limited due to stigma or taboos. Due to which a person can not receive exact and correct information and care about one's health and especially about reproductive health in particular. Some families and communities support open discussion about health and well-being while others do not. To make everyone aware about the same, open, free discussion, respectful dialogue, mutual understanding and community awareness programmes should be arranged without any judgement.

Challenges

In rural and economically less benefited areas, there is limited access to health care facilities, less availability of resources and less trained professionals. This prevents people in that area from getting timely medical treatment. Financial barriers are often responsible for getting perfect and prolonged treatment. It becomes very difficult to continue the treatment because of financial constraints. In general, poverty limits access to healthy food, education and healthcare facilities which results in weak health. Lack of education is responsible for the spread of wrong information and lack of knowledge related to people's rights and related services available. Less and wrong information leads to harmful practices, fear and stigma. A biased opinion about gender, social status like factors, restrict access to health services and rights. Social stigma and cultural attitudes can make surrogacy challenging. In some societies, surrogacy is not accepted widely and viewed negatively, which leads to judgment or discrimination against surrogates and intended parents.

In short, while surrogacy offers hope to many families, it presents serious challenges that require strong legal protections, ethical guidelines, medical safeguards, and social awareness to ensure fairness, safety, and respect for everyone involved.

Role of government and policies-

The public policies approved by the government should focus on healthcare facilities, well-being and reproductive rights. In cases of surrogacy the role of government is very crucial as it involves medical procedures and other ethical concerns. Some aspects where the government should monitor and regulate are following-

Legal regulation-

The laws should regulate what type of surrogacy should be allowed from altruistic, i.e. only medical expenses are taken care of or commercial surrogacy i.e. the surrogate is paid. Clear guidelines are helpful for knowing parental rights and deciding a child's legal status. If it is not done properly, then surrogate or intended parents may face legal disputes related to citizenship, custody, legal status and related responsibilities of a newborn baby.

Protecting the rights and health of women-

The policies should be made to protect surrogates' physical and mental well-being. The surrogates' rights should be protected. She should be paid a sufficient amount and her medical expenses should be taken care of. If any clause is violated, the lady should get legal help without much delay. Health guidelines should ensure safe medical treatment during pregnancy and child birth.

Ethical issues-

Aspects like commercialization of reproduction, welfare of a child, dignity and self respect of people involved in the process, should get first priority. Attention should be given to the point whether surrogacy is misused for child trafficking or coercion and a surrogate is not taking a decision because of poverty and family pressure.

Eligibility and access-

There should be strict guidelines designed to determine who can legally opt for surrogacy like same-sex couples, married couples, intended parents from other countries, single individuals etc. These guidelines will prove beneficial for a surrogate and a child born. Some governments keep a keen watch on cross-border surrogacy to prevent legal complications and exploitation.

Community and individual responsibility-

It is a duty of each person and community to make other people aware about their health, healthy practices which are supposed to be followed. The related information should be given to each and every person and make them aware about their rights, associated laws and guide them in making informed choices. A supportive environment should be created for open communication by providing available resources and reducing taboo. An awareness campaign should be conducted to make people aware about the same.

Discussion-

Surrogacy has given more options for those who want to have their own child but can not have. The option helps in changing a family structure. In the process, the intended parent, surrogate mother and her family goes through financial, ethical and social pressure. Important questions like health, reproductive rights, associated laws, social unawareness in the society, specific taboos are also should be taken care of. Different countries show different approaches in this context. Some countries have totally banned it while some showed liberal approach. In India, The government showed support for surrogacy. There are certain laws made to regulate the working in the fertility clinics, support for altruistic surrogacy for benefit of a surrogate in India. The procedure related to surrogacy includes hormonal treatment, embryo transfer, related procedures

like sonography etc. Some procedures may be risky and may also include pregnancy complications, long term health effects, mental and social pressure. So, in this scenario, ensuring women's rights for safe and good quality medical facilities are must. There are chances that a surrogate mother may get inadequate care, medical assistance and she can be pressured for this rather than prioritizing her own body. So the government should continuously be strict and monitor legal sides of the process.

The psychological issues of a surrogate should be also taken care of on priority basis. She may face challenges like stress, anxiety, emotional attachment with the child, social isolation and judgement from society because of certain taboos. Supporting her mental health before, during and after the pregnancy is required for her over-all health.

Actually surrogacy should be an informed and voluntary choice. It is observed that in many cases, poor and needy women are pressurized for the process which takes advantage of economic inequalities. In these cases, the principle of reproductive justice is challenged and emphasizes freedom from exploitation.

Law plays a major role in protecting women's rights in surrogacy. There should be informed consent, fair compensation, health insurance coverage, and the right to make decisions regarding medical treatment. There should be a strict ban on exploitative commercial practices, along with the promotion of ethical and altruistic surrogacy which will safeguard women's dignity while respecting reproductive freedom.

Summary

Any person's social and individual development is influenced by his/her health and well being. Amongst all, reproductive health and reproductive rights are very important which emphasize on dignity, self respect, and decision making ability of that person. In this scenario, education, social environment, available healthcare facilities, human rights and protective laws play a major role. Individual's reproductive rights include easy access to information, knowledge, education, healthcare facilities, knowledge of contraceptive and birth control measures, safe pregnancy and child birth and a freedom to choose how many, whether and when to have children. In this scenario, nowadays, surrogacy gained global attention because of advanced medical technology.

It gives hope to infertile and same sex couples but simultaneously raises concern about women's health, well-being, rights and support from society along with the government. Without proper medical care and legal protection, surrogate mothers may face neglect, inadequate healthcare, or pressure to continue pregnancies against their will. Mental and emotional well-being is also important, as surrogates may experience psychological stress, emotional attachment, or social stigma. Protecting women's reproductive rights requires ensuring that surrogacy is based on informed choice, fair compensation, and respect for dignity rather than economic pressure. Legal frameworks play a key role in safeguarding women's rights during the surrogacy process.

In conclusion, surrogacy occupies a complex space within women's reproductive rights. While it can empower women by offering reproductive choice, it can also expose them to health risks and exploitation if not handled properly. A rights-based approach that prioritizes women's health, well-being, autonomy, and equality is essential to ensure that surrogacy remains an ethical and just a reproductive practice.

For creating a well- informed, educated and healthy future of the country, health, wellbeing and reproductive rights should be taken care of on priority basis.

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