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**Surrogacy**

Surrogacy is a kind of Assisted Reproductive Technology (ART) in which a woman (must be 25 years of age in Western Australian law) deals to bring a baby through pregnancy for another person(“Surrogacy Program & Fertility Treatment | IVF Australia,” n.d.). Surrogacy in Australia is controlled by territorial governments and state. The surrogate carries a fetus during such circumstances when another person is either unwilling or incapable to bear a baby(Romana Simic, n.d.). Once the baby is born, the women (surrogate) must return the baby to the proposed parents. Surrogacy is a greatly complex phenomenon and it includes vital steps for reaching to the best decisions includes independent legal advice, psychiatric assessment and an extensive counselling. The 1991 Australian Health agreement favors a uniform law to control the surrogacy practice in the country. While the legal framework remains far from the uniformity. The question arises here that why surrogate motherhood has suggested a varied legislative response?

In Australia, surrogate parenting is complicated by a range of law and jurisdiction. Its use can be personal between the two parties and must not involve payment or it can be a commercial agreement between the concerned parties. Both in practice and legal framework, this procedure varies from adoption. The Australian law largely recognizes the difference between surrogates who earns profit for carrying a baby for another person, and those who do not earn profit. The legal concern lies here about explaining the difference between the two categories, i.e. where ‘altruism’ converts into ‘commercialism? In Australia, however, commercial surrogacy is illegal and illicit in all jurisdictions (except the Northern Territory). This is viewed as commercialization of reproduction in the contemporary social and legal environment. In this regard, concerns exist for an economically disadvantaged women to become a ‘baby factory’ so that she could rise her earning capacities and meet up daily life challenges. Australian courts, however, have not punished any adult for being entering into surrogacy arrangements for commercial profits. However, both legally and practically, the courts in the country have little choice as it becomes difficult for a court to create a balance between public policy and welfare of the child. In case of transnational surrogacy arrangements, the courts involve in such cases where surrogacy involves payments.

The commercialization of surrogacy has given rise to into undesirable and unpredicted consequences. The opportunities for an evidence-based law reforms have significantly been removed. The commercialization of surrogacy will surely discourage the surrogacy industry in Australia(Stuhmcke, 2015). Therefore, the surrogacy regulation in Australia is both ineffectual and blunt. But since 2007, the policy makers in Australia have wisely acted to further establish the difference between the two types of surrogacy. Anita Stuhmcke is of the opinion that the commercial surrogacy needs review as it involves the continued application of criminal charges (Stuhmcke, 2011). In its recent report on Surrogacy tabled in November 2018, the Australian government showed its greater support for a greater national consistency regarding surrogacy arrangements and apologized for delayed legislative and regulatory approaches to the matter (Surrogacy Matters, n.d.). The government has extended its support to all levels including the Commonwealth level and welcomes an opportunity for working with the territory governments.

Surrogacy in Queensland was extremely prohibitive and people who enter such practices were liable to criminal trial. After an extensive review and public consultation, the former Labor Party reformed its legal place (Smith et al., 2013). The reforms permit couples and single persons to enter into altruistic surrogacy measures. In this regard, the Civil Partnership Act 2011 has been amended by LNP by which two adults formally announce their relationship. Nowadays, surrogacy is available to be available to single man and women, same-sex couples, and heterosexual couples if they have lived together for less than two years will be excluded from the eligibility criteria. This eligibility criteria have compelled people to commit an offence by entering a surrogacy planning in Queensland. The reforms in surrogacy is eroding the rights and privileges of under-protected minority in Queensland by punishing the couples and individuals who seek a baby through surrogacy. This is, in fact, a retrograde step the population in Queensland.

It is important to note that surrogacy in New South Wales is open to the same-sex couples, heterosexual couples, and single persons. Moreover, its legislations are very much like that of the Queensland. In addition, same is the case in Victoria where surrogacy is available to the same-sex couples, heterosexual couples, and men and women. Though, the legislative administration in Victoria has added a requirement that the surrogate mother require Assisted Reproductive Technology (ART) to gain pregnancy. Surrogacy, indeed, may be only feasible alternative for the people who want to raise a family for many reason as the adopting children have significantly declined over the decades (Smith et al., 2013). Tammy Johnson is of the view that the sparking of ethical and practical debates are indications that there is lack of interest in legislative support for surrogacy arrangements in the country(Tammy Johnson, n.d.).

To conclude, regulation is both technical process and politically essential. The contemporary regulation of surrogacy is advanced from binary construction of the surrogacy arrangements. The rational must be to reduce risks of harm and acquire acceptable value choices. In this regard, there exist two choices, one is free and allowable while the other is monetary and criminal in nature. On the other hand, the exponential increase of surrogacy overseas has greatly influenced the Australian legal framework.

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